Allocation of Foreign Income Taxes Resulting from the Repeal of Section 898(c)(2); Recognition of Pretransition Gain or Loss under Section 987

Notice 2025-72

SECTION 1. PURPOSE

This notice announces that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations under section 70352 of Public Law 119-21, 139. Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), which repeals section 898(c)(2) of the Internal Revenue Code (Code) and directs the Treasury Department and the IRS to issue guidance on the allocation of foreign taxes of foreign corporations affected by that repeal (forthcoming proposed section 898 regulations). This notice also announces that the Treasury Department and the IRS intend to issue proposed regulations under section 987 (forthcoming proposed section 987 regulations) that would modify the election to recognize pretransition section 987 gain or loss ratably over the transition period pursuant to §1.987-10(e)(5)(ii)(A).

SECTION 2. BACKGROUND

.01 Section 898 and the One-Month Deferral Election.

Section 898 provides rules for determining the required taxable year of any "specified foreign corporation." A foreign corporation is a specified foreign corporation if it is treated as a controlled foreign corporation (CFC) for any purpose under subpart F of subchapter N of Chapter 1 of Subtitle A of the Code, and if any United States shareholder (as defined in section 951(b)) (U.S. shareholder) owns (determined by applying the ownership rules of section 958) more than 50 percent of the stock of the CFC by vote or value on each testing day (majority U.S. shareholder).[1] *See* section 898(b).

Section 898(c)(1) generally requires a specified foreign corporation to have the same taxable year as the taxable year of its majority U.S. shareholder (the majority U.S. shareholder year). However, prior to the enactment of the OBBBA, section 898(c)(2) permitted a specified foreign corporation to elect a taxable year beginning one month earlier than the majority U.S. shareholder year (one-month deferral election).

.02 Repeal of One-Month Deferral Election and Statutory Transition Rule.

Section 70352 of the OBBBA repeals the one-month deferral election for taxable years of specified foreign corporations beginning after November 30, 2025. Section 70352(c) of the

[1] Section 898(c)(3)(B) (redesignated by section 70352(a) of the OBBBA as section 898(c)(2)(B)) defines the testing days as the first day of the corporation's taxable year, or the days during a representative period that the Secretary may prescribe. No final regulations have been issued that prescribe such a representative period.

OBBBA provides that if a corporation is a specified foreign corporation as of November 30, 2025, its first taxable year beginning after November 30, 2025, will end at the same time as the first required year (within the meaning of section 898(c)(1)) ending after such date (first required year). Thus, a specified foreign corporation with a one-month deferral election in place will have a one-month short taxable year as its first required year.

Section 70352(c) of the OBBBA provides a transition rule for specified foreign corporations required to change their taxable years due to the repeal of the one-month deferral election. Under the transition rule, the change to the specified foreign corporation's taxable year will be treated as initiated by the corporation and as having been made with the consent of the Secretary. The transition rule also directs the Secretary to issue guidance allocating foreign taxes paid or accrued in the specified foreign corporation's first required year and its succeeding taxable year among those taxable years in the manner the Secretary determines appropriate to carry out the purposes of section 70352 of the OBBBA.

.03 Foreign Income Taxes Paid or Accrued by a CFC.

In general, under section 951(a)(1),[2] a U.S. shareholder of a CFC must include in gross income its pro rata share of the CFC's subpart F income for the year. Similarly, section 951A(a) generally requires a U.S. shareholder of a CFC to include in gross income the U.S. shareholder's global intangible low-taxed income (GILTI inclusion amount).[3] A U.S. shareholder's GILTI inclusion amount is determined by taking into account the U.S. shareholder's pro rata share of tested items (as defined in §1.951A-1(f)(5)) of all CFCs in which the U.S. shareholder owns (within the meaning of section 958(a)) stock, including tested income and tested loss. *See* §1.951A-1(c). In computing a CFC's items of subpart F income and its tested income or tested loss, deductions (including taxes) properly allocable to such income are taken into account. *See, e.g.*, sections 954(b)(5) and 951A(c)(2)(A)(ii). A CFC's items of subpart F income and its tested income or tested loss are computed in the functional currency of the CFC and translated into U.S. dollars as net amounts using the average exchange rate for the CFC's taxable year. *See* sections 986(b), 989(b)(3) and §1.951A-1(d)(1).

Section 960(a) provides that when a domestic corporation includes in gross income any item of income under section 951(a)(1) with respect to a CFC, the domestic corporation is deemed to have paid so much of the CFC's foreign income taxes as are properly attributable to the item of income. Section 960(d) provides that when a domestic corporation includes in gross income an

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[2] Unless otherwise indicated, all references to sections 951, 951A, and 960(d) in this notice are to the versions of those provisions as in effect before the amendments made by sections 70312 and 70354 of the OBBBA. Because the amendments to section 898(c) apply to taxable years of foreign corporations beginning after November 30, 2025, and the amendments to sections 951, 951A, and 960(d) apply to taxable years of foreign corporations beginning after December 31, 2025, the versions of sections 951, 951A, and 960(d) that apply to a foreign corporation's first required year will depend on when that first required year begins.

[3] Under the amendments made by the OBBBA, for taxable years beginning after December 31, 2025, the U.S. shareholder will include in gross income its net CFC tested income under section 951A. This inclusion is determined based on the U.S. shareholder's pro rata share of a CFC's tested income or tested loss.

amount under section 951A, the domestic corporation is deemed to have paid 80 percent of the product of such domestic corporation's inclusion percentage[4] multiplied by the aggregate tested foreign income taxes paid or accrued by its CFCs.[5] Section 960(d)(3) defines tested foreign income taxes as the foreign income taxes paid or accrued by a CFC which are properly attributable to the tested income of the CFC taken into account by the domestic corporation under section 951A. Therefore, for foreign income taxes paid or accrued by a CFC in a taxable year to be deemed paid by a U.S. shareholder, the related subpart F income of the CFC must be included in gross income by the U.S. shareholder under section 951(a)(1), or the related tested income of the CFC must be taken into account in determining a GILTI inclusion amount included by the U.S. shareholder under section 951A.

Section 1.901-2(f) provides rules for determining the person considered to have paid or accrued a foreign income tax for foreign tax credit purposes (the section 901 taxpayer). A partnership is considered the section 901 taxpayer of a foreign income tax imposed at the entity level on the income of the partnership. *See* §1.901-2(f)(4)(i). The person who is treated as owning the assets of a disregarded entity[6] for Federal income tax purposes is considered the section 901 taxpayer of any foreign income tax imposed at the entity level on the income of the disregarded entity. *See* §1.901-2(f)(4)(ii). However, if a partnership, disregarded entity, or corporation undergoes one or more covered events[7] during its foreign taxable year that do not close the foreign taxable year, a foreign income tax, other than a withholding tax described in section 901(k)(1)(B), imposed with respect to that continuing foreign taxable year is allocated among the current owner or entity and predecessor entities or prior owners under §1.901-2(f)(5).

Section 1.861-20 provides rules for allocating and apportioning foreign income taxes to statutory and residual groupings. *See also* §1.861-8(f). These rules are needed for determining a CFC's net items of subpart F income and tested income as well as for determining which taxes are attributable to the CFC's income groups and PTEP groups (as defined in §1.960-1(b)) for purposes of section 960. *See* §§1.960-1(d), 1.960-2(b)(2), 1.960-2(c)(4) and 1.960-3(d)(1)(i)(A).[8] Among other purposes, these rules are used for determining whether an item of CFC income is high-taxed for purposes of the high-tax exception to foreign base company income or the high-tax exclusion from tested income. *See* §§1.954-1(d) and 1.951A-2(c)(7).

[4] The domestic corporation's inclusion percentage equals its GILTI inclusion amount divided by the domestic corporation's aggregate pro rata shares of its CFCs' tested income.

[5] Under the amendments made by the OBBBA, for taxable years beginning after December 31, 2025, the domestic corporation is deemed to have paid 90 percent of the product of such domestic corporation's inclusion percentage multiplied by the aggregate tested foreign income taxes paid or accrued by its CFCs. Under the amendments made by the OBBBA, the domestic corporation's inclusion percentage equals its net CFC tested income under section 951A(b) divided by the aggregate amount of its CFCs' tested income.

[6] A disregarded entity is an entity described in §301.7701-2(c)(2)(i).

[7] "Covered events" is defined in §1.901-2(f)(5)(ii). Covered events include the transfer of a disregarded entity or a change in entity classification under §301.7701-3.

[8] Proposed amendments to regulations under sections 959 and 960 were published in the Federal Register on December 2, 2024 (89 FR 95362).

For purposes of determining the amount of the foreign tax credit, foreign income taxes are translated at the rate provided under section 986(a). If the section 901 taxpayer of the foreign income tax takes foreign income taxes into account when accrued, taxes are generally translated using the average exchange rate for the taxable year to which the taxes relate. *See* section 986(a)(1)(A). Section 986(a) provides certain exceptions to the general rule, including for foreign income taxes that are not paid within two years of the close of the U.S. taxable year to which they relate. *See* section 986(a)(1)(B). Section 905(c) provides that, among other things, a change in the amount of foreign income tax accrued and claimed as a credit requires a redetermination of the U.S. tax liability for the year to which the tax relates.

Foreign income taxes accrue in the taxable year in which all the events have occurred that establish the fact of the liability and the amount of the liability can be determined with reasonable accuracy. *See* §§1.446-1(c)(1)(ii)(A) and 1.461-4(g)(6)(iii)(B). A foreign income tax determined on the basis of items of income, gain, deduction, and loss that arise in a foreign taxable year (a foreign net income tax) becomes fixed and determinable at the close of the section 901 taxpayer's foreign taxable year. *See* §1.905-1(d)(1)(i). For section 901 taxpayers who use the cash method of accounting, foreign income taxes are taken into account when paid. *See* §§1.905-1(c)(1) and 1.446-1(c)(1)(i). Foreign income taxes are generally considered paid in the taxable year in which the taxes are remitted to the foreign country.

A specified foreign corporation's foreign taxable year may close with or within the specified foreign corporation's first required year. In that case, the foreign net income tax, likely imposed with respect to a full taxable year of foreign law income, accrues in the first required year while only one month of income accrues in that year for Federal income tax purposes. Depending on the amount of the foreign net income tax imposed, this could result in the specified foreign corporation having a loss with respect to a particular income group for the first required year. In such case, a U.S. shareholder would have no inclusion with respect to that income group under section 951(a)(1) or would take into account no tested income with respect to that income group under section 951A, and therefore, taxes attributable to that income group would not be deemed paid under section 960(a) or (d).

.04 <u>Section 987 and the Recognition of Pretransition Gain or Loss</u>.

Section 987 applies to taxpayers (including CFCs) that own a qualified business unit (QBU) with a functional currency other than the dollar. Under section 987(3), the owner of a QBU recognizes foreign currency gain or loss when the QBU makes a remittance. Section 989(c) provides that the Secretary shall prescribe regulations as may be necessary or appropriate to carry out the purposes of subpart J of subchapter N of Chapter 1 of Subtitle A of the Code (which includes section 987), including regulations limiting the recognition of foreign currency loss on certain remittances from QBUs.

On December 10, 2024, the Treasury Department and the IRS published Treasury Decision 10016, which contained final regulations under sections 861, 985, 987 through 989, and 1502 (the section 987 regulations), in the Federal Register (89 FR 100138). The section 987 regulations generally apply to taxable years beginning after December 31, 2024, but taxpayers can elect to apply the section 987 regulations to earlier taxable years ending after November 9, 2023. *See* §1.987-15.

The section 987 regulations provide, among other things, rules for calculating the amount of foreign currency gain or loss recognized by the owner of a QBU under section 987(3) (section 987 gain or loss) and transition rules that apply in the first taxable year in which the section 987 regulations are applicable. The transition rules, provided in §1.987-10, include rules for determining and recognizing section 987 gain or loss that arose before the section 987 regulations became applicable (pretransition gain or loss). In particular, §1.987-10(e)(5)(ii)(A) permits taxpayers to elect to recognize pretransition gain or loss ratably over the transition period (the amortization election). The transition period is a period of ten taxable years beginning with the first taxable year in which the section 987 regulations apply. Subject to special rules for transfers described in section 381(a), a taxpayer that makes the amortization election recognizes one tenth of its pretransition gain or loss in each taxable year of the transition period.

SECTION 3. REGULATIONS TO BE ISSUED UNDER SECTION 70352 OF THE OBBBA ON THE ALLOCATION OF FOREIGN TAXES

.01 In General. The forthcoming proposed section 898 regulations would provide the rules described in this section 3.

.02 Definitions. For purposes of this section 3 and section 5 of this notice:

(1) Affected corporation. Affected corporation means a specified foreign corporation (as defined in section 898(b)) that takes into account foreign income taxes under an accrual method of accounting and that, pursuant to section 70352(c) of the OBBBA, is required to change its first taxable year beginning after November 30, 2025.

(2) First required year. First required year means a specified foreign corporation's first taxable year beginning after November 30, 2025.

(3) Foreign net income tax. Foreign net income tax means a foreign income tax (as defined in §1.901-2(a)) that is computed based on items of income, gain, deduction, and loss that arise in a foreign taxable year.

(4) Specified foreign income tax. Specified foreign income tax means a foreign net income tax accrued by an affected corporation in its first required year for which the affected corporation is the taxpayer of the tax under §1.901-2(f) (section 901 taxpayer).

(5) Succeeding taxable year. Succeeding taxable year means a specified foreign corporation's taxable year immediately following its first required year.

.03 Taxes Not Subject to Sections 3.04 Through 3.06 of This Notice. (1) Other foreign taxes taken into account by an affected corporation. The rules of sections 3.04 through 3.06 of this notice apply only to specified foreign income taxes. A foreign tax, other than a specified foreign income tax, that is taken into account by an affected corporation in its first required year or its succeeding taxable year continues to be taken into account in that taxable year. For example, an affected corporation's distributive share of foreign income taxes paid or accrued by a partnership, withholding taxes described in section 901(k)(1)(B), and foreign income taxes accrued in the succeeding taxable year continue to be taken into account in the year in which they ordinarily would be taken into account for Federal income tax purposes. The rules do not apply to a distributive share of foreign income taxes paid or accrued by a partnership in its first required year because the affected corporation will take into account a distributive share of partnership income at the same time. *See* section 706(a) and §1.706-1(a). Similarly, withholding taxes are not taken into account because they generally accrue close in time to the accrual of the income on which these taxes are imposed. Finally, while a foreign net income tax accrued in the succeeding taxable year may relate to income accrued in the first required year, the Treasury Department and the IRS expect that the administrative and compliance burdens of allocating a portion of that tax to the first required year would exceed the benefits. In particular, such an allocation would be difficult to perform before the end of the succeeding taxable year, which, unless the succeeding taxable year is a short taxable year, will be after the due date of the majority U.S. shareholder's income tax return for the taxable year with which the affected corporation's first required year ends.

(2) Specified foreign corporations on the cash method. If a specified foreign corporation takes into account foreign taxes under the cash method of accounting and, pursuant to section 70352(c) of the OBBBA, changes its first taxable year beginning after November 30, 2025, any foreign tax taken into account by the specified foreign corporation in its first required year or its succeeding taxable year will continue to be taken into account in that year.

.04 Ordering Rule for the Allocation of Specified Foreign Income Taxes. A specified foreign income tax is allocated between the affected corporation's first required year and its succeeding taxable year and then taken into account in each respective taxable year under the following rules:

(1) First, specified foreign income taxes are determined.

(2) Second, §1.861-20, as modified by §1.960-1(d)(3)(ii)(B), is applied in the first required year to allocate and apportion any specified foreign income tax to the income groups described in §1.960-1(d)(2) and any PTEP group treated as an income group under §1.960-1(d)(3)(ii)(B) in that year, except that the tentative gross tested income items described in §1.951A-2(c)(7)(ii) are treated as income groups instead of the tested income groups described in §1.960-1(d)(2)(ii)(C). Whether any item meets the high-tax exception to foreign base company income in §1.954-1(d) (high-tax exception) or the high-tax exclusion from tested income in §1.951A-2(c)(7) (high-tax exclusion) in either the first required year or the succeeding taxable year is determined under section 3.04(4)(a) of this notice. *See* section 3.07(3) (Example 3) of this notice.

(3) Third, the allocation rule in section 3.05 of this notice is applied to determine the amount of specified foreign income tax in each income group that is allocated to the first required year and the succeeding taxable year.

(4)(a) Fourth, except as provided in section 3.04(4)(b) of this notice, the amounts of a specified foreign income tax allocated under section 3.04(3) of this notice to the first required year and the succeeding taxable year are treated as accruing in each respective year (assigned to the income groups determined under section 3.04(2) of this notice) for all purposes of the Code, including for purposes of computing the affected corporation's items of subpart F income and tested income (including whether any item meets the high-tax exception or the high-tax exclusion), earnings and profits, and taxes deemed paid under section 960(a), (b), or (d).

(b) The amount of specified foreign income tax allocated to the succeeding taxable year under section 3.04(3) of this notice is not treated as accruing in the succeeding taxable year for purposes of sections 905(c) and 986(a). Section 3.06 of this notice describes the treatment of a specified foreign income tax under those provisions.

.05 Allocation of Specified Foreign Income Tax Between the First Required Year and the Succeeding Taxable Year.

(1) Amounts allocated to the first required year.

(a) In general. Except as provided in section 3.05(1)(b) of this notice, the amount of a specified foreign income tax assigned to each income group determined under section 3.04(2) of this notice that is allocated to the first required year is determined by multiplying the specified foreign income tax assigned to that income group by the affected corporation's allocation percentage for the specified foreign income tax. Except as provided in section 3.05(1)(b) and 3.05(3) of this notice, the allocation percentage for each specified foreign income tax is equal to the portion of taxable income, as determined under foreign law, that is attributable under the principles of §1.1502-76(b) to the first required year (numerator) divided by the total taxable income, as determined under foreign law, for the foreign taxable year with respect to which the specified foreign income tax is imposed (denominator). The principles of § 1.1502-76(b) allow taxpayers to use either a closing of the books method or a ratable allocation method in attributing the foreign tax base to these periods. This approach reduces the likelihood that foreign income taxes of a specified foreign corporation in the first required year could not be deemed paid as a consequence of the repeal of section 898(c)(2) by matching an amount of specified foreign income tax accrued in the first required year to associated income in that first required year while also considering administrability concerns similar to those discussed in section 3.03 of this notice.

(b) Tax assigned to a PTEP group and accompanying adjustments to the allocation percentage. The amount of a specified foreign income tax assigned to any PTEP group under section 3.04(2) of this notice is allocated to the first required year. The foreign law taxable income corresponding to the amount of specified foreign income tax described in the preceding sentence is excluded in determining the allocation percentage under section 3.05(1)(a).

(2) Amount allocated to the succeeding taxable year. The amounts of the specified foreign income tax assigned to each income group remaining after the application of section 3.05(1) of this notice are allocated to the succeeding taxable year.

(3) Interaction with §1.901-2(f)(5). If an affected corporation is the section 901 taxpayer of a portion of a specified foreign income tax due to the application of §1.901-2(f)(5) and the affected corporation's period of ownership began on or before the beginning of the first required

year, the denominator of the fraction used to compute the allocation percentage is the total taxable income attributable to the affected corporation's period of ownership (as determined under §1.901-2(f)(5)). If the affected corporation is the section 901 taxpayer of a portion of a specified foreign income tax due to the application of §1.901-2(f)(5) and the affected corporation's period of ownership began after the beginning of the first required year, the allocation percentage is deemed to be 100 percent.

.06 Application of Sections 905(c) and 986(a) to Specified Foreign Income Taxes. For purposes of sections 905(c) and 986(a), a specified foreign income tax accrues in the first required year, regardless of whether a portion of the specified foreign income tax is allocated to the succeeding taxable year under section 3.05 of this notice. Therefore, the first required year is the year to which the specified foreign income tax relates for purposes of sections 905(c)(1)(B) and 986(a). Any change in the liability for a specified foreign income tax results in the following: First, the amount of the specified foreign income tax accrued in the first required year is adjusted to reflect the change in liability. Second, the rules under sections 3.04(1), 3.04(2), and 3.04(3) of this notice are applied based upon the adjusted amount of the specified foreign income tax. Third, the amounts of specified foreign income tax that are treated as accruing in the first required year and the succeeding taxable year under section 3.04(4) of this notice are adjusted to reflect the reapplication of sections 3.04(1) through 3.04(3) of this notice.

.07 Examples. The following examples illustrate the application of this section 3.

(1) Example 1. Taxes subject to allocation. (a) Facts. (i) CFCX is a specified foreign corporation.

(ii) CFCX's first required year is from December 1, 2025, to December 31, 2025.

(iii) CFCX's succeeding taxable year is from January 1, 2026, to December 31, 2026.

(iv) CFCX takes foreign income taxes into account under an accrual method of accounting.

(v) The functional currency of all qualified business units is the u, and all foreign income taxes are denominated in the u.

(vi) CFCX is subject to tax in Country X on the basis of its items of income, gain, deduction, and loss for its Country X taxable year, and the Country X tax is a foreign income tax within the meaning of §1.901-2(a). CFCX's Country X taxable year is the calendar year. CFCX accrues Country X tax of 7,200u in its first required year.

(vii) CFCX owns a 40 percent interest in the profits and capital of Partnership Y, an entity treated as a partnership for Federal income tax purposes that is organized and operated in Country Y. Partnership Y's U.S. taxable year is the calendar year. Partnership Y is subject to tax in Country Y on the basis of its items of income, gain, deduction, and loss for its Country Y taxable year, and the Country Y tax is a foreign income tax within the meaning of §1.901-2(a). Partnership Y's Country Y taxable year is the calendar year. For its U.S. taxable year ending

December 31, 2025, Partnership Y accrues Country Y tax of 10,000u. CFCX's distributive share of the Country Y tax is 4,000u.

(viii) CFCX wholly owns DEZ, a disregarded entity that is organized and operated in Country Z. DEZ is subject to tax in Country Z on the basis of its items of income, gain, deduction, and loss for its Country Z taxable year, and the Country Z tax is a foreign income tax within the meaning of §1.901-2(a). DEZ's Country Z taxable year ends on March 31. CFCX accrues 5,000u of Country Z tax in its succeeding taxable year.

(b) Analysis. The 7,200u of Country X tax is a specified foreign income tax under section 3.02(4) of this notice because it is a foreign net income tax that accrued in CFCX's first required year and CFCX is the section 901 taxpayer of the tax. As such, the 7,200u of Country X tax is subject to the rules in sections 3.04 through 3.06 of this notice. CFCX's 4,000u distributive share of Country Y tax is not a specified foreign income tax because CFCX is not the section 901 taxpayer of the tax. CFCX is the section 901 taxpayer of the 5,000u of Country Z tax; however, because the tax accrues in the succeeding taxable year, it is not a specified foreign income tax. Because CFCX's 4,000u distributive share of Country Y tax and the 5,000u of Country Z tax are not specified foreign income taxes, both taxes continue to be taken into account in the taxable year in which they are ordinarily taken into account for Federal income tax purposes under section 3.03(1) of this notice.

(2) Example 2. Application of §1.861-20 and allocation of specified foreign income tax. (a) Facts. The facts are the same as in Example 1. In addition, CFCX's total taxable income under Country X law for the 2025 calendar year is 45,000u. Applying the principles of §1.1502-76(b), 3,750u of this income is attributable to CFCX's first required year. Under §1.861-20, the 7,200u of Country X tax is allocated and apportioned to the income groups described in section 3.04(2) of this notice as follows: 5,400u to general category tentative gross tested income attributable to the CFC tested unit (CFC income group) and 1,800u to the general category foreign base company services income group (FBCServ income group).

(b) Analysis. Pursuant to the ordering rules in section 3.04 of this notice, the 7,200u of Country X tax is allocated and apportioned to the income groups described in section 3.04(2) of this notice prior to the application of the allocation rule in section 3.05 of this notice. Under the rules of section 3.05 of this notice, the allocation percentage is then computed and applied to the amount of Country X tax in each income group. The amount of CFCX's taxable income under County X law that is attributable to the first required year (3,750u) is divided by the total taxable income for the Country X taxable year (45,000u), which results in an allocation percentage of 8.33%. The amount of Country X tax in each income group that is allocated to the first required year is determined by applying the allocation percentage to the amount of the specified foreign income tax in each income group. Therefore, the following amounts of the Country X tax are allocated to the first required year: 450u, which is assigned to the CFC income group (8.33% of 5,400u); and 150u, which is assigned to the FBCServ income group (8.33% of 1,800u). The remaining amount of Country X tax in each income group is allocated to CFCX's succeeding taxable year: 4,950u, assigned to the CFC income group (5,400u-450u) and 1,650u, assigned to the FBCServ income group (1,800u-150u).

(3) Example 3. Treatment of allocated amounts of specified foreign income tax in the first required year for purposes of the high-tax exclusion. (a) Facts. The facts are the same as in Examples 1 and 2. In addition, an election under §1.951A-2(c)(7)(viii) is in effect with respect to CFCX for the first required year. Under §1.951A-2(c)(7)(ii), CFCX has two tentative gross tested income items: 3,000u in the CFC income group and 2,000u of general category tentative gross tested income attributable to the DEZ tested unit. CFCX accrues no expenses in its first required year other than the specified foreign income tax.

(b) Analysis. Pursuant to section 3.04(4) of this notice, the portion of the Country X tax allocated to the first required year is treated as the amount of Country X tax accrued in that taxable year for all purposes of the Code except sections 905(c) and 986(a). Therefore, in determining whether CFCX's tentative gross tested income items are excluded from gross tested income under sections 954(b)(4) and 951A(c)(2)(A)(i)(III), 450u of Country X tax is treated as accrued in the first required year and allocated and apportioned to the CFC income group, the statutory grouping to which 3,000u of gross income is assigned. If an election under §1.951A-2(c)(7)(viii) is in effect with respect to CFCX for the succeeding taxable year, the 4,950u assigned to the CFC income group would be taken into account in the same manner in that year.

SECTION 4. REGULATIONS TO BE ISSUED UNDER SECTION 987

.01 In General. The forthcoming proposed section 987 regulations would provide the rules described in this section 4. The forthcoming proposed section 987 regulations would modify the effect of the amortization election to appropriately take into account pretransition gain or loss for short taxable years, including short taxable years resulting from the repeal of section 898(c)(2).

.02 Transition Period. If an election is made under §1.987-10(e)(5)(ii)(A) to recognize pretransition gain or loss ratably over the transition period, then each owner to which the election applies recognizes pretransition gain or loss with respect to each section 987 QBU, original deferral QBU, and outbound loss QBU ratably over 120 months beginning with the first day of the first taxable year in which the section 987 regulations apply, subject to the special rules provided in §1.987-10(e)(5)(ii)(B) (related to transfers described in section 381(a)) and section 4.03 of this notice.

.03 Taxable Years Ending Before November 25, 2025. For purposes of section 4.02 of this notice, if an owner recognized a ratable portion of its pretransition gain or loss under §1.987-10(e)(5)(ii)(A) in any taxable year to which the rules provided in section 4.02 of this notice did not apply, each such taxable year is deemed to contain twelve months. Thus, for example, if the first taxable year of an owner in which the section 987 regulations apply is a short taxable year ending before November 25, 2025, and the owner recognized one tenth of its pretransition gain or loss in that taxable year under §1.987-10(e)(5)(ii)(A), the owner recognizes its remaining pretransition gain or loss ratably over 108 months beginning with the first day of the next taxable year.

SECTION 5. APPLICABILITY DATES AND RELIANCE

The forthcoming proposed section 898 regulations would apply to taxable years of specified foreign corporations beginning after November 30, 2025. A taxpayer may rely on the rules described in section 3 of this notice for foreign taxes paid or accrued in taxable years of specified foreign corporations beginning after November 30, 2025, and ending before the forthcoming proposed section 898 regulations are published in the Federal Register, provided the taxpayer applies the rules in section 3 of this notice in their entirety and in a consistent manner for the first required year and succeeding taxable year of a specified foreign corporation.

The forthcoming proposed section 987 regulations would apply to taxable years beginning after December 31, 2024, and ending on or after November 25, 2025. A taxpayer may rely on the rules described in section 4 of this notice before the forthcoming proposed section 987 regulations are published in the Federal Register for a taxable year to which the section 987 regulations apply, provided the taxpayer applies the rules described in section 4 of this notice in their entirety and in a consistent manner with respect to each section 987 QBU, original deferral QBU, and outbound loss QBU for that taxable year and each subsequent taxable year.

SECTION 6. REQUEST FOR COMMENTS

The Treasury Department and the IRS request comments on the rules described in sections 3 and 4 of this notice. The Treasury Department and the IRS specifically request comments on whether the allocation rule provided in section 3.05 of this notice should apply to any foreign taxes other than specified foreign income taxes, such as an affected corporation's distributive share of foreign income taxes paid or accrued by a partnership that is required to change its taxable year because of the change in taxable year of the affected corporation. The Treasury Department and the IRS also request comments on whether there are other rules that, similar to the amortization of pretransition gain or loss described in section 2.04 of this notice, apply over multiple years and may warrant guidance to address their application in light of short taxable years resulting from the repeal of section 898(c)(2).

Written comments should be submitted by January 24, 2026. The subject line for comments should include a reference to Notice 2025-72. Comments may be submitted electronically via the Federal eRulemaking Portal at https://www.regulations.gov (type IRS-2025-0433 in the search field on the regulations.gov homepage to find this notice and submit comments). Written comments may be mailed to Internal Revenue Service, CC:PA:01:PR (Notice 2025-72), Room 5503, P.O. Box 7604, Ben Franklin Station, Washington, D.C., 20044. All commenters are strongly encouraged to submit comments electronically.

The Treasury Department and the IRS will publish for public availability any comment submitted electronically and on paper to its public docket on regulations.gov.

SECTION 7. DRAFTING AND CONTACT INFORMATION

The principal authors of this notice are Hayley Rassuchine and Raphael J. Cohen of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding the allocation of foreign taxes, contact Hayley Rassuchine at (202) 317-6936 (not a toll-free number). For further information regarding the modification of the section 987 regulations, contact Raphael J. Cohen at (202) 317-6938 (not a toll-free number).