

under the terms of any treaty to which the United States is a party such distribution would not have been subject to U.S. income tax notwithstanding the provisions of section 897, then this condition may be satisfied by providing a statement with the request for revocation setting forth the treaty and article which would have exempted the distribution from U.S. tax had the election under section 897(i) not been in effect on the date thereof.

(iii) At the time of the receipt of the distributed property, the distributee would be subject to taxation under chapter 1 of the Code on a subsequent disposition of the distributed property, and the basis of the distributed property in the hands of the distributee is no greater than the adjusted basis of such property before the distribution, increased by the amount of gain (if any) recognized by the distributing corporation. For purposes of this paragraph (f)(2)(i)(C), a distributee shall be considered to be subject to taxation upon a subsequent disposition of distributed property only if such distributee waives the benefits of any U.S. treaty that would otherwise render such disposition not taxable by the United States. Such waiver must be attached to the corporation's request for revocation.

(g) *Transitional rules*—(1) *In general.* An election under section 897(i) that was made at any time after June 18, 1980, must be amended to comply with the requirements of paragraphs (b), (c), and (d) of this section. Such amendment must be delivered in writing to the Director of the Foreign Operations District by April 1, 1985. If the amendment is delivered by United States mail, the provisions of section 7502 and the regulations thereunder shall apply in determining the date of delivery. An election that is properly amended pursuant to the requirements of this section shall be effective as of the date of the original election.

(2) *Corporations previously entitled to make election.* A foreign corporation that would have been entitled under the rules of this section to make a section 897(i) election at any time between June 19, 1980, and January 30, 1985, may retroactively make such an election pursuant to the requirements of this

section. Such election must be delivered to the Director, Foreign Operations District, by March 1, 1985.

(3) *Interests in corporation disposed of prior to publication.* Where interests in a corporation were disposed of before January 3, 1984, the requirement of paragraph (d)(2) of this section may be met, notwithstanding the requirement of paragraph (d)(3), by paying a tax that is based upon a reasonable estimate of the gain upon the prior dispositions. Such estimate must be based on all facts and circumstances known to, and ascertainable through the exercise of reasonable diligence by, the corporation seeking to make the election.

(Sec. 897 (94 Stat. 2683; 26 U.S.C. 897), sec. 6011 (68A Stat. 732; 26 U.S.C. 6011) and sec. 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

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[T.D. 8198, 53 FR 16217, May 5, 1988]

§ 1.897-5T Corporate distributions (temporary).

(a) *Purpose and scope.* This section provides rules concerning the recognition of gain or loss and adjustments to basis required with respect to certain corporate distributions that are subject to section 897. Paragraph (b) of this section provides rules concerning such distributions by domestic corporations, including distributions under section 301, distributions in redemption of stock, and distributions in liquidation. Paragraph (c) sets forth rules concerning distributions by foreign corporations, including distributions under sections 301 and 355, distributions in redemption of stock, and distributions in liquidation. Finally, various rules generally applicable to distributions subject to this section, as well as to transfers subject to § 1.897-