

Subchapter P—Capital Gains and Losses

PART IV—SPECIAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

SEC. 1248. GAIN FROM CERTAIN SALES OR EXCHANGES OF STOCK IN CERTAIN FOREIGN CORPORATIONS.

(d) **EXCLUSIONS FROM EARNINGS AND PROFITS.**—For purposes of this section, the following amounts shall be excluded, with respect to any United States person, from the earnings and profits of a foreign corporation:

(4) **UNITED STATES INCOME.**—Any item includible in gross income of the foreign corporation under this chapter—

(A) *for any taxable year beginning before January 1, 1966, as income derived from sources within the United States of a foreign corporation engaged in trade or business [in] within the United States, or*

(B) *for any taxable year beginning after December 31, 1965, 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. 1249. GAIN FROM CERTAIN SALES OR EXCHANGES OF PATENTS ETC., TO FOREIGN CORPORATIONS.

(a) **GENERAL RULE.**—[Except as provided in subsection (c), gain] 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.

(b) **CONTROL.**—For purposes of subsection (a), control means, with respect to any foreign corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total