

Administrative Release No. 9

Subject: Portion of Subpart F Income which may be subtracted from Corporation Taxable Income.

I. General

Inquiries have been made concerning Maryland's treatment of subpart F income includable in federal taxable income of U.S. corporation shareholders in controlled foreign corporations. Generally, "subpart F income," as defined in § 952 (subchapter N, subpart F) of the Internal Revenue Code (I.R.C.), is certain defined income of a controlled foreign corporation which is not distributed to the shareholders in the year in which it is earned, and is required under I.R.C. § 951 to be included in the gross income of U.S. shareholders. Since such income is required to be reported on the dividend schedule of the federal return, the question has arisen as to whether it can be subtracted on the Maryland corporation income tax return (Form 500) as a dividend received from a 50 percent owned foreign corporation.

II. Code

Section 10-307(d) of the Tax-General Article of the Annotated Code of Maryland (TG) provides that there shall be subtracted from taxable income, to the extent included in federal income, dividends from related foreign corporations if the corporation taxpayer owns, directly or indirectly, 50 percent or more of the paying corporation's outstanding shares of capital stock, and if the paying corporation is organized under the laws of a foreign government.

III. Requirements

Subpart F income, to the extent required to be included in federal taxable income, will be treated as a dividend subtraction modification under TG § 10-307(d). However, as required by Maryland statute, the corporation claiming subpart F income must own, directly or indirectly, 50 percent or more of the outstanding shares of capital stock of the controlled foreign corporation.

Attach a copy of Federal Form 5471 to the Maryland corporation income tax return (Form 500) and related schedules.

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