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2008



Department of the Treasury
Internal Revenue Service

Instructions for Schedule S (Form 1120-F)

Exclusion of Income From International Operation of Ships or Aircraft Under Section 883

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Purpose of Schedule

Schedule S (Form 1120-F) is used by foreign corporations to claim an exclusion of income under section 883 and to provide reporting information required by the section 883 regulations.

Who Must File

Qualified foreign corporations engaged in the international operation of ships or aircraft that are claiming an exclusion of gross income under section 883 must complete Schedule S (Form 1120-F). See *Definitions* below.

When and Where to File

Attach Schedule S (Form 1120-F) to the foreign corporation's Form 1120-F income tax return. See the instructions for Form 1120-F for the time, place, and manner for filing the corporation's income tax return.

Definitions

Qualified income is income derived from the international operation of ships or aircraft that is (a) properly includible in any of the income categories described on lines 2a through 2h of the schedule, and (b) the subject of an equivalent exemption (defined on page 2) granted by the qualified foreign country (defined below) in which the corporation is organized.

A **qualified foreign country** is a foreign country or U.S. possession that grants to corporations organized in the United States an equivalent exemption (defined on page 2) for the category of qualified income, derived by the foreign corporation seeking qualified foreign corporation status. A foreign country may be a qualified foreign country with respect to one category of qualified income but not with respect to another such category.

A **qualified foreign corporation** is a corporation as defined in section 7701(a)(3) that is organized in a qualified foreign country and considered engaged in the international operation of ships or aircraft. Furthermore, to be a qualified

foreign corporation, the corporation must satisfy one of the stock ownership tests described in the instructions for Parts II, III, and IV below.

Note. A corporation may be a qualified foreign corporation with respect to one category of qualified income but not with respect to another such category.

A foreign corporation is considered engaged in the **operation of ships or aircraft** only during the time it is an owner or lessee of one or more **entire** ships or aircraft and uses such ships or aircraft in one or more of the following activities:

- Carriage of passengers or cargo for hire,
- In the case of a ship, the leasing out of the ship under a time or voyage charter (full charter), space or slot charter, or bareboat charter (as those terms are defined in Regulations section 1.883-1(e)(5)), provided the ship is used to carry passengers or cargo for hire, and
- In the case of aircraft, the leasing out of the aircraft under a wet lease (full charter), space, slot, or block-seat charter, or dry lease (as those terms are defined in Regulations section 1.883-1(e)(5)), provided the aircraft is used to carry passengers or cargo for hire. See Regulations sections 1.883-1(e)(1) and (2) for additional information.

Activities that **do not** constitute operation of ships or aircraft include, but are not limited to:

- The activities of a non-vessel operating common carrier,
- Ship or aircraft management,
- Obtaining crews for ships or aircraft operated by another party,
- Acting as a ship's agent,
- Ship or aircraft brokering,
- Freight forwarding,
- The activities of travel agents and tour operators,
- Rental by a container leasing company of containers and related equipment, and
- The activities of a concessionaire.

The term **international operation of ships or aircraft** means the operation of ships or aircraft (as defined above) with respect to the carriage of passengers or cargo on voyages or flights that begin or end in the United States, as determined in Regulations section 1.883-1(f)(2). The term does not include the carriage of

passengers or cargo on a voyage or flight that begins and ends in the United States, even if the voyage or flight contains a segment extending beyond the territorial limits of the United States, unless the passenger disembarks or the cargo is unloaded outside the United States. Operation of ships or aircraft beyond the territorial limits of the United States does not constitute in itself international operation of ships or aircraft.

Equivalent Exemption. A foreign country grants an equivalent exemption when it exempts from taxation income from the international operation of ships or aircraft derived by corporations organized in the United States. Whether a foreign country provides an equivalent exemption must be determined separately with respect to each category of income listed on lines 2a through 2h of the schedule. See Regulations section 1.883-1(h)(2) for rules for determining equivalent exemptions for each category of income.

An equivalent exemption may be available for income derived from the international operation of ships even though income derived from the international operation of aircraft may not be exempt, and vice versa. For rules regarding foreign corporations organized in countries that provide exemptions only through an income tax convention, see Regulations section 1.883-1(h)(3).

An equivalent exemption may exist where the foreign country:

- Generally imposes no tax on income, including income from the international operation of ships or aircraft,
- Specifically provides a domestic law tax exemption for income derived from the international operation of ships or aircraft, either by statute, decree, income tax convention, or otherwise, or
- Exchanges diplomatic notes with the United States, or enters into an agreement with the United States, that provides for a reciprocal exemption for purposes of section 883.

Certain types of exemptions provided to corporations organized in the United States by foreign countries **do not** satisfy the equivalent exemption requirements of Regulations section 1.883-1(h). Examples of types of exemptions that do not qualify as equivalent exemptions include:

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- Reduced tax rate or time limited exemption,
- Inbound or outbound freight tax,
- Exemptions for limited types of cargo,
- Territorial tax systems,
- Countries that tax U.S. corporations that are not managed and controlled in that country on a residence basis, and
- Exemptions within categories of income. See Regulations section 1.883-1(h)(4) for additional information.

Specific Instructions

Part I – Qualified Foreign Corporation

Line 1a. Enter the name of the qualified foreign country (defined on page 1) in which the foreign corporation was organized. See Definition section of part I of these instructions.

Line 1b. Type of Equivalent Exemption. Check one (and only one) of the boxes on line 1b to indicate the type of equivalent exemption granted by the foreign country listed in line 1a. For a non-inclusive list of countries that grant equivalent exemptions, see Rev. Rul. 2008-17.

Line 1c. Applicable Authority. Enter the applicable authority of the equivalent exemption. For example, enter a citation of the statute in the country where the corporation is organized, a diplomatic note between the United States and such country, or an income tax convention between the United States and such country.

Line 2. Gross Income from Categories of Qualified Income

Line 2b. Enter the gross income the foreign corporation derived from time or voyage (full) charter income of a ship or wet lease income of an aircraft. See Regulations section 1.883-1(e)(5) for definition of terms.

Line 2c. Enter the gross income the foreign corporation derived from the bareboat charter of a ship or dry lease income of an aircraft. See Regulations section 1.883-1(e)(5) for definition of terms.

Lines 2d, 2e, and 2f. Enter on these lines the gross amount the corporation derived from the activities (specified on these lines) that are incidental to the international operation of ships or aircraft (as defined in Regulations section 1.883-1(g)(1)). For types of activities that are not considered incidental to the international operation of ships or aircraft, see Regulations section 1.883-1(g)(2).

Part II — Stock Ownership Test for Publicly-Traded Corporations

A foreign corporation satisfies the stock ownership test of Regulations section

1.883-1(c)(2) if it is considered a publicly-traded corporation and satisfies the substantiation and reporting requirements of Regulations sections 1.883-2(e) and (f). To be considered a publicly traded corporation, the stock of the foreign corporation must be primarily and regularly traded (as defined below) on one or more established securities markets (as defined in Regulations section 1.883-2(b)) in either the United States or any qualified foreign country.

Primarily traded. Stock of a corporation is primarily traded in a country on one or more established securities markets (as defined in Regulations section 1.883-2(b)) if, with respect to each class of stock described in item 1 under **Regularly traded** below, the number of shares in each such class that are traded during the tax year on all established securities markets in that country exceeds the number of shares in each such class that are traded during that year on established securities markets in any other single country.

Regularly traded. The stock of a corporation is regularly traded on one or more established securities markets if:

1. One or more classes of stock of the corporation that, in the aggregate, represent more than 50% of the total combined voting power of all classes of stock of such corporation entitled to vote and the total value of the stock of such corporation are listed on such market or markets during the tax year, and
2. With respect to each class relied on to meet the more than 50% requirement above,

(a) trades in each such class are effected, other than in de minimis quantities, on such market or markets on at least 60 days during the tax year (or 1/6 of the number of days in a short tax year); and

(b) the aggregate number of shares in each such class that are traded on such market or markets during the tax year are at least 10% of the average number of shares outstanding in that class during the tax year (or, in the case of a short tax year, a percentage that equals at least 10% of the average number of shares outstanding in that class during the tax year multiplied by the number of days in the short tax year, divided by 365).

A class of stock that is traded during the tax year on an established securities market located in the United States shall be considered to meet the trading requirement described in item 2 above if the stock is regularly quoted by dealers making a market in the stock.

A dealer makes a market in a stock only if the dealer regularly and actively offers to, and in fact does, purchase the stock from, and sell the stock to, customers who are not related persons (as defined in section 954(d)(3)) with respect to the dealer in the ordinary course of a trade or business.

In general, a class of stock of a foreign corporation that otherwise meets the

requirements of the “regularly traded” rules described above shall not be treated as meeting such requirements for a tax year if, for more than half the number of days during the tax year, one or more 5% shareholders (defined below) own in the aggregate, 50% or more of the vote and value of the outstanding shares of the class of stock.

Note. If the general rule described in the previous paragraph applies, the corporation must check the “Yes” box on line 9, and must complete lines 10a and 10b, to substantiate that the exception to this general rule (described next) applies. If the general rule described in the previous paragraph does not apply, the corporation checks the “No” box on line 9, and is not required to complete lines 10a and 10b.

Exception: The rules discussed in the previous paragraph shall not apply to a class of stock if the foreign corporation can establish that qualified shareholders (defined on page 3), applying the attribution rules of Regulations section 1.883-4(c), own sufficient shares in the closely-held block of stock to preclude nonqualified shareholders in the closely-held block of stock from owning 50% or more of the total value of the class of stock of which the closely-held block is a part for more than half the number of days during the tax year. For additional information, see Regulations section 1.883-2(d)(3)(ii).

For purposes of the above rules, a **5% shareholder** is a person who owns at least 5% of the total vote and value of the outstanding shares of a class of stock. For these purposes, persons related within the meaning of section 267(b) shall be treated as one person. In determining whether two or more corporations are members of the same controlled group under section 267(b)(3), a person is considered to own stock owned directly by such person, stock owned through the application of section 1563(e)(1), and stock owned through the application of section 267(c). In determining whether a corporation is related to a partnership under section 267(b)(10), a person is considered to own the partnership interest owned directly by such person and the partnership interest owned through the application of section 267(e)(3).

Note. An investment company (as defined in Regulations section 1.883-2(d)(3)(iii)(B)) shall not be treated as a 5% shareholder.

Substantiation Requirements. The foreign corporation must obtain ownership statements from each qualified shareholder and intermediary that it relies upon to satisfy the exception to the closely-held test (described above), but only to the extent such statement would be required if the foreign corporation were relying on the qualified shareholder stock ownership test of Regulations section 1.883-4 with respect to those shares of stock. For detailed ownership statement

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requirements, see the Part IV instructions on page 5. Do not attach this substantiation to Schedule S. Instead, it must be maintained and made available upon request as specified in the regulations.

Line 8. Enter on line 8 a description of each class of stock the foreign corporation relied upon to satisfy the requirements of the "regularly traded" test described above. The description must include:

- An indication as to whether the class of stock was issued in registered or bearer form,
- The number of issued and outstanding shares in that class of stock as of the close of the tax year, and
- The value of each class of stock in relation to the total value of all the corporation's shares outstanding as of the close of the tax year.

Line 9. See **Regularly traded** above for instructions for completing this line 9.

Line 10. If the answer to line 9 is "Yes" with respect to more than one class of the corporation's stock, the foreign corporation must complete lines 10a and 10b with respect to each such class. To do so, complete these lines as follows: Complete line 10 of the actual schedule for the class of stock with respect to which 5% shareholders own the largest percentage of the vote and value of the outstanding shares of the class of stock. Then, attach a schedule that uses the same format as lines 10a and 10b for all other classes of stock.

Part III — Stock Ownership Test for Controlled Foreign Corporations

A foreign corporation satisfies the stock ownership test of Regulations section 1.883-1(c)(2) if it satisfies the qualified U.S. person ownership test (see below) and it satisfies the substantiation requirements of Temporary Regulations section 1.883-3T(c).

Qualified U.S. ownership test. This test is met only if:

1. The foreign corporation is a CFC (as defined in section 957(a)) for more than half the days in the corporation's tax year, and
2. More than 50% of the total value of its outstanding stock is owned (within the meaning of section 958(a) and Temporary Regulations section 1.883-3T(b)(4)) by one or more qualified U.S. persons (defined below) for more than half the days of the CFC's tax year, provided such days of ownership are concurrent with the time period during which the foreign

corporation was a CFC (as defined in item 1 above).

A **qualified U.S. person** is a U.S. citizen, resident alien, domestic corporation, or domestic trust described in section 501(a), but only if the person provides the CFC with an ownership statement (described below).

Line 11. Enter the percentage of the value of the shares of the CFC that is owned by all qualified U.S. persons identified in the qualified ownership statements. In determining the percentage to enter on line 11, the numerator is the total value of the CFC's outstanding stock that is owned (within the meaning of section 958(a) and Temporary Regulations section 1.883-3T(b)(4)) by all qualified U.S. persons, not including the value of any bearer shares. The denominator is the total value of the CFC's outstanding stock, including the value of any bearer shares.

Line 12. Specify the days of the foreign corporation's tax year during which more than 50% of the total value of its outstanding stock was owned (within the meaning of section 958(a) and Temporary Regulations section 1.883-3T(b)(4)) by qualified U.S. persons.

Line 13. Specify the days of the foreign corporation's tax year during which it was a CFC (as defined in section 957(a)).

Do not attach this substantiation to Schedule S. Instead, it must be maintained and made available upon request as specified in the regulations.

Part IV — Qualified Shareholder Stock Ownership Test

A foreign corporation satisfies the stock ownership test of Regulations section 1.883-1(c)(2) if more than 50% of the value of its outstanding shares is owned, or treated as owned, by applying the attribution rules of Regulations section 1.883-4(c), for at least half of the number of days in the foreign corporation's tax year by one or more qualified shareholders, as defined below. A shareholder may be a qualified shareholder with respect to one category of income while not being a qualified shareholder with respect to another. A foreign corporation will not be considered to satisfy the qualified shareholder stock ownership test unless the foreign corporation meets the substantiation and reporting requirements described below.

A shareholder is a **qualified shareholder** only if the shareholder:

1. With respect to the category of income for which the foreign corporation is seeking an exemption, is:

(A) An individual who is a resident of a qualified foreign country. An individual is a resident of a qualified foreign country only if the individual is fully liable to tax as a resident in such country (e.g., an individual who is liable to tax on a remittance basis in a foreign country will not be treated as a resident of that country unless all residents of that country are taxed on a remittance basis only) and, in addition (1) the individual has a tax home, within the meaning of Regulations section 1.883-4(b)(2)(ii), in that qualified foreign country for 183 days or more of the tax year or (2) the individual is treated as a resident of a qualified foreign country based on special rules pursuant to Regulations section 1.883-4(d)(3).

(B) The government of a qualified foreign country (or a political subdivision or local authority of such country).

(C) A foreign corporation that is organized in a qualified foreign country and meets the publicly traded test of Regulations section 1.883-2(a).

(D) A not-for-profit organization described in Regulations section 1.883-4(b)(4) that is not a pension fund as defined in Regulations section 1.883-4(b)(5) and that is organized in a qualified foreign country.

(E) An individual beneficiary of a pension fund (as defined in Regulations section 1.883-4(b)(5)(iv)) that is administered in or by a qualified foreign country, who is treated as a resident under Regulations section 1.883-4(d)(3)(iii) of a qualified foreign country, or

(F) A shareholder of a foreign corporation that is an airline covered by a bilateral Air Services Agreement in force between the United States and the qualified foreign country in which the airline is organized, provided the United States has not waived the ownership requirement in the Air Services Agreement, or that the ownership requirement has not otherwise been made ineffective.

2. Does not own its interest in the foreign corporation through bearer shares, either directly or by applying the attribution rules of Regulations section 1.883-4(c).

3. Provides to the foreign corporation the documentation required in Regulations section 1.883-4(d).

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Foreign Country and U.S. Possession Codes

Enter the following codes in the appropriate columns as requested in Schedule A, Schedule C, Schedule D, and Schedule E.

Country	Code	Country	Code
Afghanistan	AF	Congo, Democratic Republic of (Zaire)	CG
Akrotiri	AX	Cook Islands	CW
Albania	AL	Coral Sea Islands Territory	CR
Algeria	AG	Corsica	FR
American Samoa	AQ	Costa Rica	CS
Andorra	AN	Cote D'Ivoire (Ivory Coast)	IV
Angola	AO	Croatia	HR
Anguilla	AV	Cuba	CU
Antarctica	AY	Curacao	NT
Antigua and Barbuda	AC	Cyprus	CY
Argentina	AR	Czech Republic	EZ
Armenia	AM	Denmark	DA
Aruba	AA	Dhekelia	DX
Ashmore and Cartier Islands	AT	Djibouti	DJ
Australia	AS	Dominica	DO
Austria	AU	Dominican Republic	DR
Azerbaijan	AJ	Dubai	AE
Azores	PO	Ecuador	EC
Bahamas, The	BF	Egypt	EG
Bahrain	BA	Eleuthera Island	BF
Baker Island	FQ	El Salvador	ES
Balearic Islands (Mallorca, etc.)	SP	Equatorial Guinea	EK
Bangladesh	BG	Eritrea	ER
Barbados	BB	Estonia	EN
Bassas da India	BS	Ethiopia	ET
Belarus	BO	Europa Island	EU
Belgium	BE	Falkland Islands (Islas Malvinas)	FK
Belize	BH	Faroe Islands	FO
Benin (Dahomey)	BN	Fiji	FJ
Bermuda	BD	Finland	FI
Bhutan	BT	France	FR
Bolivia	BL	French Guiana	FG
Bonaire	NT	French Polynesia (Tahiti)	FP
Bosnia-Herzegovina	BK	French Southern and Antarctic Lands	FS
Botswana	BC	Gabon	GB
Bouvet Island	BV	Gambia	GA
Brazil	BR	Gaza Strip	GZ
British Indian Ocean Territory	IO	Georgia	GG
Brunei	BX	Germany	GM
Bulgaria	BU	Ghana	GH
Burkina Faso (Upper Volta)	UV	Gibraltar	GI
Burma	BM	Glorioso Islands	GO
Burundi	BY	Great Britain (United Kingdom)	UK
Cambodia (Kampuchea)	CB	Greece	GR
Cameroon	CM	Greenland	GL
Canada	CA	Grenada (Southern Grenadines)	GJ
Canary Islands	SP	Guadeloupe	GP
Cape Verde	CV	Guam	GQ
Cayman Islands	CJ	Guatemala	GT
Central African Republic	CT	Guernsey	GK
Chad	CD	Guinea	GV
Chile	CI	Guinea-Bissau	PU
China, People's Republic of (including Inner Mongolia, Tibet, and Manchuria)	CH	Guyana	GY
Christmas Island (Indian Ocean)	KT	Haiti	HA
Clipperton Island	IP	Heard Island and McDonald Islands	HM
Cocos (Keeling) Islands	CK	Honduras	HO
Colombia	CO	Hong Kong	HK
Comoros	CN	Howland Island	HQ
Congo (Brazzaville)	CF	Hungary	HU
		Iceland	IC
		India	IN
		Indonesia (including Bali, Belitung, Flores, Java, Moluccas, Sumatra, etc.)	ID
		Iran	IR
		Iraq	IZ
		Ireland, Republic of (Eire)	EI
		Isle of Man	IM
		Israel	IS
		Italy	IT
		Ivory Coast	IV
		Jamaica	JM
		Jan Mayen	JN
		Japan	JA
		Jarvis Island	DQ
		Jersey	JE
		Johnston Atoll	JQ
		Jordan	JO
		Juan de Nova Island	JU
		Kazakhstan	KZ
		Kenya	KE
		Kingman Reef	KQ
		Kiribati (Gilbert Islands)	KR
		Korea, Democratic People's Republic of (North)	KN
		Korea, Republic of (South)	KS
		Kurile Islands	RS
		Kuwait	KU
		Kyrgyzstan	KG
		Laos	LA
		Latvia	LG
		Lebanon	LE
		Lesotho	LT
		Liberia	LI
		Libya	LY
		Liechtenstein	LS
		Lithuania	LH
		Luxembourg	LU
		Macau	MC
		Macedonia	MK
		Madagascar (Malagasy Republic)	MA
		Malawi	MI
		Malaysia	MY
		Maldives	MV
		Mali	ML
		Malta	MT
		Marshall Islands	RM
		Martinique	MB
		Mauritania	MR
		Mauritius	MP
		Mayotte	MF
		Mexico	MX
		Micronesia, Federated States of	FM
		Midway Islands	MQ
		Moldova	MD
		Monaco	MN
		Mongolia	MG
		Montenegro	MJ
		Montserrat	MH
		Morocco	MO
		Mozambique	MZ
		Namibia	WA
		Nauru	NR
		Navassa Island	BQ
		Nepal	NP
		Netherlands	NL
		Netherlands Antilles	NT
		New Caledonia	NC
		New Zealand	NZ
		Nicaragua	NU
		Niger	NG
		Nigeria	NI
		Niue	NE
		Norfolk Island	NF
		North Korea	KN
		Northern Ireland	UK
		Northern Mariana Islands	CQ
		Norway	NO

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Oman	MU	Saudi Arabia	SA	Tonga	TN
Pakistan	PK	Senegal	SG	Trinidad and Tobago	TD
Palau	PS	Serbia	RB	Tromelin Island	TE
Palmyra Atoll	LQ	Seychelles	SE	Tunisia	TS
Panama	PM	Sierra Leone	SL	Turkey	TU
Papua New Guinea	PP	Singapore	SN	Turkmenistan	TX
Paracel Islands	PF	Slovak Republic (<i>Slovakia</i>)	LO	Turks and Caicos Islands	TK
Paraguay	PA	Slovenia	SI	Tuvalu	TV
Peru	PE	Solomon Islands	BP	Uganda	UG
Philippines	RP	Somalia	SO	Ukraine	UP
Pitcairn Island	PC	South Africa	SF	United Arab Emirates	AE
Poland	PL	South Georgia and the South		United Kingdom (<i>England, Wales,</i>	
Portugal	PO	Sandwich Islands	SX	<i>Scotland, No. Ireland</i>)	UK
Puerto Rico	RQ	South Korea	KS	Uruguay	UY
Qatar (Katar)	QA	Spain	SP	Uzbekistan	UZ
Redonda	VI	Spratly Islands	PG	Vanuatu	NH
Reunion	RE	Sri Lanka	CE	Vatican City	VT
Romania	RO	Sudan	SU	Venezuela	VE
Russia	RS	Suriname	NS	Vietnam	VM
Rwanda	RW	Svalbard (<i>Spitsbergen</i>)	SV	Virgin Islands (<i>British</i>)	VI
Ryukyu Islands	JA	Swaziland	WZ	Virgin Islands (<i>U.S.</i>)	VQ
St. Barthelemy	TB	Sweden	SW	Wake Island	WQ
St. Helena (<i>Ascension Island and</i>		Switzerland	SZ	Wallis and Futuna	WF
<i>Tristan de Cunha Island Group</i>)	SH	Syria	SY	West Bank	WE
St. Kitts (<i>St. Christopher and Nevis</i>)	SC	Taiwan	TW	Western Sahara	WI
St. Lucia	ST	Tajikistan	TI	Windward Islands	VC
St. Martin	RN	Tanzania	TZ	Yemen (<i>Aden</i>)	YM
St. Pierre and Miquelon	SB	Thailand	TH	Zambia	ZA
St. Vincent and the Grenadines		Timor-Leste (formerly East Timor)	TT	Zimbabwe	ZI
(<i>Northern Grenadines</i>)	VC	Togo	TO	Other countries	OC
Samoa	WS	Tokelau	TL		
San Marino	SM				
Sao Tome and Principe	TP				