Standard Reinsurance Contract by publication in the FEDERAL REGISTER of a notice of offer to provide reinsurance against riots or civil disorders. The terms and conditions of the Standard Reinsurance Contract being offered will be published as part of the notice of offer. This amendment does not affect any rights, duties, obligations, or liabilities arising under the Standard Reinsurance Contract (1971–72), or under any prior Standard Reinsurance Contract.

Since the notice of offer required by this amendment must be published in the FEDERAL REGISTER in time for acceptance by eligible insurance companies on or before April 30, 1972, for the May 1, 1972, to April 30, 1973, contract year, notice and public procedure upon this amendment are not practicable and good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

Part 1906 of Subchapter A of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. The table of contents to Part 1906 is amended by the addition of a new § 1906.40 to read as follows:

2. Part 1906 is amended by the addition of a new § 1906.40, to read as follows:

§ 1906.40 Notice of offer of reinsurance.

(a) Commencing with the Standard Reinsurance Contract for the May 1, 1972, to April 30, 1973, contract year, Federal reinsurance against riots or civil disorders shall be offered to eligible insurance companies by publication in the FEDERAL REGISTER of a notice of offer to provide reinsurance against riots or civil disorders. The notice of offer shall include an offer to provide reinsurance, a statement of the method by which the offer may be accepted, and the terms and conditions of the Standard Reinsurance Contract being offered.

(b) Copies of the terms and conditions of the Standard Reinsurance Contract offered in the notice of offer shall be maintained for public inspection at the office of the Federal Insurance Administrator, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, during regular business hours and may be obtained by writing to the Administrator at the above address.

(c) Notwithstanding any provision of any other section in this part, the terms and conditions of any Standard Reinsurance Contract shall govern with respect to that contract if the contract has been offered in the manner provided in paragraph (a) of this section.

(Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); sec. 1103, 82 Stat. 566; 12 U.S.C. 1749bbb–17; and Secretary's delegation of authority published at 34 F.R. 2680, Feb. 27, 1969)

Effective date. This amendment shall be effective on publication in the FEDERAL REGISTER (3–25–72).

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-4562 Filed 3-24-72;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

SOLICITATION OF OFFERS AND FIXED-PRICE SUPPLY CONTRACTS

Chapter 5A of Title 41 is amended as follows:

PART 5A–3—PROCUREMENT BY NEGOTIATION

Part 5A–3 is amended by the addition of new Subpart 5A–3.70, as follows:

AUTHORITY: The provisions of this Subpart 5A–3.70 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5–1.101(c).

Subpart 5A–3.70—Solicitation of Offers

§ 5A–3.7001 Preparation of solicitation of offers.

(a) In addition to the forms prescribed in Subpart 1–16.2 for negotiated supply contracts, the basic forms to be used for requesting offers on negotiated contracts shall be the same forms prescribed in Subpart 1–16.1 and § 5A–2.201–70 for use when soliciting bids under advertised contracts. Generally, solicitation of offers shall be in writing. However, in appropriate cases as prescribed in § 5A–3.7002 proposals or quotations may be solicited orally, provided that the resulting definitive contract is prepared on the prescribed contract form for signature by both parties.

(b) Solicitations shall contain the information necessary to enable a prospective offeror to prepare an offer. All such information shall be set forth in full in the solicitation except that Standard Forms 32, General Provisions (Supply Contract), and 33A, Solicitation Instructions and Conditions, and GSA Form 1424, GSA Supplemental Provisions (or GSA Form 1246, GSA Supplemental Provisions (A.I.D. Procurement), if applicable) may be incorporated by reference in the same manner as prescribed in § 5A–2.201–70 for advertised contracts after ensuring that the forms have been received by the offerors or quoters.

§ 5A–3.7002 Oral solicitations.

(a) Oral solicitations are authorized for small purchases (see Subparts 1–3.6, 5–3.6, and 5A–3.6) and for the procurement of perishable subsistence.

(b) Oral solicitations, other than those described in paragraph (a), above, also are authorized in cases where the processing of a written solicitation would delay the furnishing of the supplies or services to the detriment of the Government. Examples of such circumstances may include those listed in § 1–3.202. However, oral solicitation is not to be considered justified solely because a high issue Priority Designator has been assigned to the requirement or because public exigency has been determined to exist.

(c) In addition to other applicable documentation requirements of Subpart 1–3.3, the contract record should include a résumé of the circumstances which justified use of an oral solicitation, the item description, quantity, deliveries required, sources solicited, prices quoted (including name of individual contacted), date and time contacted, and the solicitation number which was provided to the prospective sources. Should the issuance of the resulting contractual instrument be unduly delayed, the contract file shall be documented to describe the reasons for the delay and justify award based on the oral solicitation.

(d) The oral method of solicitation, pursuant to this section, shall not be used without prior approval at a level higher than the contracting officer but not below grade GS–13.

(e) Use of oral solicitation does not relieve the contracting officer from complying with other applicable procurement regulations, e.g., post-award notice to offerors (see § 1–3.103), price negotiation policies and techniques (see Subparts 1–3.8, 5–3.8, and 5A–3.8), and submission of same terms and conditions to all offerors.

§ 5A–3.7003 Bidders mailing lists.

Bidders mailing lists for negotiated procurements shall be established, maintained, and utilized in accordance with §§ 1–2.205 and 5A–2.205.

PART 5A–7—CONTRACT CLAUSES

The table of contents of Part 5A–7 is amended to add the following new entry:

Subpart 5A–7.1—Fixed-Price Supply Contracts

Subpart 5A–7.1 is amended to add a new § 5A–7.170–4 as follows:

§ 5A–7.170–4 Drawings referencing product or material specifications.

The following clause shall be included in all solicitations for offers where the specification includes drawings:

REFERENCES TO SPECIFICATIONS IN DRAWINGS

If military or other drawings are made a part of this contract, any reference in the drawings to specifications or standards shall be considered as reference to the issue of such documents currently in effect on the issue date of the solicitation for offers.

Effective date. This regulation is effective 30 days after the date shown below, but may be observed earlier.

Dated: March 15, 1972.

M. S. MEEKER,
Commissioner,
Federal Supply Service.

[FR Doc.72-4604 Filed 3-24-72;8:49 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

CLINICAL TRAINING IN PHYSICIAN'S OFFICE

This amendment of Veterans Administration regulations provides for recognition as part of the institutional training the clinical training phase of a school's medical specialty education program if given in a physician's office and if otherwise approved by the Council on Medical Education of the American Medical Association.

In § 21.4275(c), subparagraph (1) is amended to read as follows:

§ 21.4275 **Professional courses.**

* * * * *

(c) *Medical and dental specialty courses.* (1) Medical and dental specialty courses such as X-ray technician, medical technician, medical records librarian, physical therapist, and dental technician courses whether accredited or nonaccredited offered by a school will be measured on the basis of credit hours or clock hours of attendance, whichever is appropriate. Required clinical training given in an affiliated hospital, clinic, laboratory or medical center will be assessed as institutional training when it is an integral part of the course, the completion thereof is a prerequisite to the successful completion of the course, the student remains enrolled in the course during the clinical training period, and the training is under the direction and supervision of the school. Clinical training given in a physician's office, also called externship, will be recognized as part of the institutional training if the course is accredited by the Council on Medical Education, American Medical Association. If the course is not so accredited such practical or on-the-job training or experience in a physician's office may not be included unless the program is approved as a cooperative course.

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective the date of approval.

Approved: March 20, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.72-4594 Filed 3-24-72;8:49 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGICAL PRODUCTS

Periodic Check on Sterile Techniques for Human Whole Blood

On November 12, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 21696) proposing to amend Part 73 of the Public Health Service regulations by amending § 73.3004(b) to require that a periodic check on sterile technique need only be performed when Whole Blood (Human) is prepared in an open or vented system.

Views and arguments respecting such proposal were invited to be submitted within 30 days after publication of the notice in the FEDERAL REGISTER and notice was given of intention to make any amendments that were adopted effective 30 days after publication in the FEDERAL REGISTER.

After consideration of all comments submitted, the following amendment to Part 73 of the Public Health Service regulations is hereby adopted to become effective 30 days after publication in the FEDERAL REGISTER.

Dated: March 16, 1972.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Section 73.3004(b) is amended by revising the first sentence to read as follows:

§ 73.3004 **General requirements.**

* * * * *

(b) *Periodic check on sterile technique.* Where blood is collected in an open system, that is, where the blood container is entered, at least one container of such blood that upon visual examination appears normal shall be tested each month between the 18th and 24th day after collection, as a continuing check on technique of blood collection, as follows: * * *

* * * * *

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216, sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

[FR Doc.72-4560 Filed 3-24-72;8:48 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGFR 72-59R]

REFERENCE SPECIFICATIONS, STANDARDS, AND CODES

Miscellaneous Amendments to Chapter

The purpose of these amendments to the engineering regulations is:

(1) To make editorial changes, primarily correcting errors that occurred in the 1968 revision of Subchapter F (33 F.R. 18808);

(2) To reflect changes in adopted industry standards and specifications;

(3) To adopt additional standards;

(4) To reflect technological advances;

(5) To interpret current regulations; and

(6) To allow aluminum as a material for the fabrication of independent fuel tanks.

These amendments were proposed in a notice of proposed rule making published in the FEDERAL REGISTER of February 24, 1971 (36 F.R. 3425), and in the Merchant Marine Council Public Hearing Agenda (CG-249) dated March 29, 1971. The proposed amendments in this document were identified as Item PH 2-71.

The Merchant Marine Council held a public hearing on March 29, 1971, in Washington, D.C., on the amendments proposed in the notice. Interested persons were given the opportunity to submit written comments both before and at the public hearing and to make oral comments concerning all the proposed amendments at the public hearing.

Item PH 2-71 included two proposals: Item PH 2a-71 concerns miscellaneous changes to 46 CFR Subchapters F, Q, and T; and Item PH 2b-71 concerns the allowance by the Coast Guard of aluminum as a material for the fabrication of independent fuel tanks for gasoline and diesel fuel service.

Nineteen comments were received on Item PH 2a-71. Three of these comments supported the proposals. One comment suggested that the words "physical properties" proposed in the amendments to footnotes 10 and 11 of Table 56.60-1(a) be changed to "mechanical properties" to clarify the intent of the rule. This suggestion has been approved and the footnotes to the table have been changed in accordance with the suggestion.

One comment questioned the adoptions of ANSI B 31.7 for nuclear power piping as proposed on pages 30 through 33 of the Merchant Marine Public Hearing Agenda (CG-249). This comment pointed out that the ASME's 1971 edition of the "Boiler and Pressure Vessel Code" will contain a new section III, "Nuclear Power Plant Components, Division 1, Metal Components" that includes nuclear piping. The requirements on piping in the new section III are adopted from ANSI B 31.7 with necessary modifications to make them consistent and compatible with the requirements of other components in the system. Since ASME is the sponsor of both ANSI B 31.7 and the "Boiler and Pressure Vessel Code," the commentator pointed out the probability of industry and governmental agency acceptance and use of the new section III. The Coast Guard determined that other government agencies, both Federal and State, intended to use the new section III and decided not to adopt B 31.7 at this time. Accordingly, the adoption of B 31.7 which appears on pages 30 through 33 of the Merchant Marine Public Hearing

Agenda (CG-249) dated March 29, 1971, is hereby withdrawn.

A comment suggested that since an accumulation of sediment near the bottom of a tank could disable the gage closure device required in the proposed § 58.50-10(a)(4)(iii), the fuel level gage should continue to be installed on the topmost part of the tank. The Coast Guard accepted the intent of this comment and changed § 58.50-10(a)(4)(iii) to permit liquid level gages to penetrate at a point that is more than 2 inches from the bottom of the tank.

A comment suggested that the designation "Class A nuclear vessels" in the proposed amendment to § 162.001-2(a) be changed to "Class 1 nuclear vessels" for consonance with the 1971 ASME Code. The Coast Guard accepted this comment and made the change in the rule.

A comment pointed out that according to Item 70-198 in the minutes of the Boiler and Pressure Vessel Committee, Form P-1 (Flow Test Report) will be eliminated on January 1, 1972. It was suggested that the Coast Guard reflect this deletion in the proposed § 162.002-6(c). The Coast Guard accepted this suggestion and changed the words "or by submitting a copy of flow test report ASME Form P-1" to "or in the form of a copy of the capacity test data report" in § 162.002-6(c).

A comment suggested that the words "but is below 375° F." should be added to the proposed § 56.01-10(c)(1)(xiii). It was pointed out that the addition would be consonant with § 56.50-15(h) and would complete the temperature limitation for easy reference by a designer. The Coast Guard accepted the suggestion and changed § 56.01-10(c)(1)(xiii) to read as follows: "Hot water heating systems where the temperature is greater than 250° F. but is less than 375° F."

One comment stated that the proposed amendment to § 56.50-15(b) could be interpreted as permitting the piping to be designed to a lesser specification. The commentator proposed that the amendment be changed to reflect the wording of article PG 58.1.2.2 in section I of the ASME Boiler and Pressure Vessel Code. The Coast Guard accepted the comment and changed the first sentence of § 56.50-15(b) to read as follows: "Main superheater outlet piping systems, desuperheater piping systems and other auxiliary superheated piping systems led directly from the boiler superheater shall be designed for a pressure not less than the pressure at which the superheater safety valve is set."

A comment disagreed with the proposed amendment to § 56.50-15(i)(2). The commentator objected to the requirement of a back pressure trip device on the basis that it is an added source for propulsion failure during critical maneuvering periods and it may be difficult to test during periodic inspections. The Coast Guard recognizes that the alternatives to a simple relief valve add complexity to the machinery but does not accept this as a sufficient basis for rejection. The Coast Guard determined that the required device provides necessary protection. Accordingly, the Coast Guard did not approve the suggestion made in the comment for the deletion of the back pressure trip device. However, one change was made to § 56.50-15(i)(2) in accordance with a suggestion by a second commentator. In order to provide the proper protection, the Coast Guard changed the requirement that the back pressure trip device must close the inlet valve when the exhaust side pressure exceeds the maximum allowable pressure to require the closure prior to when the exhaust side pressure exceeds the maximum allowable pressure.

Three comments pertaining to the proposed amendments to § 56.50-105(a)(5) suggested relaxations of the requirements for the materials and fabrication methods for low temperature piping. The Coast Guard considered the proposed regulation to accommodate all appropriate portions of the suggestions and approved the regulation with only minor editorial changes.

One comment concerning the proposed § 162.002-5 stated that the use of three-fourths of an inch as a minimum safety valve size for unfired steam generators and auxiliary boilers is not adequate. This opinion was made without supporting evidence. The Coast Guard determined that the minimum size was supportable and rejected the suggestion. The proposed regulation was adopted but the form was changed to promote reader understanding and facilitate reference.

The remainder of the comments concerned minor editorial changes, primarily typographical errors, which were accepted.

Item PH 2b-71 received five comments. One comment supported the proposal. Three comments opposed the change on the basis that aluminum is a poor material for the transportation of oil and other hazardous cargoes. One comment called attention to a missing caption. The comments in opposition to the proposal were not based on current information on metallurgy and structural design. Accordingly, the amendment is adopted.

In accordance with the foregoing, Parts 50, 52, 54, 56, 58, 162, and 182 of Title 46 of the Code of Federal Regulations are amended as follows:

SUBCHAPTER F—MARINE ENGINEERING

PART 50—GENERAL PROVISIONS

1. By amending § 50.15-20(a) by adding a new subparagraph (12) to read as follows:

§ 50.15-20 Additional standards.

(a) * * *

(12) Fluid Controls Institute, Inc., Post Office Box 1485, Pompano Beach, FL 33061.

* * * * *

2. By amending the table in § 50.25-1(a) by adding a 14th product to read as follows:

§ 50.25-1 [Amended]

TABLE 50.25-1(A)—CERTIFICATION REQUIREMENTS FOR CERTAIN PRODUCTS

Identification No.	Product	Verification by	Listing in CG-190
* * *	* * *	* * *	* * *
14	Valves and fittings designed for hydraulic service, as described in § 58.30-15(f), that require testing as per § 58.30-17.	Specific letter.	Yes.

PART 52—POWER BOILERS

§ 52.01-1 [Amended]

3. By amending the table in § 52.01-1(a) as follows:

a. By adding the words "PG-2 replaced by ------------ Table 54.01-5(a)" as the first entry.

b. By striking the words "PG-105 and" in the 17th entry and inserting the words "PG-104 through" in place thereof.

4. By revising § 52.01-120(a)(2) and (7) to read as follows:

§ 52.01-120 Safety valves and safety relief valves (modifies PG-67 through PG-72).

(a) * * *

(2) Propulsion boilers and their superheaters must have approved safety valves that meet the requirements in Subpart 162.001 of Part 162 of this chapter. Auxiliary boilers or unfired steam generators must have approved safety valves that meet the requirements in Subpart 162.001 or Subpart 162.002 of Part 162 of this chapter. The total rated relieving capacity of the approved safety valves must meet the requirements in § 52.01-120(a)(4).

* * * * *

(7) On new installations the safety valve nominal size for propulsion boilers and superheaters must not be less than 1½ inches nor more than 4 inches. Safety valves 1½ to 4½ inches may be used for replacements on existing boilers. The nominal size of a safety valve is the nominal diameter (as defined in § 56.07-5(b)) of the inlet opening.

* * * * *

PART 54—PRESSURE VESSELS

§ 54.01-1 [Amended]

5. By striking the 25th entry in the table in § 54.01-1(a) and replacing it with two entries to read as follows:

TABLE 54.01-1(a)—LIMITATIONS AND MODIFICATIONS IN THE ADOPTION OF DIVISION 1 OF SECTION VIII, ASME CODE

Paragraphs in section VIII, ASME Code and disposition	*Unit of this part*
* * *	* * *
UW-2(a) replaced by	54.01-5(b) and 54.20-3.
UW-2(b) replaced by	54.01-5(b).
* * *	* * *

§ 54.01–5 [Amended]

6. By amending the table in § 54.01–5 (b) by revising the first entry in the third column for class I vessels and footnotes 2 and 3 to read as follows:

TABLE 54.01–5(B)—WELDED PRESSURE VESSEL CLASSIFICATION

* * *	Minimum joint requirements [1]	* * *
* * *	(1) for category A. (1) or (2) for category B. All categories C and D shall be full penetration welds extending through the entire thickness of the vessel wall or nozzle wall.	* * *
* * *	* * *	* * *

[2] See § 54.20–2(a)
[3] See § 54.20–2(b)

* * * * *

7. By revising § 54.01–35(b)(4) to read as follows:

§ 54.01–35 **Corrosion (modifies UG–25).**

* * * * *

(b) * * *

(4) Not normally need additional thickness allowance when the effective stress (either S or SE depending on the design formula used) is 80 percent or less of the allowable stress listed in section VIII of the ASME Code for calculating thickness.

* * * * *

8. By amending Subpart 54.20 by adding § 54.20–2 to read as follows:

§ 54.20–2 **Fabrication for Dangerous Substances (Replaces UW–2(a)).**

(a) Pressure vessels containing dangerous articles or substances as defined in Subchapters N or O of this chapter shall be of the class and construction required by Subchapters D, I, O, or, when not specified, of the class as determined by the Commandant.

(b) Class III pressure vessels must not be used for the storage or stowage of dangerous substances unless there is specific authorization in Subchapters D, I, N, or O.

9. By amending Table 56.01–5(a) by deleting the unit reference ", 56.35–5" in the 15th entry, and the entire 16th entry reading:

"120.2.3 modified by__________ 56.35–5."

PART 56—PIPING SYSTEMS AND APPURTENANCES

10. By revising § 56.01–10(c)(1) (x) and (xiii) to read as follows:

§ 56.01–10 **Plan approval.**

* * * * *

(c) * * *

(1) * * *

(x) Sanitary drains, soil drains, deck drains, and overboard discharge piping.

* * * * *

(xiii) Hot water heating systems where the temperature is greater than 250° F. but is less than 375° F.

* * * * *

§ 56.07–10 [Amended]

11. By amending § 56.07–10(c) by striking the words "as specified by the Commandant" in the first sentence and inserting the words "that provides 100 percent volumetric examination of the material (e.g., Supplemental Requirement S6.1 to ASTM–A375 for ultrasonics, or other forms of nondestructive examination as specified by the Commandant)" in place thereof.

12. By amending § 56.10–5(c) by inserting a new subparagraph (2–a) to read as follows:

§ 56.10–5 **Pipe.**

* * * * *

(c) * * *

(2–a) Copper-nickel alloys may be used for water and steam service within the design stress and temperature limitations indicated in ANSI B 31.1.

* * * * *

13. By amending § 56.25–20(b) by revising the second sentence to read as follows:

§ 56.25–20 **Bolting.**

* * * * *

(b) * * * Carbon steel bolts must have USA Standard (USAS–B 18.2) square or heavy hexagon heads and must have USA Standard heavy, semifinished hexagonal nuts. * * *

* * * * *

14. By revising § 56.30–40(f) to read as follows:

§ 56.30–40 **Flexible pipe couplings of the compression or slip-on type.**

* * * * *

(f) Flexible couplings must not be used in cargo holds or in any other space where leakage, undetected flooding, or impingement of liquid on vital equipment may disable the ship, or in tanks where the liquid conveyed in the piping system is not compatible with the liquid in the tank. Where flexible couplings are not allowed by this subpart, joints must be screwed, flanged and bolted, or welded.

* * * * *

§ 56.35–5 [Revoked]

15. By revoking § 56.35–5.

16. By amending § 56.50–15 by deleting the second sentence of paragraph (b) and revising the first sentence of paragraph (b) and the entire paragraph (i) to read as follows:

§ 56.50–15 **Steam and exhaust piping.**

* * * * *

(b) Main superheater outlet piping systems, desuperheated piping systems, and other auxiliary superheated piping systems led directly from the boiler superheater shall be designed for a pressure not less than the pressure at which the superheater safety valve is set. * * *

* * * * *

(i) Where positive shutoff valves are fitted in the exhaust lines of machinery, and the exhaust side, including engine steam cylinders and chests, turbine casings, exhaust piping and shutoff valves, is not designed for the full inlet pressure, the exhaust side must be protected from over pressure by one of the following means:

(1) A full flow relief valve in the exhaust side so set and of sufficient capacity to prevent the exhaust side from being accidentally or otherwise subjected to a pressure in excess of its maximum allowable pressure.

(2) A sentinel relief valve or other warning device fitted on the exhaust side together with a back pressure trip device which will close the inlet valve prior to the exhaust side pressure exceeding the maximum allowable pressure. A device that will throttle the inlet valve, so that the exhaust side does not exceed the maximum allowable pressure, may be substituted for the back pressure trip.

* * * * *

§ 56.50–70 [Amended]

17. By revoking § 56.50–70(b)(4).

18. By amending § 56.50–85(a) by revising subparagraph (4) and adding subparagraph (4–a) to read as follows:

§ 56.50–85 **Tank vent piping.**

(a) * * *

(4) Vents of fresh water tanks must extend above the weather deck unless they terminate within the machinery space, in which case they shall terminate well above the deep loadline. Vents for tanks having no boundary in common with the hull, and which terminate in the machinery space, need not extend above the deep loadline.

(4–a) Vents from ballast and fuel oil tanks shall extend above the weather deck and the vents from oil tanks shall terminate not less than 3 feet from any opening into living quarters.

* * * * *

19. By amending § 56.50–95 by deleting the third and fourth sentences of paragraph (d)(1) and by adding a new paragraph (b)(4) to read as follows:

§ 56.50–95 **Overboard discharges and shell connections.**

* * * * *

(b) * * *

(4) Sanitary pump discharges leading directly overboard or via a holding tank must meet the standards prescribed by this paragraph. The location of the sanitary system openings within the vessel determines whether the requirements of subparagraph (2) or (3) of this paragraph are applicable.

* * * * *

§ 56.50–96 [Amended]

20. By striking out the words "and (e) (3)" in the first sentence of § 56.50–96 (a) and inserting "(e)(3), and (f)" in place thereof.

21. By revising § 56.50–105 (a)(5) and (b)(1) to read as follows:

§ 56.50–105 **Low temperature piping.**

(a) * * *

(5) *Other requirements.* All other requirements contained in this part for Class I piping apply to Class I–L systems. Pressure testing must comply with

Subpart 56.97 and nondestructive testing of circumferentially welded joints must comply with Table 56.95-10. Seamless grade tubular products must be used except, when the service pressure does not exceed 250 p.s.i., the Commandant may give special consideration to appropriate grades of pipe and tubing that are welded without the addition of filler metal in the root pass. Production procedures and quality control programs for welded products must be accepted by the Commandant.

(b) * * *

(1) Materials must be the same as those required by paragraph (a)(1) of this section except that pipe and tubing of appropriate grades welded without the addition of a filler metal may be used. The Commandant may give special consideration to tubular products welded with the addition of filler metal.

* * * * *

22. By amending the third column in Table 56.50-105 for the product form "Wrought welding fittings (carbon and low alloy steels)" by striking the grade "WPL0" and inserting the grade "WPL1" in place thereof.

§ 56.60-1 [Amended]

23. By amending Table 56.60-1(a) as follows:

a. By deleting the first entry below the product form "Tube, seamless", which reads: "A83 carbon steel boiler tubes ------ PG 23.1, sec. 1, ASME Code ------ (10)."

b. By revising footnotes 10 and 11 to read as follows:

TABLE 56.60-1(a)—ADOPTED SPECIFICATIONS AND STANDARDS (MODIFIES TABLE 126.1)

* * * * *

[10] When used in piping systems, a certificate shall be furnished by the manufacturer certifying that the mechanical properties at room temperature specified in ASTM A520 have been met. Without this certification, use is limited to applications within heat exchangers.

[11] When used in piping systems, a certificate shall be furnished by the manufacturer certifying that the mechanical properties for A192 in ASTM A520 have been met. Without this certification, use is limited to applications within heat exchangers.

* * * * *

24. By amending Table 56.60-1(b) by adding two new entries below the MSS Standards and a new "FCI Standard" with one entry to read as follows:

TABLE 56.60-1(b)—ADOPTED STANDARDS APPLICABLE TO PIPING SYSTEMS (MODIFIES TABLE 126.1)

* * * * *

MSS Standards (Manufacturer's Standardization Society of the Valve and Fittings Industry, 420 Lexington Avenue, New York, NY 10017):

* * * * *

SP-72 Ball Valves with Flanged or Butt-Welding Ends for General Service.

SP-73 Silver Brazing Joints for Wrought and Cast Solder Joint Fittings.

FCI Standards (Fluid Control Institute, Inc., Post Office Box 1484, Pompano Beach, FL 33061): FCI 69-1 Pressure Rating Standard for Steam Traps.

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

25. By revising § 58.10-15(e) to read as follows:

§ 58.10-15 Gas turbine installations.

* * * * *

(e) *Noise level.* The standard for the protection of persons from noise exposure is in 41 CFR 50.204.10 except when there is a specific standard approved by the Commandant.

* * * * *

§ 58.50-5 [Amended]

26. By amending Table 58.50-5(a) by adding a new material "aluminum" and footnotes 5 and 6 to read as follows:

TABLE 58.50-5(a)

Material	A.S.T.M. specification (latest edition)	Thickness in inches and gage numbers [1] vs. tank capacities for— 1- through 80-gallon tanks	More than 80- and not more than 150-gallon tanks	Over 150-gallon tanks [2]
* * *	* * *	* * *	* * *	* * *
Aluminum [5]	B 209, Alloy 5086 [6]	0.250 (USSG 3)	0.250 (USSG 3)	0.250 (USSG 3).

* * * * * * *

[5] Anodic to most common metals. Avoid dissimilar metal contact with tank body.
[6] And other alloys acceptable to the Commandant.

§ 58.50-10 [Amended]

27. By amending Table 58.50-10(a) by adding a new material "Aluminum" and footnotes 5 and 6 to read as follows:

TABLE 58.50-10(a)

Material	A.S.T.M. specification (latest edition)	Thickness in inches and gage numbers [1] vs. tank capacities for— 1- through 80-gallon tanks	More than 80- and not more than 150-gallon tanks	Over 150-gallon tanks [2]
* * *	* * *	* * *	* * *	* * *
Aluminum [5]	B209, Alloy 5086 [6]	0.250 (USSG 3)	0.250 (USSG 3)	0.250 (USSG 3).

* * * * * * *

[5] Anodic to most common metals. Avoid dissimilar metal contact with tank body.
[6] And other alloys acceptable to the Commandant.

28. By amending § 58.50-10(a)(4) by revising the introductory text and adding subdivision (iii) to read as follows:

§ 58.50-10 Diesel fuel tanks.

(a) * * *

(4) Openings for fill and vent pipes must be on the topmost surface of a tank. There must be no openings in the bottom, sides, or ends of a tank except as follows:

* * * * *

(iii) Liquid level gages must penetrate at a point that is more than 2 inches from the bottom of the tank.

* * * * *

SUBCHAPTER Q—SPECIFICATIONS

PART 162—ENGINEERING EQUIPMENT

29. By revising the heading of Subpart 162.001 to read as follows:

Subpart 162.001—Safety Valves (Propulsion Boilers for Steam Service in Excess of 30 Pounds Per Square Inch Gage)

30. By revising the first sentence of § 162.001-2(a) to read as follows:

§ 162.001-2 Scope.

(a) This specification concerns the requirements for the design, construction, and testing of spring loaded safety valves intended for use on propulsion boilers and Class 1 nuclear vessels designed for pressures in excess of 30 pounds per square inch that are installed on merchant vessels subject to inspection by the Coast Guard. * * *

* * * * *

31. By revising the first sentence of § 162.012-4(b) to read as follows:

§ 162.012-4 Construction and workmanship.

* * * * *

(b) The nominal size of a safety valve must be the nominal diameter of the inlet opening. * * *

* * * * *

32. By amending Part 162 by adding Subpart 162.002 after Subpart 162.001 to read as follows:

Subpart 162.002 — Safety Valves (Auxiliary Boilers for Steam Service in Excess of 30 Pounds Per Square Inch Gage)

Sec.

AUTHORITY: The provisions of this Subpart 162.002 issued under R.S. 4405, as amended, 4462, as amended, sec. 1, 63 Stat. 496, 545, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 416, 14 U.S.C. 2, 633, 49 U.S.C. 1655(b)(1); 49 CFR 1.46.

§ 162.002-1 Applicable specifications and referenced material.

(a) There are no other specifications applicable to this subpart except as noted in this subpart.

(b) The following referenced material from industry standards of the issue in effect on the date a safety valve is manufactured shall form a part of the regulations of this subpart (see §§ 2.75-17 through 2.75-19 and Subpart 50.15 of Part 50 of this chapter):

(1) ASME (American Society of Mechanical Engineers) Boiler and Pressure Vessel Code (see § 50.15-5 of this chapter): The following paragraphs from section I of the ASME Code:

(i) PG-67 through PG-72, design, construction, and adjustments, see § 162.002-5.

(ii) PG-110, markings, see § 162-002-5(a).

(iii) PG-69, tests, see § 162.002-6(c).

(c) A copy of this specification and the referenced material listed in this section shall be kept on file by the manufacturer, together with the approved plans, specifications, and certificate of approval. It is the manufacturer's responsibility to have the latest issue, including addenda and changes of the referenced material on hand when manufacturing equipment prescribed by this subpart.

(1) The ASME Code may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017.

§ 162.002-2 Scope.

This specification prescribes requirements for the design, construction, and testing of spring loaded safety valves intended for use on unfired steam generators and auxiliary boilers designed for pressures in excess of 30 pounds per square inch gage and installed on merchant vessels subject to inspection by the U.S. Coast Guard.

§ 162.002-3 Materials.

(a) The materials used in the manufacture of safety valves must conform to the applicable requirements of Subchapter F of this chapter except as otherwise specified in this subpart.

(b) Safety valve bodies must be made of carbon or alloy forged or cast steel, cast bronze, or of such other equivalent material as may be approved by the Commandant.

(c) Internal parts must be made of materials possessing corrosion and heat resisting qualities suitable for the service conditions to which they will be subjected.

(d) Springs used in safety valves must be of the best quality spring steel consistent with the design of the valve and the service requirement.

(e) Cast iron must not be used in the construction of any part of the safety valve except in caps or lifting bars. When used for these parts, the elongation shall be at least 5 percent in a 2-inch gage length.

(f) Nonmetallic material is prohibited in the construction of safety valve pressure parts except for gaskets and packing.

§ 162.002-4 Construction, adjustment, and testing.

(a) Safety valves must be designed, constructed, adjusted and tested in accordance with PG-67 through PG-72 of the ASME Code section I except as indicated in this subpart.

(b) The nominal size of a safety valve as used in this specification means the nominal diameter of the inlet opening.

(c) A safety valve must—

(1) Be between ¾ and 4 inches nominal pipe size;

(2) Have flanged or screwed inlet and outlet connections except that welded end inlets may be authorized by the Commandant;

(3) Not have screwed inlets larger than 2-inch nominal pipe size;

(4) Be constructed so that no shocks detrimental to the valve or boiler are produced when lifting or closing;

(5) Be designated to pop open instantly and reach full lift and capacity at the maximum accumulation, as determined by the flow rating test prescribed by § 162.002-6(c);

(6) Have a closure after popping that is clean and sharp;

(7) Operate satisfactorily without wire-drawing or chattering at any stage of operation; and

(8) Not have the set pressure exceed 150 p.s.i.

(d) A spring must—

(1) Be designed so that it will not be compressed solid when the valve is discharging at the maximum relieving capacity approved by the Commandant; and

(2) Not show a permanent set exceeding 1 percent of its free length 10 minutes after being released from a cold compression test closing the spring solid.

(e) The spring may be reset for any pressure not more than 10 percent above or 10 percent below that for which the safety valve is marked.

(f) The huddling device must have a suitable stop for fixing it after adjustment is completed.

§ 162.002-5 Marking.

(a) Each valve must be marked by the manufacturer in accordance with PG-110 of the ASME Code except that the ASME symbol may be omitted.

(b) The official Coast Guard approval number must be marked on each valve in addition to the data required in paragraph (a) of this section. The minimum wording for showing the approval number, which will be assigned by the Commandant (MMT), must be "USCG 162.002/______" or "USCG 162.002 ______."

§ 162.002-6 Procedure for approval.

(a) *General.* Safety valves which are intended for use as described in § 162.002-2 must be approved by the Commandant (MMT), U.S. Coast Guard Headquarters, Washington, D.C. 20590.

(b) *Plan submission.* Manufacturers desiring to secure approval of a design or type of safety valve must submit to the Commandant drawings in triplicate clearly showing the design together with the material specifications of the component parts. If the design is changed, the manufacturer shall submit amended drawings to the Commandant for reapproval.

(c) *Preapproval tests.* Before approval is granted, manufacturers must have flow tests conducted in accordance with PG-69 of the ASME Code. The manufacturer must submit evidence that such tests have been conducted in the form of certification of ASME capacities by the National Board of Boiler and Pressure Vessel Inspectors or in the form of a copy of the capacity test data report and a table of relieving capacities for each size of valve for which approval is required. Such data must be forwarded by the manufacturer to the Commandant (MMT) with plan submission.

SUBCHAPTER T—SMALL PASSENGER VESSELS (UNDER 100 GROSS TONS)

PART 182—MACHINERY INSTALLATION

33. By revising § 182.15-15(b)(4) to read as follows:

§ 182.15-15 Gasoline engine exhaust cooling.

* * * * *

(b) * * *

(4) Vertical exhaust piping must be water-jacketed or suitably insulated between the engine manifold and the spark arrester.

* * * * *

§ 182.15-25 [Amended]

34. By amending Table 182.15-25(a)(1) by adding a new material "Aluminum" and footnotes 4 and 5 to read as follows:

TABLE 182.15-25(a)(1)

Material	A.S.T.M. specification (latest edition)	Thickness in inches and gage numbers [1] vs. tank capacities for—: 1- through 80-gallon tanks	More than 80- and not more than 150-gallon tanks	Over 150-gallon tanks
* * *	* * *	* * *	* * *	* * *
Aluminum [4]	B209, Alloy 5086 [5]	0.250 (USSG 3)	0.250 (USSG 3)	0.250 (USSG 3).

* * * * * * *

[4] Anodic to most common metals. Avoid dissimilar metal contact with tank body.
[5] And other alloys acceptable to the Commandant.

§ 182.20–25 [Amended]

35. By amending Table 182.20–25(a)(1) by adding a new material "Aluminum" and footnotes 3 and 4 to read as follows:

TABLE 182.20-25(a)(1)

Material	A.S.T.M. specification (latest edition)	Thickness in inches and gage numbers [1] vs. tank capacities for— 1- through 80-gallon tanks	More than 80- and not more than 150-gallon tanks	Over 150-gallon tanks
* * *	* * *	* * *	* * *	* * *
Aluminum [3]	B209, Alloy 5086 [4]	0.250 (USSG 3)	0.250 (USSG 3)	0.250 (USSG 3).

* * * * * * *

[3] Anodic to most common metals. Avoid dissimilar metal contact with tank body.
And other alloys acceptable to the Commandant.

(R.S. 4405, as amended, 4462, as amended, sec. 1, 63 Stat. 496, 545, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 416, 14 U.S.C. 2, 633, 49 U.S.C. 1655(b)(1), 49 CFR 1.46)

Effective date. These amendments shall become effective on April 28, 1972.

Dated: March 15, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.72-4448 Filed 3-24-72;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 301]

INCOME TAX

Imposition of Tax on Foreign Corporations; Return Requirements; Income Affected by Treaty

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing preferably six copies, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by April 24, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by April 24, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their request for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1), and the Procedure and Administration Regulations (26 CFR Part 301), to the amendments of the Internal Revenue Code of 1954 made by sections 104 (exclusive of subsections (c), (g), (h), (i), and (l) thereof) and 105 (exclusive of subsections (e) and (f) thereof) of the Foreign Investors Tax Act of 1966 (80 Stat. 1555–1559, 1562–1565), such regulations are hereby amended as provided in the following paragraphs. The proposed regulations relating to deductions of foreign corporations will be published at a later date with notice of proposed rule making.

PARAGRAPH 1. Section 1.11–1 is amended by revising paragraph (a) to read as follows:

§ 1.11–1 Tax on corporations.

(a) Every corporation, foreign or domestic, is liable to the tax imposed under section 11 except (1) corporations specifically excepted under such section from such tax; (2) corporations expressly exempt from all taxation under subtitle A of the Code (see section 501); and (3) corporations subject to tax under section 511(a). For taxable years beginning after December 31, 1966, foreign corporations engaged in trade or business in the United States shall be taxable under section 11 only on their taxable income which is effectively connected with the conduct of a trade or business in the United States (see section 882(a)(1)). For definition of the terms "corporations," "domestic," and "foreign," see section 7701(a) (3), (4), and (5), respectively. It is immaterial that a domestic corporation, and for taxable years beginning after December 31, 1966, a foreign corporation engaged in trade or business in the United States, which is subject to the tax imposed by section 11 may derive no income from sources within the United States. The tax imposed by section 11 is payable upon the basis of the returns rendered by the corporations liable thereto, except that in some cases a tax is to be paid at the source of the income. See subchapter A (sections 6001 and following), chapter 61 of the Code, and section 1442.

* * * * *

PAR. 2. Section 1.245 is amended by revising subsection (a) of section 245, by redesignating subsection (b) of such section as subsection (c) and by revising such subsection, by adding after subsection (a) of such section a new subsection (b), and by revising the historical note, to read as follows:

§ 1.245 Statutory provisions; dividends received from certain foreign corporations.

SEC. 245. *Dividends received from certain foreign corporations*—(a) *General rule.* In the case of dividends received from a foreign corporation (other than a foreign personal holding company) which is subject to taxation under this chapter, if, for an uninterrupted period of not less than 36 months ending with the close of such foreign corporation's taxable year in which such dividends are paid (or, if the corporation has not been in existence for 36 months at the close of such taxable year, for the period the foreign corporation has been in existence as of the close of such taxable year) such foreign corporation has been engaged in trade or business within the United States and if 50 percent or more of the gross income of such corporation from all sources for such period is effectively connected with the conduct of a trade or business within the United States, there shall be allowed as a deduction in the case of a corporation—

(1) An amount equal to the percent (specified in section 243 for the taxable year) of the dividends received out of its earnings and profits specified in paragraph (2) of the first sentence of section 316(a), but such amount shall not exceed an amount which bears the same ratio to such percent of such dividends received out of such earnings and profits as the gross income of such foreign corporation for the taxable year which is effectively connected with the conduct of a trade or business within the United States bears to its gross income from all sources for such taxable year, and

(2) An amount equal to the percent (specified in section 243 for the taxable year) of the dividends received out of that part of its earnings and profits specified in paragraph (1) of the first sentence of section 316(a) accumulated after the beginning of such uninterrupted period, but such amount shall not exceed an amount which bears the same ratio to such percent of such dividends received out of such accumulated earnings and profits as the gross income of such foreign corporation, which is effectively connected with the conduct of a trade or business within the United States, for the portion of such uninterrupted period ending at the beginning of such taxable year bears to its gross income from all sources for such portion of such uninterrupted period.

For purposes of this subsection, the gross income of the foreign corporation for any period before the first taxable year beginning after December 31, 1966, which is effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources within the United States. For purposes of paragraph (2), there shall not be taken into account any taxable year within such uninterrupted period if, with respect to dividends paid out of the earnings and profits of such year, the deduction provided by subsection (b) would be allowable.

(b) *Certain dividends received from wholly owned foreign subsidiaries*—(1) *In general.* In the case of dividends described in paragraph (2) received from a foreign corporation by a domestic corporation which, for its taxable year in which such dividends are received, owns (directly or indirectly) all of the outstanding stock of such foreign corporation, there shall be allowed as a deduction (in lieu of the deduction provided by subsection (a)) an amount equal to 100 percent of such dividends.

(2) *Eligible dividends.* Paragraph (1) shall apply only to dividends which are paid out of the earnings and profits of a foreign corporation for a taxable year during which—

(A) All of its outstanding stock is owned (directly or indirectly) by the domestic corporation to which such dividends are paid; and

(B) All of its gross income from all sources is effectively connected with the conduct of a trade or business within the United States.

(3) *Exception.* Paragraph (1) shall not apply to any dividends if an election under section 1562 is effective for either—

(A) The taxable year of the domestic corporation in which such dividends are received, or

(B) The taxable year of the foreign corporation out of the earnings and profits of which such dividends are paid.

(c) *Property distributions.* For purposes of subsections (a) and (b), the amount of any distribution of property other than money shall be the amount determined by applying section 301(b)(1)(B).

[Sec. 245 as amended by sec. 5(c), Rev. Act 1962 (76 Stat. 977); sec. 104 (d) and (e), Foreign Investors Tax Act 1966 (80 Stat. 1558)]

PAR. 3. Section 1.245-1 is amended by revising so much thereof as precedes the examples in paragraph (d) to read as follows:

§ 1.245-1 Dividends received from certain foreign corporations.

(a) *General rule.* (1) A corporation is allowed a deduction under section 245(a) for dividends received from a foreign corporation (other than a foreign personal holding company as defined in section 552) which is subject to taxation under chapter 1 of the Code if, for an uninterrupted period of not less than 36 months ending with the close of the foreign corporation's taxable year in which the dividends are paid, (i) the foreign corporation is engaged in trade or business in the United States, and (ii) 50 percent or more of the foreign corporation's entire gross income is effectively connected with the conduct of a trade or business in the United States by that corporation. If the foreign corporation has been in existence less than 36 months as of the close of the taxable year in which the dividends are paid, then the applicable uninterrupted period to be taken into consideration in lieu of the uninterrupted period of 36 or more months is the entire period such corporation has been in existence as of the close of such taxable year. An uninterrupted period which satisfied the twofold requirement with respect to business activity and gross income may start at a date later than the date on which the foreign corporation first commenced an uninterrupted period of engaging in trade or business within the United States, but the applicable uninterrupted period is in any event the longest uninterrupted period which satisfies such twofold requirement. The deduction under section 245(a) is allowable to any corporation, whether foreign or domestic, receiving dividends from a distributing corporation which meets the requirements of that section.

(2) Any taxable year of a foreign corporation which falls within the uninterrupted period described in section 245 (a)(2) shall not be taken into account in applying section 245(a)(2) and this paragraph if the 100 percent dividends received deduction would be allowable under paragraph (b) of this section, whether or not in fact allowed, with respect to any dividends payable, whether or not in fact paid, out of the earnings and profits of such foreign corporation for that taxable year. Thus, in such case the foreign corporation shall be treated as having no earnings and profits for that taxable year for purposes of determining the dividends received deduction allowable under section 245(a) and this paragraph. However, that taxable year may be taken into account for purposes of determining whether the foreign corporation meets the requirements of section 245(a) that, for the uninterrupted period specified therein, the foreign corporation is engaged in trade or business in the United States and meets the 50 percent gross income requirement.

(b) *Dividends from wholly owned foreign subsidiaries.* (1) A domestic corporation is allowed a deduction under section 245(b) for any taxable year beginning after December 31, 1966, for dividends received from a foreign corporation (other than a foreign personal holding company as defined in section 552) which is subject to taxation under chapter 1 of the Code if—

(i) The domestic corporation owns either directly or indirectly all of the outstanding stock of the foreign corporation during the entire taxable year of the domestic corporation in which the dividends are received, and

(ii) The dividends are paid out of earnings and profits of a taxable year of the foreign corporation during which (*a*) the domestic corporation receiving the dividends owns directly or indirectly throughout such year all of the outstanding stock of the foreign corporation, and (*b*) all of the gross income of the foreign corporation from all sources is effectively connected for that year with the conduct of a trade or business in the United States by that corporation.

(2) The deduction allowed by section 245(b) does not apply if an election under section 1562, relating to the privilege of a controlled group of corporations to elect multiple surtax exemptions, is effective for either the taxable year of the domestic corporation in which the dividends are received or the taxable year of the foreign corporation out of the earnings and profits of which the dividends are paid.

(c) *Rules of application.* (1) Except as provided in section 246, the deduction provided by section 245 for any taxable year is the sum of the amounts computed under paragraphs (1) and (2) of section 245(a) plus, in the case of a domestic corporation for any taxable year beginning after December 31, 1966, the sum of the amounts computed under section 245(b)(2).

(2) To the extent that a dividend received from a foreign corporation is treated as a dividend from a domestic corporation in accordance with section 243(d) and § 1.243-3, it shall not be treated as a dividend received from a foreign corporation for purposes of this section.

(3) For purposes of section 245 (a) and (b), the amount of a distribution shall be determined under subparagraph (B) (without reference to subparagraph (C)) of section 301(b)(1).

(4) In determining from what year's earnings and profits a dividend is treated as having been distributed for purposes of this section, the principles of paragraph (a) of § 1.316-2 shall apply. A dividend shall be considered to be distributed, first, out of the earnings and profits of the taxable year which includes the date the dividend is distributed, second, out of the earnings and profits accumulated for the immediately preceding taxable year, third, out of the earnings and profits accumulated for the second preceding taxable year, etc. A deficit in an earnings and profits account for any taxable year shall reduce the most recently accumulated earnings and profits for a prior year in such account. If there are no accumulated earnings and profits in an earnings and profits account because of a deficit incurred in a prior year, such deficit must be restored before earnings and profits can be accumulated in a subsequent accounting year. See also paragraph (c) of § 1.243-3 and paragraph (a)(6) of § 1.243-4.

(5) For purposes of this section the gross income of a foreign corporation for any period before its first taxable year beginning after December 31, 1966, which is from sources within the United States shall be treated as gross income which is effectively connected for that period with the conduct of a trade or business in the United States by that corporation.

(6) For the determination of the source of income and the income which is effectively connected with the conduct of a trade or business in the United States, see sections 861 through 864, and the regulations thereunder.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

* * * * *

PAR. 4. Section 1.301 is amended by redesignating subsection (f) of section 301 as subsection (g) and adding a new subsection (f) after subsection (e) of such section, by revising section 301(b)(1)(C), and by revising the historical note, to read as follows:

§ 1.301 Statutory provisions; distributions of property.

SEC. 301. *Distributions of property.* * * *

(b) *Amount distributed*—(1) *General rule.* * * *

(C) *Certain corporate distributees of foreign corporation.* Notwithstanding subparagraph (B), if the shareholder is a corporation and the distributing corporation is a foreign corporation, the amount taken into account with respect to property (other than money) shall be the fair market value of such property; except that if any deduction is allowable under section 245 with respect to such distribution, then the amount taken into account shall be the sum (determined under regulations prescribed by the Secretary or his delegate) of—

(i) The proportion of the adjusted basis of such property (or, if lower, its fair market value) properly attributable to gross income which is effectively connected with the conduct of a trade or business within the United States, and

(ii) The proportion of the fair market value of such property properly attributable to gross income which is not effectively connected with the conduct of a trade or business within the United States.

For purposes of clause (i), the gross income of a foreign corporation for any period before its first taxable year beginning after December 31, 1966, which is effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources within the United States. For purposes of clause (ii), the gross income of a foreign corporation for any period before its first taxable year beginning after December 31, 1966, which is not effectively connected with the conduct of a trade or business within the United States is an amount equal to the gross income for such period from sources without the United States.

* * * * *

(f) *Special rules for distributions of antitrust stock to corporations*—(1) *Definition of antitrust stock*. For purposes of this subsection, the term "antitrust stock" means stock received, by a corporation which is a party to a suit described in section 1111(d) (relating to definition of antitrust order), in a distribution made after September 6, 1961, either pursuant to the terms of, or in anticipation of, an antitrust order (as defined in subsection (d) of section 1111).

(2) *Amount distributed*. Notwithstanding subsection (b)(1) (but subject to subsection (b)(2)), for purposes of this section the amount of a distribution of antitrust stock received by a corporation shall be the fair market value of such stock.

(3) *Basis*. Notwithstanding subsection (d), the basis of antitrust stock received by a corporation in a distribution to which subsection (a) applies shall be the fair market value of such stock decreased by so much of the deduction for dividends received under the provisions of section 243, 244, or 245 as is, under regulations prescribed by the Secretary or his delegate, attributable to the excess, if any, of—

(A) The fair market value of the stock, over

(B) The adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the stock, increased by the amount of gain which is recognized to the distributing corporation by reason of the distribution.

(g) *Special rules*. (1) For distributions in redemption of stock, see section 302.

(2) For distributions in partial or complete liquidation, see part II (sec. 331 and following).

(3) For distributions in corporate organizations and reorganizations, see part III (sec. 351 and following).

(4) For partial exclusion from gross income of dividends received by individuals, see section 116.

[Sec. 301 as amended by sec. 2, Act of Feb. 2, 1962 (Public Law 87-403, 76 Stat. 5); secs. 5 (a) and (b) and 13(f)(2), Rev. Act 1962 (76 Stat. 977, 1035); sec. 231(b)(2), Rev. Act 1964 (78 Stat. 105); sec. 1(b)(1), Act of Aug. 22, 1964 (Public Law 88-484, 78 Stat. 597); sec. 1(b)(2), Act of Sept. 12, 1966 (Public Law 89-570, 80 Stat. 762); and sec. 104(f), Foreign Investors Tax Act 1966 (80 Stat. 1559); secs. 211(b) (1) and (2), and 905(b) (2), Tax Reform Act 1969 (83 Stat. 570, 714)]

PAR. 5. Section 1.301-1 is amended by revising subparagraphs (3) and (5) of paragraph (n) to read as follows:

§ 1.301-1 Rules applicable with respect to distributions of money and other property.

* * * * *

(n) *Distributions of certain property by foreign corporations to corporate shareholders*. * * *

(3) The amount taken into account under section 301(c) shall be the sum of—

(i) The portion computed under subparagraph (2)(i) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation for the taxable year which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such taxable year,

(ii) The portion computed under subparagraph (2)(ii) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation which is effectively connected, for the portion of the uninterrupted period described in section 245(a) which ends at the beginning of the taxable year, with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such portion of such uninterrupted period,

(iii) The proportionate part of the fair market value of the property attributable to the portion of the adjusted basis computed under subparagraph (2)(i) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation for the taxable year which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such taxable year,

(iv) The proportionate part of the fair market value of the property attributable to the portion of the adjusted basis computed under subparagraph (2)(ii) of this paragraph, multiplied by the ratio which the gross income of the distributing corporation which is not effectively connected, for the portion of the uninterrupted period described in section 245(a) which ends at the beginning of the taxable year, with the conduct of a trade or business in the United States by that corporation bears to its entire gross income for such portion of such uninterrupted period, and

(v) The proportionate part of the fair market value of the property attributable to the portion of the adjusted basis computed under subparagraph (2)(iii) of this paragraph.

For purposes of subdivisions (i) and (ii) of this subparagraph, the gross income of the distributing corporation for any period before its first taxable year beginning after December 31, 1966, which is from sources within the United States shall be treated as gross income which is effectively connected for that period with the conduct of a trade or business in the United States by that corporation. For purposes of subdivisions (iii) and (iv) of this subparagraph, the gross income of the distributing corporation for any period before its first taxable year beginning after December 31, 1966, which is from sources without the United States shall be treated as gross income which is not effectively connected for that period with the conduct of a trade or business in the United States by that corporation. For the determination of the source of income and the income which is effectively connected with the conduct of a trade or business in the United States, see sections 861 through 864, and the regulations thereunder.

* * * * *

(5) The application of this paragraph may be illustrated by the following examples:

Example (1). Corporation A (a foreign corporation filing its income tax returns on a calendar year basis) whose stock is 100 percent owned by corporation B (a domestic corporation filing its income tax returns on a calendar year basis) for the first time engaged in trade or business in the United States on January 1, 1966, and qualifies under section 245(a) for the entire period beginning on that date and ending on December 31, 1970. During the period January 1, 1966, through December 31, 1969, 80 percent of corporation A's gross income is treated as effectively connected for that period with the conduct of a trade or business in the United States by that corporation, and for 1970, 90 percent of corporation A's gross income is treated as effectively connected for that year with the conduct of a trade or business in the United States by that corporation. As of December 31, 1969, A has earnings and profits of $50,000 accumulated during the period January 1, 1966, through December 31, 1969, and for the year 1970 A has earnings and profits of $10,000. On December 31, 1970, corporation A distributes to corporation B 100 shares of stock in domestic corporation C which have an adjusted basis of $40,000 in A's hands and a fair market value of $100,000. Corporation A makes no other distribution during 1970. Since a deduction is allowable to B under section 245(a) with respect to the distribution, and since the fair market value of the property ($100,000) exceeds the adjusted basis of the property in A's hands ($40,000), the amount of the distribution taken into account under section 301(c) is $50,500, which is the sum of—

(i) $9,000, i.e., $10,000 (the portion of the adjusted basis of the property which is out of earnings and profits for 1970), multiplied by 90 percent (the ratio which the gross income of A which is effectively connected for 1970 with the conduct of a trade or business in the United States by A bears to A's entire gross income for 1970),

(ii) $24,000, i.e., $30,000 (the portion of the adjusted basis of property which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969), multiplied by 80 percent (the ratio which the gross income of A which is effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income for that period),

(iii) $2,500, i.e., $25,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits for 1970 ($100,000 multiplied by $10,000/$40,000)), multiplied by 10 percent (the ratio which the gross income of A for 1970 which is not effectively connected for that year with the conduct of a trade or business in the United States by A bears to A's entire gross income for 1970), and

(iv) $15,000, i.e., $75,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969 ($100,000 multiplied by $30,000/$40,000)), multiplied by 20 percent (the ratio which the gross income of A for that period which is not effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income for that period).

Example (2). Assume the same facts as in example (1) except that as of December 31, 1969, A has earnings and profits of $20,000 accumulated during the period January 1, 1966, through December 31, 1969. Since a deduction is allowable to B under section 245(a) with respect to the distribution and since the fair market value of the property ($100,000) exceeds the adjusted basis of the property in A's hands ($40,000), the amount of the distribution taken into account under section 301(c) is $62,500, which is the sum of—

(i) $9,000, i.e., $10,000 (the portion of the adjusted basis of the property which is out of earnings and profits for 1970), multiplied by 90 percent (the ratio which the gross income of A which is effectively connected for 1970 with the conduct of a trade or business in the United States by A bears to A's entire gross income for such year),

(ii) $16,000, i.e., $20,000 (the portion of the adjusted basis of the property which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969), multiplied by 80 percent (the ratio which the gross income of A which is effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income for that period),

(iii) $2,500, i.e., $25,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits for 1970 ($100,000 multiplied by $10,000/$40,000)), multiplied by 10 percent (the ratio which the gross income of A for 1970 which is not effectively connected for that year with the conduct of a trade or business in the United States by A bears to A's entire gross income for 1970),

(iv) $10,000, i.e., $50,000 (the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of earnings and profits accumulated during the period January 1, 1966, through December 31, 1969 ($100,000 multiplied by $20,000/$40,000)), multiplied by 20 percent (the ratio which the gross income of A for that period which is not effectively connected for that period with the conduct of a trade or business in the United States by A bears to A's entire gross income of that period), and

(v) $25,000, the proportionate part of the fair market value of the property attributable to the portion of the adjusted basis which is out of sources other than earnings and profits for 1970 and earnings and profits accumulated during the uninterrupted period described in section 245(a) ($100,000 multiplied by $10,000/$40,000).

* * * * *

PAR. 6. Section 1.881 is amended by revising section 881 and by adding a historical note, as follows:

§ 1.881 Statutory provisions; tax on income of foreign corporations not connected with United States business.

SEC. 881. *Tax on income of foreign corporations not connected with U.S. business*—(a) *Imposition of tax.* There is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a foreign corporation as—

(1) Interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(2) Gains described in section 631 (b) or (c),

(3) In the case of bonds or other evidences of indebtedness issued after September 28, 1965, amounts which under section 1232 are considered as gains from the sale or exchange of property which is not a capital asset, and

(4) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated as being so contingent under section 871(e),

but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(b) *Doubling of tax.* For doubling of tax on corporations of certain foreign countries, see section 891.

[Sec. 881 as amended by sec. 104(a), Foreign Investors Tax Act 1966 (80 Stat. 1555)]

PAR. 7. Section 1.881–1 is amended to read as follows:

§ 1.881–1 Manner of taxing foreign corporations.

(a) *Classes of foreign corporations.* For purposes of the income tax, foreign corporations are divided into two classes, namely, foreign corporations which at no time during the taxable year are engaged in trade or business in the United States and foreign corporations which, at any time during the taxable year, are engaged in trade or business in the United States.

(b) *Manner of taxing*—(1) *Foreign corporations not engaged in U.S. business.* A foreign corporation which at no time during the taxable year is engaged in trade or business in the United States is taxable, as provided in § 1.881–2, on all income received from sources within the United States which is fixed or determinable annual or periodical income and on other items of income enumerated under section 881(a). Such a foreign corporation is also taxable on certain income from sources within the United States which, pursuant to § 1.882–2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(2) *Foreign corporations engaged in U.S. business.* A foreign corporation which at any time during the taxable year is engaged in trade or business in the United States is taxable, as provided in § 1.882–1, on all income from whatever source derived, whether or not fixed or determinable annual or periodical income, which is effectively connected for the taxable year with the conduct of a trade or business in the United States. Such a foreign corporation is also taxable, as provided in § 1.882–1, on income received from sources within the United States which is not effectively connected for the taxable year with the conduct of a trade or business in the United States and consists of (i) fixed or determinable annual or periodical income, or (ii) other items of income enumerated in section 881(a). A foreign corporation which at any time during the taxable year is engaged in trade or business in the United States is also taxable on certain income from sources within the United States which, pursuant to § 1.882–2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(c) *Meaning of terms.* For the meaning of the term "engaged in trade or business in the United States," as used in this section, see section 864(b) and the regulations thereunder. For determining when income, gain, or loss of a foreign corporation for the taxable year is effectively connected for that year with the conduct of a trade or business in the United States, see section 864(c) and the regulations thereunder, and § 1.882–2. For the definition of the term "foreign corporation," see section 7701(a) (3) and (5).

(d) *Rules applicable to foreign insurance companies*—(1) *Corporations qualifying under subchapter L.* A foreign corporation carrying on an insurance business in the United States at any time during the taxable year, which, without taking into account its income not effectively connected for the taxable year with the conduct of a trade or business in the United States, would qualify for the taxable year under part I, II, or III of subchapter L if it were a domestic corporation, shall be taxable for such year under that part on its entire taxable income (whether derived from sources within or without the United States) which is, or which pursuant to section 882 (d) or (e) and § 1.882–2 is treated as, effectively connected for the taxable year with the conduct of a trade or business in the United States. Any income derived by that foreign corporation from sources within the United States which is not effectively connected for the taxable year with the conduct of a trade or business in the United States is taxable as provided in section 881(a) and § 1.882–1. See sections 842 and 861 through 864, and the regulations thereunder.

(2) *Corporations not qualifying under subchapter L.* A foreign corporation which carries on an insurance business in the United States at any time during the taxable year, and which, without taking into account its income not effectively connected for the taxable year with the conduct of a trade or business in the United States, would not qualify for the taxable year under part I, II, or III of subchapter L if it were a domestic corporation, and a foreign insurance company which does not carry on an insurance business in the United States at any time during the taxable year, shall be taxable—

(i) Under section 881(a) and § 1.881–2 or § 1.882–1 on its income from sources within the United States which is not effectively connected for the taxable year with the conduct of a trade or business in the United States,

(ii) Under section 882(a)(1) and § 1.882–1 on its income (whether derived from sources within or without the United States) which is effectively connected for the taxable year with the conduct of a trade or business in the United States, and

(iii) Under section 882(a)(1) and § 1.882–1 on its income from sources within the United States which pursuant to section 882 (d) or (e) and § 1.882–2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(e) *Other provisions applicable to foreign corporations*—(1) *Accumulated earnings tax*. For the imposition of the accumulated earnings tax upon the accumulated taxable income of a foreign corporation formed or availed of for tax avoidance purposes, whether or not such corporation is engaged in trade or business in the United States, see section 532 and the regulations thereunder.

(2) *Personal holding company tax*. For the imposition of the personal holding company tax upon the undistributed personal holding company income of a foreign corporation which is a personal holding company, whether or not such corporation is engaged in trade or business in the United States, see sections 541 through 547, and the regulations thereunder. Except in the case of a foreign corporation having personal service contract income to which section 543(a)(7) applies, a foreign corporation is not a personal holding company if all of its stock outstanding during the last half of the taxable year is owned by nonresident alien individuals, whether directly or indirectly through foreign estates, foreign trusts, foreign partnerships, or other foreign corporations. See section 542(c)(7).

(3) *Foreign personal holding companies*. For the mandatory inclusion in the gross income of the United States shareholders of the undistributed foreign personal holding company income of a foreign personal holding company, see section 551 and the regulations thereunder.

(4) *Controlled foreign corporations*—(i) *Subpart F income and increase of earnings invested in U.S. property*. For the mandatory inclusion in the gross income of the U.S. shareholders of the subpart F income, of the previously excluded subpart F income withdrawn from investment in less developed countries, and of the increase in earnings invested in U.S. property, of a controlled foreign corporation, see sections 951 through 964, and the regulations thereunder.

(ii) *Certain accumulations of earnings and profits*. For the inclusion in the gross income of U.S. persons as a dividend of the gain recognized on certain sales or exchanges of stock in a foreign corporation, to the extent of certain earnings and profits attributable to the stock which were accumulated while the corporation was a controlled foreign corporation, see section 1248 and the regulations thereunder.

(5) *Changes in tax rate*. For provisions respecting the effect of any change in rate of tax during the taxable year on the income of a foreign corporation, see section 21 and the regulations thereunder.

(6) *Consolidated returns*. Except in the case of certain corporations organized under the laws of Canada or Mexico and maintained solely for the purpose of complying with the laws of that country as to title and operation of property, a foreign corporation is not an includible corporation for purposes of the privilege of making a consolidated return by an affiliated group of corporations. See section 1504 and the regulations thereunder.

(7) *Adjustment of tax of certain foreign corporations*. For the application of pre-1967 income tax provisions to corporations of a foreign country which imposes a more burdensome income tax than the United States, and for the adjustment of the income tax of a corporation of a foreign country which imposes a discriminatory income tax on the income of citizens of the United States or domestic corporations, see section 896.

(f) *Effective date*. This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.881-1 (Rev. as of Jan. 1, 1971).

PAR. 8. Section 1.881-2 is amended to read as follows:

§ 1.881-2 Taxation of foreign corporations not engaged in U.S. business.

(a) *Imposition of tax*. (1) This section applies for purposes of determining the tax of a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States. However, see also § 1.882-2 where such corporation has an election in effect for the taxable year in respect to real property income or receives interest on obligations of the United States. Except as otherwise provided in § 1.871-12, a foreign corporation to which this section applies is not subject to the tax imposed by section 11 or section 1201(a) but, pursuant to the provisions of section 881(a), is liable to a flat tax of 30 percent upon the aggregate of the amounts determined under paragraphs (b) and (c) of this section which are received during the taxable year from sources within the United States. Except as specifically provided in such paragraphs, such amounts do not include gains from the sale or exchange of property. To determine the source of such amounts, see sections 861 through 863, and the regulations thereunder.

(2) The tax of 30 percent is imposed by section 881(a) upon an amount only to the extent the amount constitutes gross income.

(3) Deductions shall not be allowed in determining the amount subject to tax under this section.

(4) Except as provided in § 1.882-2, a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States has no income, gain, or loss for the taxable year which is effectively connected for the taxable year with the conduct of a trade or business in the United States. See section 864(c)(1)(B) and § 1.864-3.

(5) Gains and losses which, by reason of section 882(d) and § 1.882-2, are treated as gains or losses which are effectively connected for the taxable year with the conduct of a trade or business in the United States by such a foreign corporation shall not be taken into account in determining the tax under this section. See, for example, paragraph (c)(2) of § 1.871-10.

(b) *Fixed or determinable annual or periodical income*. The tax of 30 percent imposed by section 881(a) applies to the gross amount received from sources within the United States as fixed or determinable annual or periodical gains, profits, or income. Specific items of fixed or determinable annual or periodical income are enumerated in section 881(a)(1) as interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments, but other items of fixed or determinable annual or periodical gains, profits, or income are also subject to the tax as, for instance, royalties, including royalties for the use of patents, copyrights, secret processes and formulas, and other like property. As to the determination of fixed or determinable annual or periodical income, see paragraph (a) of § 1.1441-2. For special rules treating gain on the disposition of section 306 stock as fixed or determinable annual or periodical income for purposes of section 881(a), see section 306(f) and paragraph (h) of § 1.306-3.

(c) *Other income and gains*—(1) *Items subject to tax*. The tax of 30 percent imposed by section 881(a) also applies to the following gains received during the taxable year from sources within the United States:

(i) Gains described in section 631 (b) or (c), relating to the treatment of gain on the disposal of timber, coal, or iron ore with a retained economic interest;

(ii) [Reserved]

(iii) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, or other like property, or of any interest in any such property, to the extent the gains are from payments (whether in a lump sum or in installments) which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated under section 871(e) and § 1.871-11 as being so contingent.

(2) *Determination of amount of gain*. The tax of 30 percent imposed upon the gains described in subparagraph (1) of this paragraph applies to the full amount of the gains and is determined (i) without regard to the alternative tax imposed by section 1201(a) upon the excess of net long-term capital gain over the net short-term capital loss; (ii) without regard to section 1231, relating to property used in the trade or business and involuntary conversions; and (iii) except in the case of gains described in subparagraph (1)(ii) of this paragraph, whether or not the gains are considered to be gains from the sale or exchange of property which is a capital asset.

(d) *Credits against tax*. The credits allowed by section 32 (relating to tax withheld at source on foreign corporations), by section 39 (relating to certain uses of gasoline and lubricating oil), and by section 6402 (relating to overpayments of tax) shall be allowed against the tax of a foreign corporation determined in accordance with this section.

(e) *Effective date*. This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.881-2 (Rev. as of Jan. 1, 1971).

PAR. 9. Section 1.882 is amended by revising section 882 and by adding a historical note, as follows:

§ 1.882 Statutory provisions; tax on income of foreign corporations connected with United States business.

SEC. 882. *Tax on income of foreign corporations connected with United States business*—(a) *Normal tax and surtax*—(1) *Imposition of tax*. A foreign corporation engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 11 or 1201(a) on its taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) *Determination of taxable income*. In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.

(b) *Gross income*. In the case of a foreign corporation, gross income includes only—

(1) Gross income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, and

(2) Gross income which is effectively connected with the conduct of a trade or business within the United States.

(c) *Allowance of deductions and credits*—(1) *Allocation of deductions*—(A) *General rule*. In the case of a foreign corporation, the deductions shall be allowed only for purposes of subsection (a) and (except as provided by subparagraph (B)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary or his delegate.

(B) *Charitable contributions*. The deduction for charitable contributions and gifts provided by section 170 shall be allowed whether or not connected with income which is effectively connected with the conduct of a trade or business within the United States.

(2) *Deductions and credits allowed only if return filed*. A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this subtitle only by filing or causing to be filed with the Secretary or his delegate a true and accurate return, in the manner described in subtitle F, including therein all the information which the Secretary or his delegate may deem necessary for the calculation of such deductions and credits. The preceding sentence shall not apply for purposes of the tax imposed by section 541 (relating to personal holding company tax), and shall not be construed to deny the credit provided by section 32 for tax withheld at source or the credit provided by section 39 for certain uses of gasoline and lubricating oil.

(3) *Foreign tax credit*. Except as provided by section 906, foreign corporations shall not be allowed the credit against the tax for taxes of foreign countries and possessions of the United States allowed by section 901.

(4) *Cross reference*. For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)(1).

(d) *Election to treat real property income as income connected with U.S. business*—(1) *In general*. A foreign corporation which during the taxable year derives any income—

(A) From real property located in the United States, or from any interest in such real property, including (i) gains from the sale or exchange of real property or an interest therein, (ii) rents or royalties from mines, wells, or other natural deposits, and (iii) gains described in section 631 (b) or (c), and

(B) Which, but for this subsection would not be treated as income effectively connected with the conduct of a trade or business within the United States,

may elect for such taxable year to treat all such income as income which is effectively connected with the conduct of a trade or business within the United States. In such case, such income shall be taxable as provided in subsection (a)(1) whether or not such corporation is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary or his delegate with respect to any taxable year.

(2) *Election after revocation, etc*. Paragraphs (2) and (3) of section 871(d) shall apply in respect of elections under this subsection in the same manner and to the same extent as they apply in respect of elections under section 871(d).

(e) *Interest on U.S. obligations received by banks organized in possessions*. In the case of a corporation created or organized in, or under the law of, a possession of the United States which is carrying on the banking business in a possession of the United States, interest on obligations of the United States shall—

(1) For purposes of this subpart, be treated as income which is effectively connected with the conduct of a trade or business within the United States, and

(2) Shall be taxable as provided in subsection (a)(1) whether or not such corporation is engaged in trade or business within the United States during the taxable year.

(f) *Returns of tax by agent*. If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return required under section 6012 shall be made by the agent.

[Sec. 882 as amended by sec. 104(b)(1), Foreign Investors Tax Act 1966 (80 Stat. 1555)]

PAR. 10. Section 1.882-1 is amended to read as follows:

§ 1.882-1 Taxation of foreign corporations engaged in U.S. business or of foreign corporations treated as having effectively connected income.

(a) *Segregation of income*. This section applies for purposes of determining the tax of a foreign corporation which at any time during the taxable year is engaged in trade or business in the United States. It also applies for purposes of determining the tax of a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States but has for the taxable year real property income or interest on obligations of the United States which, by reason of section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. A foreign corporation to which this section applies must segregate its gross income for the taxable year into two categories, namely, the income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation and the income which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. A separate tax shall then be determined upon each such category of income, as provided in paragraph (b) of this section. The determination of whether income or gain is or is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation shall be made in accordance with section 864(c) and §§ 1.864-3 through 1.864-7. For purposes of this section income which is effectively connected for the taxable year with the conduct of a trade or business in the United States includes all income which is treated under section 882 (d) or (e) and § 1.882-2 as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation.

(b) *Imposition of tax*—(1) *Income not effectively connected with the conduct of a trade or business in the United States*. If a foreign corporation to which this section applies derives during the taxable year from sources within the United States income or gains described in section 881 (a) and paragraph (b) or (c) of § 1.881-2 which are not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, such income or gains shall be subject to a flat tax of 30 percent of the aggregate amount of such items. This tax shall be determined in the manner, and subject to the same conditions, set forth in § 1.881-2 as though the income or gains were derived by a foreign corporation not engaged in trade or business in the United States during the taxable year, except that in applying paragraph (c) of such section there shall not be taken into account any gains which are taken into account in determining the tax under section 882(a) (1) and subparagraph (2) of this paragraph.

(2) *Income effectively connected with the conduct of a trade or business in the United States*—(i) *In general*. If a foreign corporation to which this section applies derives income or gains which are effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, the taxable income or gains shall, except as provided in § 1.871-12, be taxed in accordance with section 11 or, in the alternative, section 1201(a). See sections 11(f) and 882(a)(1). Any income of the foreign corporation which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation shall not be taken into account in determining either the rate or amount of such tax.

(ii) *Determination of taxable income.* The taxable income for any taxable year for purposes of this subparagraph consists only of the foreign corporation's taxable income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation; and, for this purpose, it is immaterial that the trade or business with which that income is effectively connected is not the same as the trade or business carried on in the United States by that corporation during the taxable year. See example (2) in § 1.864-4(b). In determining such taxable income all amounts constituting, or considered to be, gains or losses for the taxable year from the sale or exchange of capital assets shall be taken into account if such gains or losses are effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

(iii) *Cross references.* For rules for determining the gross income and deductions for the taxable year, see section 882 (b) and (c)(1) and the regulations thereunder.

(c) *Change in trade or business status.* The principles of paragraph (c) of § 1.871-8 shall apply to cases where there has been a change in the trade or business status of a foreign corporation.

(d) *Credits against tax.* The credits allowed by section 32 (relating to tax withheld at source on foreign corporations), section 33 (relating to the foreign tax credit), section 38 (relating to investment in certain depreciable property), section 39 (relating to certain uses of gasoline and lubricating oil), and section 6042 (relating to overpayments of a tax) shall be allowed against the tax determined in accordance with this section. However, the credits allowed by sections 33 and 38 shall not be allowed against the flat tax of 30 percent imposed by section 881(a) and paragraph (b)(1) of this section. For special rules applicable in determining the foreign tax credit, see section 906(b) and the regulations thereunder. For the disallowance of certain credits where a return is not filed for the taxable year see section 882(c)(2) and the regulations thereunder.

(e) *Payment of estimated tax.* Every foreign corporation which for the taxable year is subject to tax under section 11 or 1201(a) and this section must make payment of its estimated tax in accordance with section 6154 and the regulations thereunder. In determining the amount of the estimated tax the foreign corporation must treat the tax imposed by section 881 (a) and paragraph (b)(1) of this section as though it were a tax imposed by section 11.

(f) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.882-1 (Rev. as of Jan. 1, 1971).

PAR. 11. Section 1.882-2 is amended to read as follows:

§ 1.882-2 Income of foreign corporation treated as effectively connected with U.S. business.

(a) *Election as to real property income.* A foreign corporation which during the taxable year derives any income from real property which is located in the United States, or derives income from any interest in any such real property, may elect, pursuant to section 882(d) and § 1.871-10, to treat all such income as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. The election may be made whether or not the foreign corporation is engaged in trade or business in the United States during the taxable year for which the election is made or whether or not the corporation has income from real property which for the taxable year is effectively connected with the conduct of a trade or business in the United States, but it may be made only with respect to income from sources within the United States which, without regard to section 882(d) and § 1.871-10, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. The income to which the election applies shall be determined as provided in paragraph (b) of § 1.871-10 and shall be subject to tax in the manner, and subject to the same conditions, provided by section 882(a)(1) and paragraph (b)(2) of § 1.882-1. Section 871 (d) (2) and (3) and the provisions of § 1.871-10 thereunder shall apply in respect of an election under section 882(d) in the same manner and to the same extent as they apply in respect of elections under section 871(d).

(b) *Interest on U.S. obligations received by banks organized in possessions.* Interest received from sources within the United States during the taxable year on obligations of the United States by a foreign corporation created or organized in, or under the law of, a possession of the United States and carrying on the banking business in a possession of the United States during the taxable year shall be treated, pursuant to section 882 (e) and this paragraph, as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. This paragraph applies whether or not the foreign corporation is engaged in trade or business in the United States at any time during the taxable year but only with respect to income which, without regard to this paragraph, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. Any interest to which this paragraph applies shall be subject to tax in the manner, and subject to the same conditions, provided by section 882(a) (1) and paragraph (b)(2) of § 1.882-1. To the extent that deductions are connected with interest to which this paragraph applies, they shall be treated for purposes of section 882(c)(1) and the regulations thereunder as connected with income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation. An election by the taxpayer is not required in respect of the income to which this paragraph applies. For purposes of this paragraph the term "possession of the United States" includes Guam, the Midway Islands, the Panama Canal Zone, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Wake Island.

(c) *Treatment of income.* Any income in respect of which an election described in paragraph (a) of this section is in effect, and any interest to which paragraph (b) of this section applies, shall be treated, for purposes of paragraph (b)(2) of § 1.882-1 and paragraph (a) of § 1.1441-4, as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the foreign corporation. A foreign corporation shall not be treated as being engaged in trade or business in the United States merely by reason of having such income for the taxable year.

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1966. There are no corresponding rules in this part for taxable years beginning before January 1, 1967.

PAR. 12. Section 1.882-3 is amended to read as follows:

§ 1.882-3 Gross income of a foreign corporation.

(a) *In general*—(1) *Inclusions.* The gross income of a foreign corporation for any taxable year includes only (i) the gross income which is derived from sources within the United States and which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, and (ii) the gross income, irrespective of whether such income is derived from sources within or without the United States, which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. For the determination of the sources of income, see sections 861 through 863, and the regulations thereunder. For the determination of whether income from sources within or without the United States is effectively connected for the taxable year with the conduct of a trade or business in the United States, see sections 864(c) and 882 (d) and (e), §§ 1.864-3 through 1.864-7, and § 1.882-2.

(2) *Exchange transactions.* Even though a foreign corporation which effects certain transactions in the United States in stocks, securities, or commodities during the taxable year may not, by reason of section 864(b)(2) and paragraph (c) or (d) of § 1.864-2, be engaged in trade or business in the United States during the taxable year through the effecting of such transactions, nevertheless it shall be required to include in gross income for the taxable year the gains and profits from those transactions to the extent required by paragraph (c) of § 1.881-2 or by paragraph (a) of § 1.882-1.

(3) *Exclusions.* For exclusions from gross income of a foreign corporation, see § 1.883-1.

(b) *Foreign corporations not engaged in U.S. business.* In the case of a foreign corporation which at no time during the taxable year is engaged in trade or business in the United States the gross income shall include only (1) the gross income from sources within the United States which is described in section 881 (a) and paragraphs (b) and (c) of § 1.881-2, and (2) the gross income from sources within the United States which, by reason of section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

(c) *Foreign corporations engaged in U.S. business.* In the case of a foreign corporation which is engaged in trade or business in the United States at any time during the taxable year, the gross income shall include (1) the gross income from sources within and without the United States which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, (2) the gross income from sources within the United States which, by reason of section 882 (d) or (e) and § 1.882-2, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation, and (3) the gross income from sources within the United States which is described in section 881(a) and paragraphs (b) and (c) of § 1.881-2 and is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.882-2 (Rev. as of Jan. 1, 1971).

PAR. 13. Section 1.883-1 is amended by revising paragraphs (b) and (c), and by adding new paragraph (d), as follows:

§ 1.883-1 Exclusions from gross income of foreign corporations.

* * * * *

(b) *Tax convention.* Income of any kind which is exempt from tax under the provisions of a tax convention or treaty to which the United States is a party is not included in the gross income of a foreign corporation. Income on which the tax is limited by tax convention is included in the gross income of a foreign corporation if it is not otherwise excluded from gross income. See §§ 1.871-12 and 1.894-1.

(c) *Other exclusions.* Income which is from sources without the United States, as determined under the provisions of sections 861 through 863 and the regulations thereunder, is not included in the gross income of a foreign corporation unless such income is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. To determine specific exclusions in the case of other items which are from sources within the United States, see the applicable sections of the Code. For special rules under a tax convention for determining the sources of income and for excluding, from gross income, income from sources without the United States which is effectively connected with the conduct of a trade or business in the United States, see the applicable tax convention. For determining which income from sources without the United States is effectively connected with the conduct of a trade or business within the United States see section 864(c)(4) and § 1.864-5.

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.883-1 (Rev. as of Jan. 1, 1971).

PAR. 14. Section 1.884 is amended by revising section 884 and by adding an historical note, as follows:

§ 1.884 Statutory provisions; cross references.

SEC. 884. *Cross references.* (1) For special provisions relating to foreign corporations carrying on an insurance business within the United States, see section 842.

(2) For rules applicable in determining whether any foreign corporation is engaged in trade or business within the United States, see section 864(b).

(3) For adjustment of tax in case of corporations of certain foreign countries, see section 896.

(4) For allowance of credit against the tax in case of a foreign corporation having income effectively connected with the conduct of a trade or business within the United States, see section 906.

(5) For withholding at source of tax on income of foreign corporations, see section 1442.

[Sec. 884 as amended by sec. 104(m), Foreign Investors Tax Act 1966 (80 Stat. 1563); sec. 101(j)(21), Tax Reform Act 1969 (83 Stat. 528)]

PAR. 15. Section 1.894 is amended by revising section 894 and by adding an historical note, as follows:

§ 1.894 Statutory provisions; income affected by treaty.

SEC. 894. *Income affected by treaty*—(a) *Income exempt under treaty.* Income of any kind, to the extent required by any treaty obligation of the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.

(b) *Permanent establishment in United States.* For purposes of applying any exemption from, or reduction of, any tax provided by any treaty to which the United States is a party with respect to income which is not effectively connected with the conduct of a trade or business within the United States, a nonresident alien individual or a foreign corporation shall be deemed not to have a permanent establishment in the United States at any time during the taxable year. This subsection shall not apply in respect of the tax computed under section 877(b).

[Sec. 894 as amended by sec. 105(a), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 16. Section 1.894-1 is amended to read as follows:

§ 1.894-1 Income affected by treaty.

(a) *Income exempt under treaty.* Income of any kind is not included in gross income and is exempt from tax under subtitle A (relating to income taxes), to the extent required by any treaty or convention obligation of the United States. See § 1.871-12 for the manner of determining the tax liability of a nonresident alien individual or foreign corporation whose gross income includes income on which the tax is reduced under a tax convention.

(b) *Taxpayer treated as having no permanent establishment in the United States*—(1) *In general.* A nonresident alien individual or a foreign corporation, that is engaged in trade or business in the United States through a permanent establishment located therein at any time during a taxable year beginning after December 31, 1966, shall be deemed not to have a permanent establishment in the United States at any time during that year for purposes of applying any exemption from, or reduction in the rate of, any tax under subtitle A of the Code which is provided by any income tax convention with respect to income which is not effectively connected for that year with the conduct of a trade or business in the United States by the taxpayer. This paragraph applies to all treaties or conventions entered into by the United States, whether entered into before, on, or after November 13, 1966. It is not considered to be contrary to any obligation of the United States under a treaty or convention to which it is a party. The benefit granted under section 894(b) and this paragraph applies only to those items of income derived from sources within the United States which are subject to the tax imposed by section 871(a) or 881(a), and section 1441, 1442, or 1451, on the noneffectively connected income received from sources within the United States by a nonresident alien individual or a foreign corporation. The benefit does not apply to any income from real property in respect of which an election is in effect for the taxable year under § 1.871-10 or in determining under section 877(b) the tax of a nonresident alien individual who has lost United States citizenship at any time after March 8, 1965. The benefit granted by section 894(b) and this paragraph is not elective.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). M, a corporation organized in foreign country X, uses the calendar year as the taxable year. The United States and country X are parties to an income tax convention which provides in part that dividends received from sources within the United States by a corporation of country X not having a permanent establishment in the United States are subject to tax under chapter 1 of the Code at a rate not to exceed 15 percent. During 1967, M is engaged in business in the United States through a permanent establishment located therein and receives $100,000 in dividends from domestic corporation B, which under section 861(a)(2)(A) constitute income from sources within the United States. Under section 864(c)(2) and § 1.864-4(c), the dividends received from B are not effectively connected for 1967 with the conduct of a trade or business in the United States by M. Although M has a permanent establishment in the United States during 1967, it is deemed, under section 894(b) and this paragraph, not to have a permanent establishment in the

United States during that year with respect to the dividends. Accordingly, in accordance with paragraph (c) (3) of § 1.871-12 the tax on the dividends is $15,000, that is, 15 percent of $100,000, determined without the allowance of any deductions.

Example (2). T, a corporation organized in foreign country X, uses the calendar year as the taxable year. The United States and country X are parties to an income tax convention which provides in part that an enterprise of country X is not subject to tax under chapter 1 of the Code in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States during the taxable year through a permanent establishment located therein and that, if it is so engaged, the tax may be imposed upon the entire income of that enterprise from sources within the United States. The convention also provides that the tax imposed by chapter 1 of the Code on dividends received from sources within the United States by a corporation of X which is not engaged in trade or business in the United States through a permanent establishment located therein shall not exceed 15 percent of the dividend. During 1967, T is engaged in a business (business A) in the United States which is carried on through a permanent establishment in the United States; in addition, T is engaged in a business (business B) in the United States which is not carried on through a permanent establishment. During 1967, T receives from sources within the United States $60,000 in service fees through the operation of business A and $10,000 in dividends through the operation of business B, both of which amounts are, under section 864(c) (2) (B) and § 1.864-4 (c) (3), effectively connected for that year with the conduct of a trade or business in the United States by that corporation. The service fees are considered to be industrial or commercial profits under the tax convention with country X. Since T has no income for 1967 which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, section 894(b), this paragraph, and § 1.871-12 do not apply. Accordingly, for 1967 T's entire income of $70,000 from sources within the United States is subject to tax, after allowance of deductions, in accordance with section 882(a) (1) and paragraph (b) (2) of § 1.882-1.

Example (3). S, a corporation organized in foreign country W, uses the calendar year as the taxable year. The United States and country W are parties to an income tax convention which provides in part that a corporation of country W is not subject to tax under chapter 1 of the Code in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States during the taxable year through a permanent establishment located therein and that, if it is so engaged, the tax may be imposed upon the entire income of that corporation from sources within the United States. The convention also provides that the tax imposed by chapter 1 of the Code on dividends received from sources within the United States by a corporation of country W which is not engaged in trade or business in the United States through a permanent establishment located therein shall not exceed 15 percent of the dividend. During 1967, S is engaged in business in the United States through a permanent establishment located therein and derives from sources within the United States $100,000 in service fees which, under section 864(c) (2) (B) and § 1.864-4(c) (3), are effectively connected for that year with the conduct of a trade or business in the United States by S and which are considered to be industrial or commercial profits under the tax convention with country W. During 1967, S also derives from sources within the United States, through another business it carries on in foreign country X, $10,000 in sales income which, under section 864(c) (3) and § 1.864-4(b), is effectively connected for that year with the conduct of a trade or business in the United States by S and $5,000 in dividends which, under section 864(c) (2) (A) and § 1.864-4(c) (2), are not effectively connected for that year with the conduct of a trade or business in the United States by S. The sales income is considered to be industrial or commercial profits under the tax convention with country W. Although S is engaged in a trade or business in the United States during 1967 through a permanent establishment located therein, it is deemed, under section 894(b) and this paragraph, not to have a permanent establishment therein with respect to the $5,000 in dividends. Accordingly, in accordance with paragraph (c) of § 1.871-12, for 1967 S is subject to a tax of $750 on the dividends ($5,000 × .15) and a tax, determined under section 882(a) and § 1.882-1, on its $110,000 industrial or commercial profits.

Example (4). (a) N, a corporation organized in foreign country Z, uses the calendar year as the taxable year. The United States and country Z are parties to an income tax convention which provides in part that the tax imposed by chapter 1 of the Code on dividends received from sources within the United States by a corporation of country Z shall not exceed 15 percent of the amount distributed if the recipient does not have a permanent establishment in the United States or, where the recipient does have a permanent establishment in the United States, if the shares giving rise to the dividends are not effectively connected with the permanent establishment. The tax convention also provides that if a corporation of country Z is engaged in industrial or commerical activity in the United States through a permanent establishment in the United States, income tax may be imposed by the United States on so much of the industrial or commercial profits of such corporation as are attributable to the permanent establishment in the United States.

(b) During 1967, N is engaged in a business (business A) in the United States which is not carried on through a permanent establishment in the United States. In addition, N has a permanent establishment in the United States through which it carries on another business (business B) in the United States. During 1967, N holds shares of stock in domestic corporation D which are not effectively connected with N's permanent establishment in the United States. During 1967, N receives $100,000 in dividends from D which, pursuant to section 864(c) (2) (A) and § 1.864-4(c) (2), are effectively connected for that year with the conduct of business A. Under section 861(a) (2) (A) these dividends are treated as income from sources within the United States. In addition, during 1967, N receives from sources within the United States $150,000 in sales income which, pursuant to section 864(c) (3) and § 1.864-4(b), is effectively connected with the conduct of a trade or business in the United States and which is considered to be industrial or commercial profits under the tax convention with country Z. Of these total profits, $70,000 is from business A and $80,000 is from business B. Only the $80,000 of industrial or commercial profits is attributable to N's permanent establishment in the United States.

(c) Since N has no income for 1967 which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, section 894(b) and this paragraph do not apply. However, N is entitled to the reduced rate of tax under the tax convention with country Z with respect to the dividends because the shares of stock are not effectively connected with N's permanent establishment in the United States. Accordingly, assuming that there are no deductions connected with N's industrial or commercial profits, the tax for 1967, determined as provided in paragraph (c) of § 1.871-12, is $46,900 as follows:

Tax on nontreaty income:	
$80,000 × .48	$38,400
Less $25,000 × .26	6,500
	31,900
Tax on treaty income:	
$100,000 (gross dividends) × .15	15,000
Total tax	46,900

Example (5). M, a corporation organized in foreign country Z, uses the calendar year as the taxable year. The United States and country Z are parties to an income tax convention which provides in part that a corporation of country Z is not subject to tax under chapter 1 of the Code in respect of its commercial and industrial profits except such profits as are allocable to its permanent establishment in the United States. The regulations in this chapter under the tax convention with country Z provide that a corporation of country Z having a permanent establishment in the United States is subject to U.S. tax upon its industrial and commercial profits from sources within the United States and that its industrial and commercial profits from such sources are deemed to be allocable to the permanent establishment in the United States. During 1967, M is engaged in a business (business A) in the United States which is carried on through a permanent establishment in the United States; in addition, M is engaged in a business (business B) in foreign country X and none of such business is carried on in the United States. During 1967, M receives from sources within the United States $40,000 in sales income through the operation of business A and $10,000 in sales income through the operation of business B, both of which amount's are, under section 864(c) (3) and § 1.864-4(b), effectively connected for that year with the conduct of a trade or business in the United States by that corporation. The sales income is considered to be industrial and commercial profits under the tax convention with country Z. Since M has no income for 1967 which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, section 894(b) and this paragraph do not apply. Accordingly, for 1967 M's entire income of $50,000 from sources within the United States is subject to tax, after allowance of deductions, in accordance with section 882(a) (1) and paragraph (b) (2) of § 1.882-1.

(c) *Effective date*. This section applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.894-1 (Rev. as of Jan. 1, 1971).

PAR. 17. The following new section is inserted immediately after § 1.895-1:

§ 1.896 Statutory provisions; adjustment of tax on nationals, residents, and corporations of certain foreign countries.

SEC. 896. *Adjustment of tax on nationals, residents, and corporations of certain foreign countries*—(a) *Imposition of more burdensome taxes by foreign country*. Whenever the President finds that—

(1) Under the laws of any foreign country, considering the tax system of such foreign country, citizens of the United States not residents of such foreign country or domestic corporations are being subjected to more burdensome taxes, on any item of income

received by such citizens or corporations from sources within such foreign country, than taxes imposed by the provisions of this subtitle on similar income derived from sources within the United States by residents or corporations of such foreign country,

(2) Such foreign country, when requested by the United States to do so, has not acted to revise or reduce such taxes so that they are no more burdensome than taxes imposed by the provisions of this subtitle on similar income derived from sources within the United States by residents or corporations of such foreign country, and

(3) It is in the public interest to apply pre-1967 tax provisions in accordance with the provisions of this subsection to residents or corporations of such foreign country,

the President shall proclaim that the tax on such similar income derived from sources within the United States by residents or corporations of such foreign country shall, for taxable years beginning after such proclamation, be determined under this subtitle without regard to amendments made to this subchapter and chapter 3 on or after the date of enactment of this section [November 13, 1966].

(b) *Imposition of discriminatory taxes by foreign country.* Whenever the President finds that—

(1) Under the laws of any foreign country, citizens of the United States or domestic corporations (or any class of such citizens or corporations) are, with respect to any item of income, being subjected to a higher effective rate of tax than are nationals, residents, or corporations of such foreign country (or a similar class of such nationals, residents, or corporations) under similar circumstances;

(2) Such foreign country, when requested by the United States to do so, has not acted to eliminate such higher effective rate of tax; and

(3) It is in the public interest to adjust, in accordance with the provisions of this subsection, the effective rate of tax imposed by this subtitle on similar income of nationals, residents, or corporations of such foreign country (or such similar class of such nationals, residents, or corporations),

the President shall proclaim that the tax on similar income of nationals, residents, or corporations of such foreign country (or such similar class of such nationals, residents, or corporations) shall, for taxable years beginning after such proclamation, be adjusted so as to cause the effective rate of tax imposed by this subtitle on such similar income to be substantially equal to the effective rate of tax imposed by such foreign country on such item of income of citizens of the United States or domestic corporations (or such class of citizens or corporations). In implementing a proclamation made under this subsection, the effective rate of tax imposed by this subtitle on an item of income may be adjusted by the disallowance, in whole or in part, of any deduction, credit, or exemption which would otherwise be allowed with respect to that item of income or by increasing the rate of tax otherwise applicable to that item of income.

(c) *Alleviation of more burdensome or discriminatory taxes.* Whenever the President finds that—

(1) The laws of any foreign country with respect to which the President has made a proclamation under subsection (a) have been modified so that citizens of the United States not residents of such foreign country or domestic corporations are no longer subject to more burdensome taxes on the item of income derived by such citizens or corporations from sources within such foreign country, or

(2) The laws of any foreign country with respect to which the President has made a proclamation under subsection (b) have been modified so that citizens of the United States or domestic corporations (or any class of such citizens or corporations) are no longer subject to a higher effective rate of tax on the item of income,

he shall proclaim that the tax imposed by this subtitle on the similar income of nationals, residents, or corporations of such foreign country shall, for any taxable year beginning after such proclamation, be determined under this subtitle without regard to such subsection.

(d) *Notification of Congress required.* No proclamation shall be issued by the President pursuant to this section unless, at least 30 days prior to such proclamation, he has notified the Senate and the House of Representatives of his intention to issue such proclamation.

(e) *Implementation by regulations.* The Secretary or his delegate shall prescribe such regulations as he deems necessary or appropriate to implement this section.

[Sec. 896 as added by sec. 105(b), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 18. Section 1.952 is amended by revising subsection (b) of section 952 and the historical note to read as follows:

§ 1.952 Statutory provision; subpart F income defined.

SEC. 952. *Subpart F income defined.* * * *

(b) *Exclusion of United States income.* In the case of a controlled foreign corporation, subpart F income does not include any item of income from sources within the United States which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

* * * * *

[Sec. 952 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006); and amended by sec. 104(j), Foreign Investors Tax Act 1966 (80 Stat. 1562)]

PAR. 19. Section 1.952–1 is amended by revising paragraph (b) to read as follows:

§ 1.952–1 Subpart F income defined.

* * * * *

(b) *Exclusion of U.S. income*—(1) *Taxable years beginning before January 1, 1967*—(i) *In general.* Notwithstanding paragraph (a) of this section and except as provided in subdivision (ii) of this subparagraph, a controlled foreign corporation's subpart F income for any taxable year beginning before January 1, 1967, shall not include any item of income which is includible in the gross income of such corporation for such year under provisions (other than sections 951 through 964) of chapter 1 of the Code as income derived from sources within the United States if for the taxable year a tax is imposed with respect to such income in accordance with section 882(a). The deductions attributable to such items of gross income shall not be taken into account for purposes of sections 951 through 964. Any item which is required to be excluded from gross income or which is taxed at a reduced rate under an applicable treaty obligation of the United States shall not be excluded from the gross income of a controlled foreign corporation under this subdivision. See section 952(b).

(ii) *Treatment of U.S. income of foreign insurance companies.* The subpart F income for any taxable year of a controlled foreign corporation beginning before January 1, 1967, which is a foreign insurance company, shall not include any item of income which is includible in the gross income of such corporation for such year under provisions (other than sections 951 through 964) of chapter 1 of the Code as income derived from sources within the United States if such income is described in section 819(a), 822(e), or 832(d) and, for such taxable year, a tax is imposed with respect to such income in accordance with section 802(a), 821(a), or 831(a), as the case may be. The deductions attributable to such items of gross income shall not be taken into account for purposes of sections 951 through 964. See paragraph (d) of § 1.953–4 and section 11(e)(2).

(2) *Taxable years beginning after December 31, 1966.* Notwithstanding paragraph (a) of this section, a controlled foreign corporation's subpart F income for any taxable year beginning after December 31, 1966, shall not include any item of income from sources within the United States which is effectively connected for that year with the conduct by such corporation of a trade or business in the United States unless, pursuant to a treaty to which the United States is a party, such item of income either is exempt from the income tax imposed by chapter 1 (relating to normal taxes and surtaxes) of the Code or is subject to such tax at a reduced rate. Thus, for example, dividends received from sources within the United States by a foreign corporation engaged in business in the United States during the taxable year, which are not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, shall not be excluded from subpart F income under section 952(b) and this subparagraph even though such dividends are subject to the tax of 30 percent imposed by section 881(a). Also, for example, if, by reason of an income tax convention to which the United States is a party, an amount of interest from sources within the United States which is effectively connected for the taxable year with the conduct of a business in the United States by a foreign corporation is subject to tax under chapter 1 at a flat rate of 15 percent, as provided in § 1.871–12, such interest is not excluded from subpart F income under section 952(b) and this subparagraph. The deductions attributable to items of income which are excluded from subpart F income under this subparagraph shall not be taken into account for purposes of section 952.

(3) *Rule applicable under section 956(b)(2).* For purposes only of paragraph (b)(1)(viii) of § 1.956–2, an item of income derived by a controlled foreign corporation from sources within the United

States with respect to which for the taxable year a tax is imposed in accordance with section 882(a) shall be considered described in section 952(b) whether or not such item of income would have constituted subpart F income for such year.

* * * * *

PAR. 20. Section 1.953 is amended by revising section 953(b)(3)(F) and the historical note to read as follows:

§ 1.953 Statutory provisions; income from insurance of United States risks.

SEC. 953. *Income from insurance of U.S. risks.* * * *

(b) *Special rules.* * * *

(3) * * *

(F) Section 832(c)(5) (certain capital losses).

* * * * *

[Sec. 953 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006); as amended by sec. 104(m)(2), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 21. Section 1.954–1 is amended by revising paragraph (c) to read as follows:

§ 1.954–1 Foreign base company income.

* * * * *

(c) *Gross income and deductions to be taken into account.* For purposes of section 954 and this section, foreign personal holding company income as defined in § 1.954–2, foreign base company sales income as defined in § 1.954–3, and foreign base company services income as defined in § 1.954–4 shall be taken into account in determining foreign base company income after allowance for deductions properly allocable to such categories of income. For determination of gross income and deductions for purposes of section 954, see section 952 and the regulations thereunder. For purposes of this section, expenses, taxes, and other deductions shall first be allocated to items or categories of gross income to which they directly relate; then, expenses, taxes, and other deductions which cannot definitely be allocated to some item or category of gross income shall be ratably apportioned among all items or categories of gross income, except that no expense, tax, or other deduction shall be allocated to an item or category of income to which it clearly does not apply. However, if the foreign base company income of a controlled foreign corporation exceeds 70 percent (as determined under paragraph (d) of this section) of gross income, the entire expenses, taxes, and other deductions shall be taken into account, except expenses, taxes, and other deductions properly allocable to amounts excluded from foreign base company income under the provisions of paragraphs (1), (2), and (4) of section 954(b) and paragraph (b) of this section and expenses, taxes, and other deductions allowable to such controlled foreign corporation under section 882(c) and the regulations thereunder.

* * * * *

PAR. 22. Section 1.970–1 is amended by revising paragraph (b)(3) to read as follows:

§ 1.970–1 Export trade corporations.

* * * * *

(b) *Amount by which export trade income shall reduce subpart F income.* * * *

(3) *Determination of export promotion expense limitation.* For purposes of determining the limitation contained in subparagraph (2)(i) of this paragraph for any taxable year of the export trade corporation, there shall be taken into account with respect to those items or categories of export trade income which constitute foreign base company income the entire amount of those export promotion expenses which are directly related to such items or categories of income and a ratable part of any other export promotion expenses which are indirectly related to such items or categories of income, except that no export promotion expense shall be allocated to an item or category of income to which it clearly does not apply and no deduction allowable to such corporation under section 882(c) and the regulations thereunder shall be taken into account.

* * * * *

PAR. 23. Section 1.971–1 is amended by revising paragraph (b)(1)(viii) to read as follows:

§ 1.971–1 Definitions with respect to export trade corporations.

* * * * *

(b) *Export trade income*—(1) *General rule.* * * *

(viii) *Deductions to be taken into account.* Export trade income of a controlled foreign corporation for any taxable year shall be the amount determined by deducting from the items or categories of gross income described in subdivisions (i) through (vii) of this subparagraph the entire amount of those expenses, taxes, and other deductions properly allocable to such items or categories of income. For purposes of this section, expenses, taxes, and other deductions shall first be allocated to items or categories of gross income to which they directly relate; then, expenses, taxes, and other deductions which cannot definitely be allocated to some item or category of gross income shall be ratably apportioned among all items or categories of gross income, except that no expense, tax, or other deduction shall be allocated to an item or category of income to which it clearly does not apply and no deduction allowable to such controlled foreign corporation under section 882(c) and the regulations thereunder shall be taken into account.

* * * * *

PAR. 24. Section 1.1248 is amended by revising subsection (d)(4) of section 1248 and the historical note to read as follows:

§ 1.1248 Statutory provisions; gain from certain sales or exchanges of stock in certain foreign corporations.

SEC. 1248. *Gain from certain sales or exchanges of stock in certain foreign corporations.* * * *

(d) *Exclusions from earnings and profits.* * * *

(4) *U.S. income.* Any item includible in gross income of the foreign corporation under this chapter—

(A) For any taxable year beginning before January 1, 1967, as income derived from sources within the United States of a foreign corporation engaged in trade or business within the United States, or

(B) For any taxable year beginning after December 31, 1966, as income effectively connected with the conduct by such corporation of a trade or business within the United States.

This paragraph shall not apply with respect to any item which is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

* * * * *

[Sec. 1248 as added by sec. 15, Rev. Act 1962 (72 Stat. 1041); and amended by sec. 104(k), Foreign Investors Tax Act 1966 (80 Stat. 1562)]

PAR. 25. Section 1.1248–2 is amended by revising paragraph (d)(2)(i) to read as follows:

§ 1.1248–2 Earnings and profits attributable to a block of stock in simple cases.

* * * * *

(d) *Earnings and profits accumulated for a taxable year.* * * *

(2) *Special rules.* (i) The earnings and profits of the corporation accumulated—

(*a*) For any taxable year beginning before January 1, 1967 (computed without any reduction for distributions), shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b) as gross income derived from sources within the United States, and

(*b*) For any taxable year beginning after December 31, 1966 (computed without any reduction for distributions), shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b)(2) as income effectively connected for that year with the conduct by such corporation of a trade or business in the United States, whether derived from sources within or from sources without the United States,

over any deductions allocable to such item under section 882(c). However, if the sale or exchange of stock in the foreign corporation by the United States person occurs before January 1, 1967, the provisions of (*a*) of this subdivision apply with respect to such sale or exchange even though the taxable year begins after December 31, 1966. See section 1248(d)(4). Any item which is required to be excluded from gross income, or which is taxed at a reduced rate, under an applicable treaty obligation of the United States shall not be excluded under this subdivision from earnings and profits accumulated for a taxable year (computed without any reduction for distributions).

* * * * *

PAR. 26. Section 1.1248–3 is amended by revising paragraph (b)(2)(i) to read as follows:

§ 1.1248–3 Earnings and profits attributable to stock in complex cases.

* * * * *

(b) *Earnings and profits accumulated for a taxable year.* * * *

(2) *Special rules.* (i) The earnings and profits of the corporation accumulated—

(*a*) For any taxable year beginning before January 1, 1967, shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b) as gross income derived from sources within the United States, and

(*b*) For any taxable year beginning after December 31, 1966, shall not include the excess of any item includible in gross income of the foreign corporation under section 882(b)(2) as income effectively connected for that year with the conduct by such corporation of a trade or business in the United States, whether derived from sources within or from sources without the United States,

over any deductions allocable to such item under section 882(c). However, if the sale or exchange of stock in the foreign corporation by the U.S. person occurs before January 1, 1967, the provisions of (*a*) of this subdivision apply with respect to such sale or exchange even though the taxable year begins after December 31, 1966. See section 1248(d)(4). Any item which is required to be excluded from gross income, or which is taxed at a reduced rate, under an applicable treaty obligation of the United States shall not be excluded under this subdivision from earnings and profits accumulated for a taxable year.

* * * * *

PAR. 27. Section 1.1249 is amended by revising section 1249(a) and the historical note to read as follows:

§ 1.1249 Statutory provisions; gain from certain sales or exchanges of patents, etc., to foreign corporations.

SEC. 1249. *Gain from certain sales or exchanges of patents, etc., to foreign corporations*—(a) *General rule.* Gain from the sale or exchange after December 31, 1962, of a patent, an invention, model, or design (whether or not patented), a copyright, a secret formula or process, or any other similar property right to any foreign corporation by any United States person (as defined in section 7701(a)(30)) which controls such foreign corporation shall, if such gain would (but for the provisions of this subsection) be gain from the sale or exchange of a capital asset or of property described in section 1231, be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

* * * * *

[Sec. 1249 as added by sec. 16, Revenue Act 1962 (76 Stat. 1045); as amended by sec. 104(m)(3), Foreign Investors Tax Act 1966 (80 Stat. 1563)]

PAR. 28. Section 1.1563-1 is amended by revising paragraph (b)(2)(ii)(*b*) to read as follows:

§ 1.1563-1 Definition of controlled group of corporations and component members.

* * * * *

(b) *Component members.* * * *

(2) *Excluded members.* * * *

(ii) * * *

(*b*) A foreign corporation not subject to taxation under section 882(a) for the taxable year,

* * * * *

PAR. 29. Section 1.6012-2 is amended by revising paragraph (g) to read as follows:

§ 1.6012-2 Corporations required to make returns of income.

* * * * *

(g) *Returns by foreign corporations*—(1) *Requirement of return*—(i) *In general.* Except as otherwise provided in subparagraph (2) of this paragraph, every foreign corporation which is engaged in trade or business in the United States at any time during the taxable year or which has income which is subject to taxation under subtitle A of the Code shall make a return on Form 1120-F. Thus, for example, a foreign corporation which is engaged in trade or business in the United States at any time during the taxable year is required to file a return on Form 1120-F even though (*a*) it has no income which is effectively connected with the conduct of a trade or business in the United States, (*b*) it has no income from sources within the United States, or (*c*) its income is exempt from income tax by reason of an income tax convention or any section of the Code. However, if the foreign corporation has no gross income for the taxable year, it is not required to complete the return schedules but must attach a statement to the return indicating the amount and nature of any exclusions claimed.

(ii) *Treaty income.* If the gross income of a foreign corporation includes treaty income, as defined in paragraph (b)(1) of § 1.871-12, a statement shall be attached to the return on Form 1120-F showing with respect to that income—

(*a*) The amounts of tax withheld,

(*b*) The names and post office addresses of withholding agents, and

(*c*) Such other information as may be required by the return form or by the instructions issued with respect to the form, to show the taxpayer's entitlement to the reduced rate of tax under the tax convention.

(iii) *Balance sheet and reconciliation of income.* At the election of the taxpayer, the balance sheets and reconciliation of income, as shown on Form 1120-F, may be limited to—

(*a*) The assets of the corporation located in the United States and to its other assets used in the trade or business conducted in the United States, and

(*b*) Its income effectively connected with the conduct of a trade or business in the United States and its other income from sources within the United States.

(2) *Exceptions*—(i) *Return not required when tax is fully paid at source*—(*a*) *In general.* A foreign corporation which at no time during the taxable year is engaged in a trade or business in the United States is not required to make a return for the taxable year if its tax liability for the taxable year is fully satisfied by the withholding of tax at source under chapter 3 of the Code. For purposes of this subdivision, some of the items of income from sources within the United States upon which the tax liability will not have been fully satisfied by the withholding of tax at source under chapter 3 of the Code are:

(*1*) Interest upon so-called tax-free covenant bonds upon which, in accordance with section 1451 and § 1.1451-1, a tax of only 2 percent is required to be withheld at source,

(*2*) In the case of bonds or other evidence of indebtedness issued after September 25, 1965, amounts described in section 881(a)(3),

(*3*) Accrued interest received in connection with the sale of bonds between interest dates, which, in accordance with paragraph (h) of § 1.1441-4, is not subject to withholding of tax at source.

(*b*) *Corporations not included.* This subdivision (i) shall not apply—

(*1*) To a foreign corporation which has income for the taxable year which is treated under section 882 (d) or (e) and § 1.882-2 as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation,

(*2*) To a foreign corporation making a claim under § 301.6402-3 of this chapter (Procedure and Administration Regulations) for the refund of an overpayment of tax for the taxable year, or

(*3*) To a foreign corporation described in paragraph (c)(2)(i) of § 1.532-1 whose accumulated taxable income for the taxable year is determined under paragraph (b)(2) of § 1.535-1.

(ii) *Beneficiaries of estates or trusts.* A foreign corporation which is a beneficiary of an estate or trust which is engaged in trade or business in the United States is not required to make a return for the taxable year merely because it is deemed to be engaged in trade or business within the United States under section 875(2). However, such foreign corporation will be required to make a return if it otherwise satisfies the conditions of subparagraph (1)(i) of this paragraph for making a return.

(iii) *Special returns and schedules.* The provisions of paragraphs (b) through (f) of this section shall apply to a foreign corporation except that a foreign corporation which is an insurance company to which paragraph (c)(3) of this section applies shall make a return on Form 1120-F and not on Form 1120. If a foreign corporation which is an insurance company to which paragraph (c) (1) or (2) of this section applies has income for the taxable year from sources within the United States which is not effectively connected for that year with the conduct of a trade or business in the United States by that corporation, the corporation shall attach to its return on Form 1120L or 1120M, as the case may be, a separate schedule showing the nature and amount of the items of such income, the rate of tax applicable thereto, and the amount of tax withheld therefrom under chapter 3 of the code.

(3) *Representative or agent for foreign corporation*—(i) *Cases where power of attorney is not required.* The responsible representative or agent within the United States of a foreign corporation shall make on behalf of his principal a return of, and shall pay the tax on, all income coming within his control as representative or agent which is subject to the income tax under subtitle A of the code. The agency appointment will determine how completely the agent is substituted for the principal for tax purposes. Any person who collects interest or dividends on deposited securities of a foreign corporation, executes ownership certificates in connection therewith, or sells such securities under special instructions shall not be deemed merely by reason of such acts to be the responsible representative or agent of the foreign corporation. If the responsible representative or agent does not have a specific power of attorney from the foreign corporation to file a return in its behalf, the return shall be accompanied by a statement to the effect that the representative or agent does not possess specific power of attorney to file a return for such corporation but that the return is being filed in accordance with the provisions of this subdivision.

(ii) *Cases where power of attorney is required.* Whenever a return of income of a foreign corporation is made by an agent acting under a duly authorized power of attorney for that purpose, the return shall be accompanied by the power of attorney in proper form, or a copy thereof specifically authorizing him to represent his principal in making, executing, and filing the income tax return. Form 2848 may be used for this purpose. The agent, as well as the taxpayer, may incur liability for the penalties provided for erroneous, false, or fraudulent returns. For the requirements regarding signing of returns, see § 1.6062–1. The rules of paragraph (e) of § 601.504 of this chapter (Statement of Procedural Rules) shall apply under this subparagraph in determining whether a copy of a power of attorney must be certified.

(iii) *Limitation.* A return of income shall be required under this subparagraph only if the foreign corporation is otherwise required to make a return in accordance with this paragraph.

(4) *Disallowance of deductions and credits.* For provisions disallowing deductions and credits when a return of income has not been filed by or on behalf of a foreign corporation, see section 882(c) (2) and the regulations thereunder, and paragraph (b) (2) and (3) of § 1.535–1.

(5) *Effective date.* This paragraph applies for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.6012–2(g) (Rev. as of Jan. 1, 1971).

* * * * *

PAR. 30. Section 1.6062–1 is amended by revising paragraph (a) (3) to read as follows:

§ 1.6062–1 Signing of returns, statements, and other documents made by corporations.

(a) *Returns.* * * *

(3) *By agents.* A return with respect to income required to be made by an agent for a foreign corporation shall be signed by such agent. See paragraph (g) of § 1.6012–2.

* * * * *

PAR. 31. Section 1.6302–1 is amended by revising paragraph (a) to read as follows:

§ 1.6302–1 Use of Government depositaries in connection with corporation income and estimated income taxes.

(a) *Requirement.* For taxable years ending on or after December 31, 1967, a corporation shall deposit with a Federal Reserve bank all payments of tax imposed by chapter 1 of the Code (including any payments of estimated tax) on or before the date otherwise prescribed for paying such tax. For taxable years ending after December 31, 1971, this paragraph does not apply to a foreign corporation which has no office or place of business in the United States. For taxable years ending before January 1, 1972, and on or after December 31, 1968, this paragraph does not apply to a foreign corporation which at no time during the taxable year is engaged in a trade or business in the United States. For taxable years ending before December 31, 1968, this paragraph does not apply to a foreign corporation.

* * * * *

PAR. 32. Section 301.6402–3 is amended by adding a new paragraph (e) to read as follows:

§ 301.6402–3 Special rules applicable to income tax.

* * * * *

(e) In the case of a nonresident alien individual or a foreign corporation the claim for refund must show the taxpayer's entire income subject to tax, whether or not the tax has been fully satisfied at the source upon a portion of such income. If the overpayment has resulted from the withholding of tax at source under chapter 3 of the Code, a statement shall be attached to the claim for refund declaring that the person making the claim is the beneficial owner of the income and showing (1) the amounts of tax withheld, with the names and post office addresses of withholding agents, (2) the name in which the tax was withheld if other than that of the taxpayer, and, if applicable, (3) facts sufficient to show that, at the time the income was derived, the taxpayer was entitled to the benefit of a reduced rate of, or exemption from, tax with respect to that income under the provisions of an income tax convention to which the United States is a party. Upon request of the Director of International Operations the taxpayer shall also submit such evidence as may be required to show that the taxpayer is the beneficial owner of the income. In no case may a claim for refund of overwithheld tax be made by a nonresident alien individual or foreign corporation if the taxpayer has received a repayment or reimbursement of such tax in accordance with paragraph (a) of § 1.1461–4 of this chapter (Income Tax Regulations). See also § 1.1464–1 of this chapter.

[FR Doc.72-4484 Filed 3-24-72;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1421]

1973 WHEAT LOAN AND PURCHASE PROGRAM

Undesirable Varieties of Wheat

Notice of proposed determinations relative to the discounts for undesirable varieties of wheat under the 1973 wheat loan and purchase program.

Commodity Credit Corporation is conducting a general review of its discounts on certain varieties of wheat and proposes to take such action with respect to these discounts as it determines to be desirable for the 1973 wheat loan and purchase program.

Statutory authority for the foregoing determinations is contained in section 403 of the Agricultural Act of 1949, as amended, which provides that appropriate adjustments may be made in the loan and purchase rate for any commodity for differences in grade, type, quality, location, and other factors.

Prior to making determinations with respect to the 1973 discount program for undesirable varieties of wheat, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C., on March 20, 1972.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.72-4581 Filed 3-24-72;8:48 am]

[7 CFR Part 1495]

BARTER PROGRAM

Disposition of Agricultural Commodities

Commodity Credit Corporation (CCC) is preparing to revise certain policies,