

Title II—Foreign personal holding companies.

TITLE II—FOREIGN PERSONAL HOLDING COMPANIES

Inclusion of income of, in income of United States shareholders. 49 Stat. 1731.

SEC. 201. INCLUSION IN INCOME OF UNITED STATES SHAREHOLDERS OF INCOME OF FOREIGN PERSONAL HOLDING COMPANIES.

The Revenue Act of 1936 is amended by adding after Supplement O of Title I a new Supplement to read as follows:

Foreign personal holding companies.
Definition of term.

“Supplement P—Foreign Personal Holding Companies

“SEC. 331. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY.

“(a) GENERAL RULE.—For the purposes of this title and of Title IA the term ‘foreign personal holding company’ means any foreign corporation if—

Gross income requirement.
Post, p. 820.

“(1) GROSS INCOME REQUIREMENT.—At least 60 per centum of its gross income (as defined in section 334 (a)) for the taxable year is foreign personal holding company income as defined in section 332; but if the corporation is a foreign personal holding company with respect to any taxable year, then, for each subsequent taxable year, the minimum percentage shall be 50 per centum in lieu of 60 per centum, until a taxable year during the whole of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 50 per centum of the gross income is foreign personal holding company income. For the purposes of this paragraph there shall be included in the gross income the amount includible therein as a dividend by reason of the application of section 334 (c) (2); and

Post, p. 821.

Stock ownership requirement.

“(2) STOCK OWNERSHIP REQUIREMENT.—At any time during the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, hereinafter called ‘United States group’.

Exceptions.

“(b) EXCEPTIONS.—The term ‘foreign personal holding company’ does not include a corporation exempt from taxation under section 101.

Income.

“SEC. 332. FOREIGN PERSONAL HOLDING COMPANY INCOME.

Term defined.

“For the purposes of this title the term ‘foreign personal holding company income’ means the portion, of the gross income determined for the purposes of section 331 (a) (1), which consists of:

Dividends, interest, etc.

“(a) Dividends, interest, royalties, annuities.

Stock and securities transactions.

“(b) STOCK AND SECURITIES TRANSACTIONS.—Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

Commodities transactions.

“(c) COMMODITIES TRANSACTIONS.—Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This subsection shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

Estates and trusts.

“(d) ESTATES AND TRUSTS.—Amounts includible in computing the net income of the corporation under Supplement E; and gains from the sale or other disposition of any interest in an estate or trust.

Personal service contracts.

“(e) PERSONAL SERVICE CONTRACTS.—(1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts