934. Limitation on reduction in income tax liability incurred to the Virgin Islands

(a) General rule. -- Tax liability incurred to the Virgin Islands pursuant to this subtitle, as made applicable in the Virgin Islands by the Act entitled "An Act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes", approved July 12, 1921 (48 U.S.C. 1397), or pursuant to section 28(a) of the Revised Organic Act of the Virgin Islands, approved July 22, 1954 (48 U.S.C. 1642), shall not be reduced or remitted in any way, directly or indirectly, whether by grant, subsidy, or other similar payment, by any law enacted in the Virgin Islands, except to the extent provided in subsection (b).

(b) Reductions permitted with respect to certain income. --

(1) In general. -- Except as provided in paragraph (2), subsection (a) shall not apply with respect to so much of the tax liability referred to in subsection (a) as is attributable to income derived from sources within the Virgin Islands or income effectively connected with the conduct of a trade or business within the Virgin Islands.

(2) Exception for liability paid by citizens or residents of the United States. -- Paragraph (1) shall not apply to any liability payable to the Virgin Islands under section 932(b).

(3) Special rule for non-United States income of certain foreign corporations. --

(A) In general. -- In the case of a qualified foreign corporation, subsection (a) shall not apply with respect to so much of the tax liability referred to in subsection (a) as is attributable to income which is derived from sources outside the United States and which is not effectively connected with the conduct of a trade or business wihtin the United States.

(B) Qualified foreign corporation. -- For purposes of subparagraph (A), the term "qualified foreign corporation" means any foreign corporation if less than 10 percent of --

(i) the total voting power of the stock of such corporation, and

(ii) the total value of the stock of such corproation, is onwed or treated as owned (wihtin the meaning of section 958) by 1 or more United States persons.

(4) Determination of income source, etc. -- The determination as to whether income is derived from sources within the Virgin Islands or the United States or is effectively connected with the conduct of a trade or business within the Virgin Islands or the United States shall be made under regulations prescribed by the Secretary.

934A. Repealed.

935. Repealed.

936. Puerto Rico and possession tax credit

(a) Allowance of credit. --

(1) In general. -- Except as provided in paragraph (3), if a domestic corproation elects the application of this section and if the conditions of both subparagraph (A) and subparagraph (B) of paragraph (2) are satisfied, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the sum of --

(A) the taxable income, from sources without the United States, from --

(i) the active conduct of a trade or business within a possession of the United States, or

(ii) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business, and

(B) the qualified possession source investment income.

(2) Conditions which must be satisfied. -- The conditions referred to in paragraph (1) are:

(A) 3-year period. -- If 80 percent or more of the gross income of such domestic corporation

for the 3-year period immeidatley preceding the close fo the taxable eyar (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States (determined without regard to section 904(f); and

(B) Trade or business. -- If 75 percent or more of the gross income of such domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

(3) Credit not allowed against certain taxes. -- The credit provided by paragraph (1) shall not be allowed against the tax imposed by --

(A) section 59A (relating to environmental tax),

(B) section 531 (relating to the tax on accumulated earnings),

(C) section 541 (relating to personal holding company tax), or

(D) section 1351 (relating to recoveries of foreign expropriation losses).

(b) Amounts received in United States. -- In determining taxable income for purposes of subsection (a), there shall not be taken into account as income from sources without the United States any gross income which was received by suchdomestic corporation within the United states, whether derived from sources within or wihtout the United states. The subsection shall not apply to any amount described in subsectin (a)(1)(A)(i) received from a person who is not a realted person (within the meaning of subsection (h)(3) but without regard to subparagraphs (D)(ii)(I) and (E)(i) thereof) with respect to the domestic corporation.

(c) Treatment of certain foreign taxes. -- For purposes of this title, any tax of a foreign country or a possession of the United States which is paid or accrued with respect to taxable income which is taken into account in computing the credit under subsection (a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amounts so paid or accrued.

(d) Definitions and special rules. -- For purposes of this section --

(1) Possession. -- The term "possession of the United States" includes the Commonwealth of Puerto Rico and the Virgin Islands.

(2) Qualified possession source investment income. -- The term "qualified posession source investment income" means gross income which --

(A) is from sources within a possession of the United States in which a trade or business is actively conducted, and

(B) the taxpayer established to the satisfaction of the Secretary is attributable to the investment in such possession (for use therein) of funds derived from the active conduct of a trade or business in such possession, or from such investment,

less the deductins properly apportioned or allocated thereto.

(3) Carryover basis property. --

(A) In general. -- Income from the sale or exchange of any asset the basis of which is determined in whole or in part by reference to its basis in the hands of another person shall not be treated as income described in subparagraph (A) or (B) of subsection (a)(1).

(B) Exception for possessions corporations, etc. -- For purposes of subparagraph (A), the holding of any asset by another person shall not be taken incot account if throughout the period for which such asset was held by such person section 931, this section, or secction 957(c) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) applied to such person.

(4) Investment in qualified Caribbean Basin countries. --

(A) In general. -- For purposes of paragraph (2)(B), an investment in a financial institution shall, subject to such conditions as the Secretary may prescribe by regulations, be treated as for use in Puerto Rico to the extent used by such financial institution (or by the Government Development Bank for

Puerto Rico or the Puerto Rico Ecnomic Development Bank) --

(i) for investment, consistent with the golas and purposes of the Caribbean Basin Economic Recovery Act, in --

(I) active business assets in a qualified Caribbena Basin country, or

(II) development projects in a qualified Caribbean Basin country, and

(ii) in accordance with a specific authorization granted by the Commissioner of Financial Institutions of Puerto Rico pursuant to regulations issued by such Commissioner.

A similar rule shall apply in the case of a direct investment in the Government Development Bank for Puerto Rico or the Puerto Rico Economic Development Bank.

(B) Qualified Caribbean Basin country. -- For purposes of this subsection, the term "qualified Caribbean Basin country" means any beneficiary country (within the meaning of section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act) which meets the requirements of clauses (i) and (ii) of section 274(h)(6)(A) and the Virgin Islands.

(C) Additional requirements. -- Subparagraph (A) shall not apply to any investment made by a financial institution (or by the Government Development Bank for Puerto Rico or the Puerto Rico Economic Development Bank) unless --

(i) the person in whose trade or business such investments is made (or such other recipient of the investment) and the finacial institution or such Bank certify to the Secretary and the Commissioner of Financial Institutions of Puerto Rico that the proceeds of the loan will be promptly used to acquire active busines assets or to make other authorized expenditures, and

(ii) the financial insitution (or the Government Development Bank for Puerto Rico or the Puerto Rico Economic Development Bank) and the receipient of the investment funds agree to permit the Secretary and the Commissioner of Financial Institutions of Puerto Rico to examine such of their books and records as may be necessary to ensure that the requirements of this paragraph are met.

(D) Requirement for investment in Caribbean Basin countries. --

(i) In general. -- For each calendar year, the government of Puerto Rico shall take such steps as may be necessary to ensure that at least $100,000,000 of qualified Caribbean Basin country investments are made during such calendar year.

(ii) Qualified Caribbean Basin country investment. -- For purposes of clause (i), the term "qualified Caribbean Basin country investment" means any investment if --

(I) the income from such investment is treated as qualified possession source investment income by reason of subparagraph (A), and

(II) such investment is not (directly or indirectly) a refinancing of a prior investment (whether or not such prior investment was a qualified Caribbean Basin country investment).

(e) Election. --

(1) Period of election. -- The election provided in subsection (a) shall be made at such time and in such manner as the Secretarty may by regulations prescribe. Any such election shall apply to the first taxable year for which such election was made and for which the domestic corporation satisfied the conditions of subparagraphs (A) and (B) of subsection (a)(2) and for each taxable eyar thereafter until such election is revoked by the domestic corporation under paragraph (2). If any such election is revoked by the domestic corporation under paragraph (2). If any such election is revoked by the domestic corproation udner paragraph (2), such domestic corporation may make a subsequent election under subsection (a) for any taxable year thereafter for whcih such domestic corporation satisfies the conditions of subparagraphs (A) and (B) of subsection (a)(2) and any such subsequent election shall remain in effect until revoked by such domestic corporation under paragraph (2).

(2) Revocation. -- An election under subsection (a) --

(A) may be revoked for any taxable year beginning before the expiration of the 9th taxable year following the taxable eyar for which such election first applies only with the consent of the Secretary; and

(B) may be revoked for any taxable eyar beginning after the expiration of such 9th taxable year without the consent of the Secretary.

(f) Limitation on credit for DISC's and FSC's. -- No credit shall be allowed under this section to a corporation for any taxable year --

(1) for which is is a DISC or former DISC, or

(2) in which it owns at any time stock in a --

(A) DISC or former DISC, or

(B) FSC or former FSC.

(g) Exception to accumulated earnings tax. --

(1) For purposes of section 535, the term "accumulated taxable income" shall not include taxable income entitled to the credit under subsection (a).

(2) For purposes of section 537, the term "reasonable needs of the business" includes assets which produce income eligible for the credit under subsection (a).

(h) Tax treatment of intangible property income. --

(1) In general. --

(A) Income attributable to shareholders. -- The intangible property income of a corporation electing the application of this section for any taxable year shall be included on a pro rata basis in the gross income of all shareholders of such electing corporation at the close of the taxable year of such electing corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such electing corporation ends.

(B) Exclusion from the income of an electing corporation. -- Any intangible property income of a corporation electing the applicaton of thissection which is included in the gross income of a shareholder of such corporation by reasons of subparagraph (A) shall be excluded from the gross income of such corporation.

(2) Foreign shareholders; shareholders not subject to tax. --

(A) In general. -- Paragraph (1)(A) shall not apply with respect ot any shareholder --

(i) who is not a United states person, or

(ii) who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph).

(B) Treatment of nonallocated intangible property income. -- For purposes of this subtitle, intangible property income of a corporation electing the application of this section which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A) --

(i) shall be treated as income from sources within the United States, and

(ii) shall not be taken into account under subsection (a)(2).

(3) Intangible property income. -- For purposes of this subsection --

(A) In general. -- The term "intangible property income" means the gross income of a corporation attributable to any intangible property other than intangible property which has been licensed to such corporation since prior to 1948 and is in use by such corporation on the date of the enactment of this subparagraph.

(B) Intangible property. -- The term "intangible property" means any --

(i) patent, invention, formula, process, design, pattern, or know-how;

(ii) copyright, literary, msuical, or artistic composition;

(iii) trademark, trade name, or brand name;

(iv) franchise, license, or contract:

(v) method, program, system, procedure, campaign survey, study, forecase, estimate, customer list, or technical data; or

(vi) any similar item,

which has substantial value independent of the services of any indivdiual.

(C) Exclusion of reasonable profit. -- The term "intangible property income" shall not include any portion of the income from the sale, exchange or other disposition of any product, or from the rendering of services, by a corproation electing the appliation of this section which is determined by the Secretary to be a reasonable profit on the direct and indirect costs incurred by such electing corporation which are attributable to such income.

(D) Related person. --

(i) In general. -- A person (hereinafter referred to as the "related person") is related to any person if --

(I) the related person bears a relationship to such person specified in sectin 267(b) or section 707(b)(1), or

(II) the related person and such person are members of the same controlled group of corporations.

(ii) Special rule. -- For purposes of clause (i), section 267(b) and section 707(b)(1) shall be applied by substituting "10 percent" for "50 percent".

(E) Controlled group of corporations. -- The term "controlled group of corporations" has the meaning given to such term by sectin 1563(a), except that --

(i) "more than 10 percent' shall be substituted for "at least 80 percent" and "more than "50 percent" each place either appears in section 1563(a), and

(ii) the determination shall be made without regard to subsections (a)(4), (b)(2), and (e)(3)(c) of section 1563.

(4) Distributions to meet qualifications requirements. --

(A) In general. -- If the Secretary determines that a corporation does not satisfy a condition specified in subparagraph (A) or (B) of subsection (a)(2) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such eyar if it makes a pro rata distribution of property after the close of such taxable eyar to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to --

(i) if the condition of subsection (a)(2)(A) is not satisfied, that portion of the gross income for the period described in subsection (a)(2)(A) --

(I) which was not derived from sources within a possession, and

(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (a)(2)(A),

(ii) if the condition of subsection (a)(2)(B) is not satisfied, that portion of the gross income for such period --

(I) which was not derived from the active conduct of a trade or business within a possession, and

(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (a)(2)(B), or

(iii) if neither of such conditions is satisfied, that portion of the gross income which exceeds the amount of gross income for such period which would enable such corporation to satisfy the conditions of subparagraphs (A) and (B) of subsection (a)(2).

(B) Effectively connected income. -- In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estae, any distribution described in subparagraph (A) shall be

treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder wihtin the United States.

(C) Distribution denied in case of fraud or willful neglect. -- Subparagraph (A) shall not apply to a corporation if the determination of th Secretary described in subparagraph (a) contains a finding that the failure of such corporation to satisfy the conditions in subsectin (a)(2) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

(5) Election out.--

(A) In general. -- The rules contained in paragraphs (1) through (4) do not apply for any taxable year if an election prusuant to subparagraph (F) is in effect to use one of the method specified in subparagraph (C).

(B) Eligibility. --

(i) Requirement of significant busines presence. -- An election may be made to use one of the methods specified in subparagraph (C) with respect to a product or type of service only if an electing corporation has a significant business presence in a possession with respect to such product or type of service. An election may remain in effect with respect to such product or type of service for any subsequent taxable year only if such electing corporation maintains a significant business presence in a possession with respect to such product or type of service in such subsequent taxable year. If an election is not in effect for a taxable eyar because of the preceding sentence, the electing corporation shall be deemed to have revoked the election on the first day of such taxable year.

(ii) Definitions. -- For purposes of this subparagraph, an electing corporation has a "significant business presence" in a possession for a taxalbe year with respect to a product or type of service if:

(I) the total production costs (other than direct material costs and other than interest excluded by regulations prescribed by the Secretary) incurred by the electing corporation in the possession in producing units of that product sold or otherwise disposed of during the taxalbe year by the affiliated group to person who are not members of the affiliated group are not less than 25 percent of the difference between (a) the gorss receipts from sales or other dispostions during the taxable year by the affiliated group to dispositions during the taxable eyar by the affiliated group to persons who are not member so the affilaited group of such unites of the product produced, in whole or in part, by the electing corporation in the possession, and (b) the direct material costs of the purchase of materials for such units of that product by all members of the affiliated group from persons who are not members of the affiliated group; or

(II) no less than 65 percent of the direct labor costs of the affiliate dgroup for units of the product produced during the taxable eyar in whol or in part by the electing corporation or for the type of service rendered by the electing corporation during the taxable year, is incurred by the electing corporation and is compensation for service performed in the possession; or

(III) with respect to purchases and sales by an electing corporation of all goods not produced in whole or in part by any member of the affiliated group and sold by the electing corporation to persons other than members of the affiliated group, no less than 65 percentof the total direct labor costs of the affilated group in connection with all purchases and sales of such goods sold during the taxable year by such electing corporation is incurred by such electing corporation and is compensation for services performed in the possession.

Notwithstanding satisfaction of one of the foregoing tests, an electing corporation shall not be treated as having a significant business presence in a possession with respect to a product produced in whole or in part by the electing corporation int he possession, for purposes of an election to use the method specified in subparagraph (C)(ii), unless such product is manufactured or produced in the possession by the electing corporation within the meaning of subsection (d)(1)(A) of section 954,

(iii) Special rules. --

(I) An electing corporation which produces a product or renders a type of service in a possession on the date of the enactment of this clause is not required to meet the significatn business presence test in a possession with respect to such product or type of service for its taxable years beginning befoe January 1, 1986.

(II) For purposes of this subparagraph, the costs incurred by an electing corporation or any other member of the affiliated group in connectionw ith contract manufacturing by a person other than a member fo the affiliated group, or in connection with a similar arrangement thereto, shall be treated as direct labor costs of the affiliated group and shall not be treated as production costs incurred by the electing corporation in the possession or as diret material costs or as compensation for service performed in the possession, except to the extent as may be otherwise provided in regualtions prescribed by the Secretary.

(iv) Regulations. -- The Secretary may prescribe regulations setting forth:

(I) an appropriate tanstiitonal (but not in excess of three taxable years) significant business presence test for commencement in a possession of operations with respect to products or types of service after the date of the enactment of this clause and not described in subparagraph (B)(iii)(I),

(II) a significant business presence test for other appropriate cases, consistent with the test specified in subparagraph (B)(ii),

(III) rules for the definition of a product or type of service, and

(IV) rules for treating components produced in whole or in part by a related person as materials, and the costs (including direct labor costs) related thereto as a cost of materials, where there is an independent resale price for such components or where otherwise consistent with the intent of the substantial business presence tests.

(C) Methods of computation of taxable income. -- If an election of one of the following methods is in effect pursuant to subparagraph (F) with respect to a product or type of service, an electing corportion shall compute its income derived from the active conduct of a trade or business in a possession with respect to such product or type of service in accordance with the method which is eleted.

(i) Cost sharing. --

(I) Pyament of cost sharing. -- If an election of this method is in effect, the electing corporation must make a payment for its share of the cost (if any) of product area research which is paid or accrued by the affiliated group during that taxable year. Such share shall not be less than the sam proportion of 110 percent of the cost of such product area research which the amount of "possession sales" bears to the amount of "total sales" of the affiliated group. The costs of product area research paid or accrued solely by the electing corporation in a taxable eyar (excluding amounts paid directly or indirectly to or on behalf of realted persons and excluding amounts paid under any cost sharing agreements with related persons) will reduce (but not below zero) the amount of the electing corporation's cost sharing payment under this method for that year. In the case of intangible property described in subsection (h)(3)(B)(i) which the electing corporation is treated as owning under subclause (II), in no event shall the payment required under this subclause be less than the inclusion or payment which would be required under section 367(d)(2)(A)(ii) or section 482 if the electing corporation were a foreign corporation.

(a) Product area research. -- For purposes of this section, the term 'product area reasearch" includes (notwithstanding any provision to the contrary) the research, development and experimental costs, losses, expenses and other related deductions -- including amounts paid or accrued for the performance of research or similar activities by another person; qualified research expenses within the mearning of section 41(b); amounts paid or accrued for the use of, or the right to use, research or any of the items specified in subsection (h)(3)(B)(i) -- which are propertly apportioned or allocated to the same produce area as that in which the electing corporation conducts its activities, and a ratable part of any such

costs, losses, expenses and other deductions which cannot definitely be allocated to a particular product area.

(b) Affiliated group. -- For purposes of this subsection, the term "affiliated group" shall mean the electing corportion and all other organizations, trades or businesses (whether or not incorproated, whether or not affiliated) owned or controlled directly or indirecly by the same interests, within the meaning of section 482.

(c) Possession sales. -- For purposes of this section, the term "possession sales" means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of products produced, in whole or in part, by the electing corporation in the possession which are in the same product area as is used for determining the amount of product area research, and of services rendered, in whole or in part, in the possession in such product area to persons who are not members of the affiliated group.

(d) Total sales. -- For purposes of this section, the term "total sales" means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of all products in the same product area as is ued for determining the amount of product area research, and of services rendered in such product area to persons who are not members of the affiliated group.

(e) Produce area. -- For purposes of this section, the term "product area" shall be defined by reference to the three-digit classification of the Standard Industrial Classification code. The Secretary may provide for the aggregation of two or more three-digit classifications where appropriate, and for a classification system other than the Standard Industrial Classification code in appropriate cases.

(II) Effect of election. -- For purposes of determining the amount of its gross income derived from the active conduct of a trade or business in a possession with respect to a product produced by, or type ofservice rendered by, the electing corporation for a taxable yar, if an election of this method is in effect, the electing corporation shall be treated as the owner (for purposes of obtaining areturn thereon) ofintangible property described in subsection (h)(3)(B)(i) which is related to the units of the produce produced, or type of service rendered, by the electing corporation. Such electing corproation sahll not be treated as the owner (for purposes of obtaining a return thereon) of any intangible property described in subsection (h)(3)(B)(ii) through (v) (to the extent not described in subsection (h)(3)(B)(i)) or of any other nonmanufacturing intangible. Notwithstanding the preceding sentence, an electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of (a) intangible property which was developed solely by such corporation in a possession and is onwed by such corporation, (b) intangible property described in subsection (h)(3)(B)(ii) through (v) to the extent not described in subsection (h)(3)(B)(i)) and other nomanufacturing intangibles whcih relate to sales of units of products, or services rendered, to unrelated persons for ultimate consumption or use in the possession in which the electing corporation conducts its trade or business.

(III) Payment provisions. --

(a) The cost sharing payment determined under subparagraph (C)(i)(I) for any taxable year shall be made to the person or persons specified in subparagraph (C)(i)(IV)(a) not later thanthe time prescrivbed by law for filing the electing corporation's return for such taxable year (including any extensions thereof). If all or part of such payment is not timely made, the amount of the cost sharing payment required to be paid shall be increased by the amount of interest that would have been due under section 6601(a) had the portion of the cost sharing payment that is not timely made been an amount of tax imposed by this title and had the last date prescribed for payment been the due date of the electing corporations return (determined wihtout regard to any extension thereof). The amount by which a cost sharing payment determined under subparagraph (C)(i)(I) is increased by reason of the preceding sentence shall not be treated as a cost sharing payment or as interest If failure to make timely payment is due in

whole or in part to fraud or willful neglect, the electing corporatio shall be deemed to have revoked the election made

under subparagraph (A) on the first day of the taxable yar for which the cost sharing pyament was required.

(b) For purposes of this tile, any tax of a foreign country of possession of the United States which is paid or accrued with respect to the payment or receipt of a cost sharing payment determined under subparagraph (C)(i)(1) or of an amount of increase referred to in subparagraph (C)(i)(III)(a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title wiht respect ot any amounts of such tax so paid or accrued.

(IV) Special rules. --

(a) The amount of the cost sharing payment determined under subparagraph (C)(i)(I), and any increase in the amount thereof in accordance with subparagraph (C)(i)(III)(a), shall not be treated as income of the recipient, but shall reduce the amount of the deductions (and the amount of reductions in earnings and profits) otherwise allowable to the appropriate domestic member or members (other than an electing corporation) of the affiliated group, or, if there is no such domestic member, to the foreign member or members of such affiliated group as the Secretary may provide under regulations.

(b) If an election of this method is in effect, the electing corporation shall determine its intercompany pricing under the appropriate section 482 method, provided, however, that an electing corporation shall not be denied use of the resale price method for purposes of such intercompany pricing merely because the reseller adds more than an insubstantial amount to the value of the product by the use of intangible property.

(c) The amount of qualified research expenses, within the meaning of section 41, of any member of the controlled group of corporations (as defined in section 41(f)) of which the electing corporation is a member shall not be affected by the cost sharing payment required under this method.

(ii) Profit split. --

(I) General rule. -- If an election of this method is in effect, the electing corporation's taxable income derived from the active conduct of a trade or business in a possession with respect to units of a product produced or type of service rendered, in whole or in part, by the electing corporation shall be equal to 50 percent of the combined taxable income of the affiliated group (other than foreign affiliates) derived from covered sales of units of the product produced or type of service rendered, in whol or in part, by the electing corporation in a possession.

(II) Computation of combined taxable income. -- Combined taxable income shall be computed separately for each product produced or type of service rendered, in whole or in part, by the electing corporation in a possession. Combined taxable income shall be computed (notwithstanding any provision to the contrary) for each such product or type of service rendered by deducting from the gross income of the affiliated group (other than foreign affiliates) derived from covered sales of such product or type of service all expenses, losses, and other deductions properly apportioned or allocated to gross income from such sales or services, and a ratablepart of all expenses, losses, and other deductions properly apportioned or allocated to gross income from such sales or services, and a ratable part of all expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income, which are incurred by the affilitated group (other than foreign affiliates). Notwithsatnding any other provision to the contrary, in computing the combined taxable income for each such product or type of service rendered, the research, development, and experimental costs, expenses and related deductions for the taxable year which would otherwise be apportioned or allocated to the gross income of the affiliated group (other than foreign affilaites) derived from covered sales of such product produced or type of service rendered, in whole or in part, by the electing corporation in a possession shall not be less than the same proportion of

the amount of the share of product area research determined under subparagraph (C)(i)(I) (without regard to the third and fourth sentences thereof, but substituting "120 percent" for "110 percent" in the second sentence thereof) in the product area which includes such product or type of service, that such gross income from the product or type of service bears to such gross income from all products and types of services, within such product area, produced or rendered, in whole or in part, by the electing corporation in a possession.

(III) Division of combined taxable income. -- 50 percent of the combined taxable income computed as provided in subparagraph (C)(ii)(II) shall be allocated to the electing corporation. Combined taxable income, computed without regard to the last sentence of subparagraph (C)(ii)(II), less the amount allocated to the electing corporation under the preceding sentence, shall be allocated ot the appropriate domestic member or members (other than any electing corporation) of the affiliated group and shall be treated as income from source within the United States, or, if there is no such domestic member, to a foreign member or members of such affiliated group as the Secretary may provide under regulations.

(IV) Covered sales. -- For purposes of this paragraph, the term "covered sales" means sales by members of the affiliated group (other than foreign affilaites) to persons who are not members of the affilaited group or to foreign affilaties.

(D) Unrelated person. -- For purposes of this paragraph, th term "un-related person" means any person other than a person related within the meaning of paragraph (3)(D) to the electing corpration.

(E) Electing corporation. -- For purposes of this subsection, th term "electing corporation" means a domestic corporation for which an election under this section is in effect.

(F) Time and manner of election; revocation.--

(i) In general. -- An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made only on or before the due date prescribed by law (including extensions) for filing the tax return of the electing corporation for its first taxable year beginning after December 31, 1982. If an election of one of such methods is made, such method must be used for each taxable year thereafter until such election is revoked by the electing corporation under subparagraph (F)(iii). If any such election is revoked by the electing corporation under subparagraph (F)(iii), such electing corporation may make a subsequent election under subparagraph (A) only with the consent of the Secretary.

(ii) Manner of making election. -- An election under subparagraph (A) to useone of the methods under subparagraph (C) shall be made by filing a statement to such effect with the return referred to in

subparagraph (F)(i) or in such other manner as the Secretary may prescribe by regulations.

(iii) Revocation. --

(I) Except as provided in subparagraph (F)(iii)(II), an election may be revoked for any taxable year only with the consent of the Secretary.

(II) An election shall be deemed revoked for the year in which the electing corporation is deemed to have revoked such election under subparagraph (B)(i) or (C)(i)(III)(a).

(iv) Aggregation. --

(I) Where more than one electing corporation in the affiliated group produces any product or renders any services in the same product area, all such electing corporations must elect to compute their taxable income under the same method under subparagraph (C).

(II) All electing corporations in the same affiliated group that produce any products or render any services in the same product area may elect, subject to such terms and conditions as the Secretary may prescribe by regulations, to compute their taxable income from export sales under a different method from that used for all other sales and services. For this purpose, export sales means all sales by the electing corporation of products to foreign persons for use or consumption outside the United States and

its possessions, provided such products are manufactured or produced in thepossession within the meaning of subsection (d)(1)(A) of section 954, and further provided (except to the extent otherwise provided by regulations) the income derived by such foreign person on resale of such products (in the same state or in an altered state) is not included in foreign base company income for purposes of section 954(a).

(III) All members of an affiliated group must consent to an election under this subsection at such time and in such manner as shall be presecribed by the Secretary by regulations.

(6) Treatment of certain sales made after July 1, 1982. --

(A) In general. -- For purposes of this section, in the case of a dispositon of intangible property made by a corporation after July 1, 1982, any gain or loss from such dispositon shall be treated as gain or loss from sources within the United States to which paragraph (5) does not apply.

(B) Exception. -- Subparagraph (A) shallnot apply to any disposition by a corporation of intangible property if such dispostion is to a person who is not a related person to such corporation.

(C) Paragraph does not affect eligibility. -- This paragraph shall not apply for purposes of determining whether the corporation meets the requirements of subsection (a)(2).

(7) Section 864(e)(1) not to apply. -- This subsection shall be applied as if section 864(e)(1) (relating to treatment of affiliated groups) had not been enacted.

(8) Regulations. -- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including rules for the application of this subsection to income from leasing of products to unrelated persons.