

of a trade or business actively conducted by a taxpayer in a foreign country or as a result of a disposition of stock or obligations of a corporation in which the taxpayer owns at least 10 percent of the voting stock. Paragraph (1) of subsection (c) amends paragraph (2) of section 904(f) by adding a new subparagraph (E) which excepts from the application of section 904(f) interest received by an overseas operations funding subsidiary on obligations of a related foreign corporation.

Definitions necessary for the application of the new subparagraph (E) are contained in a new paragraph (5) of section 904(f), as added by paragraph (2) of subsection (c). Subparagraph (A) of new paragraph (5) defines the term "overseas operations funding subsidiary" to mean a domestic corporation which is a member of an affiliated group of corporations within the meaning of section 1504 of the code (other than the common parent corporation of such affiliated group) and which was formed, and is availed of, for the principal purpose of raising funds outside the United States through public offerings to foreign persons and of using such funds to finance the operations in foreign countries of one or more related foreign corporations. For purposes of applying subparagraph (A), a foreign person is a person who is not a U.S. person within the meaning of section 7701(a)(30) of the code. Funds are not to be considered to be raised in the United States merely because negotiations essential to the raising of such funds have occurred, in whole or in part, in the United States.

In determining for purposes of new subparagraph (E) of section 904(f)(2) whether interest paid to a domestic corporation which is an overseas operations funding subsidiary is paid on obligations of a related foreign corporation and whether such domestic subsidiary corporation's activities meet the principal purpose test of subparagraph (A) of new section 904(f)(5), the term "related foreign corporation", as defined in subparagraph (B) of new section 904(f)(5), means a foreign corporation of which an aggregate of 50 percent or more of the voting stock is owned either directly by members of the affiliated group of which such domestic subsidiary corporation is a member or indirectly by such member corporations through ownership of the voting stock of a single other foreign corporation. Thus, for example, if the members of the affiliated group together own directly 100 percent of the voting stock of foreign corporation N and foreign corporation N in turn owns directly 50 percent or more of the voting stock of foreign corporation M, then foreign corporation M is a related foreign corporation with respect to a domestic corporation which is an overseas operations funding subsidiary and a member of such affiliated group. However, if in turn foreign corporation M owns directly 100 percent of the voting stock of foreign corporation R, foreign corporation R is not a related foreign corporation with respect to such overseas operations funding subsidiary.

Where the members of the affiliated group so own stock in a foreign corporation indirectly through separate other foreign corporations, the aggregate indirect ownership is to be taken into account for determining whether the 50-percent ownership test of subparagraph (B) of new section 904(f)(5) is met.

Paragraph (3) of subsection (c) provides that the amendments made by paragraphs (1) and (2) of subsection (c) are to be effective