

(2) The name of the established securities market or markets on which the stock is listed;

(3) [Reserved] For further guidance, see § 1.883-2T(f)(3).

(4) For each class of stock relied upon to meet the requirements of paragraph (d) of this section, if one or more 5-percent shareholders, as defined in paragraph (d)(3)(i) of this section, own in the aggregate 50 percent or more of the vote and value of the outstanding shares of that class of stock for more than half the number of days during the taxable year—

(i) The days during the taxable year of the corporation in which the stock was closely-held without regard to the exception in paragraph (d)(3)(ii) of this section and the percentage of the vote and value of the class of stock that is owned by 5-percent shareholders during such days;

(ii) [Reserved] For further guidance, see § 1.883-2T(f)(4)(ii).

(5) Any other relevant information specified by Form 1120-F and its accompanying instructions.

[T.D. 9087, 68 FR 51406, Aug. 26, 2003, as amended by T.D. 9332, 72 FR 34606, June 25, 2007]

§ 1.883-2T Treatment of publicly-traded corporations (temporary).

(a) through (e)(1) [Reserved]. For further guidance, see § 1.883-2(a) through (e)(1).

(2) *Availability and retention of documents for inspection.* The documentation described in § 1.883-2(e)(1) must be retained by the corporation seeking qualified foreign corporation status until the expiration of the statute of limitations for the taxable year of the foreign corporation to which the documentation relates. Such documentation must be made available for inspection by the Commissioner at such time and such place as the Commissioner may request in writing in accordance with § 1.883-1T(c)(3)(ii)(A) or (B), as applicable.

(f) through (f)(2) [Reserved] For further guidance, see § 1.883-2(f) through (f)(2).

(3) A description of each class of stock relied upon to meet the requirements of § 1.883-2(d), including whether the class of stock is issued in reg-

istered or bearer form, the number of issued and outstanding shares in that class of stock as of the close of the taxable 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 taxable year;

(4) and (4)(i) [Reserved] For further guidance, see § 1.883-2(f)(4) and (f)(4)(i).

(ii) With respect to all qualified shareholders who own directly, or by application of the attribution rules in § 1.883-4(c), stock in the closely-held block of stock upon which the corporation intends to rely to satisfy the exception to the closely-held test of § 1.883-2(d)(3)(ii)—

(A) The total number of qualified shareholders, as defined in § 1.883-4(b)(1);

(B) The total percentage of the value of the shares owned, directly or indirectly, by such qualified shareholders by country of residence, determined under § 1.883-4(b)(2) (residence of individual shareholders) or § 1.883-4(d)(3) (special rules for residence of certain shareholders); and

(C) The days during the taxable year of the corporation that such qualified shareholders owned, directly or indirectly, their shares in the closely held block of stock.

(5) [Reserved] For further guidance, see § 1.883-2(f)(5).

[T.D. 9332, 72 FR 34606, June 25, 2007]

§ 1.883-3 Treatment of controlled foreign corporations.

[Reserved] For further guidance, see § 1.883-3T.

[T.D. 9332, 72 FR 34607, June 25, 2007]

§ 1.883-3T Treatment of controlled foreign corporations (temporary).

(a) *General rule.* A foreign corporation satisfies the stock ownership test of § 1.883-1(c)(2) if it is a controlled foreign corporation (as defined in section 957(a)), satisfies the qualified U.S. person ownership test in paragraph (b) of this section, and satisfies the substantiation and reporting requirements of paragraphs (c) and (d) of this section, respectively. A CFC that fails the qualified U.S. person ownership test of paragraph (b) of this section will not

satisfy the stock ownership test of § 1.883-1(c)(2) unless it meets either the publicly-traded test of § 1.883-2(a) or the qualified shareholder stock ownership test of § 1.883-4(a).

(b) *Qualified U.S. person ownership test*—(1) *General rule.* A foreign corporation will satisfy the requirements of the qualified U.S. person ownership test only if it—

(i) Is a CFC for more than half the days in the corporation's taxable year; and

(ii) More than 50 percent of the total value of its outstanding stock is owned (within the meaning of section 958(a) and paragraph (b)(4) of this section) by one or more qualified U.S. persons for more than half the days of the CFC's taxable year, provided such days of ownership are concurrent with the time period during which the foreign corporation satisfies the requirement in paragraph (b)(1)(i) of this section.

(2) *Qualified U.S. person.* For purposes of this section, the term *qualified U.S. person* means 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 as described in paragraph (c)(2) of this section, and the CFC meets the reporting requirements of paragraph (d) of this section with respect to that person.

(3) *Treatment of bearer shares.* For purposes of applying the qualified U.S. person ownership test, the value of the stock of a CFC that is owned (directly or indirectly) through bearer shares by qualified U.S. persons is not taken into account in the numerator of the fraction, but is taken into account in the denominator to determine the portion of the value of stock owned by qualified U.S. persons.

(4) *Attribution of ownership through certain domestic entities.* For purposes of applying the qualified U.S. person ownership test of paragraph (b)(1) of this section, stock owned, directly or indirectly, by or for a domestic partnership, domestic trust not described in section 501(a), or domestic estate, shall be treated as owned proportionately by its partners, beneficiaries, grantors, or other interest holders, respectively, applying the rules of section 958(a) as if such domestic entity were a foreign en-

tity. Stock considered to be owned by a person by reason of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

(5) *Examples.* The qualified U.S. person ownership test of paragraph (b)(1) of this section is illustrated in the following examples:

Example 1. Ship Co is a CFC for more than half the days of Ship Co's taxable year. Ship Co is organized in a qualified foreign country. All of its shares are owned by a domestic partnership for the entire taxable year. All of the partners in the domestic partnership are citizens and residents of foreign countries. Ship Co fails the qualified U.S. person ownership test of paragraph (b)(1) of this section because none of the value of Ship Co's stock is owned, applying the attribution rules of paragraph (b)(4) of this section, for at least half the number of days of Ship Co's taxable year, by one or more qualified U.S. persons. Therefore, Ship Co must satisfy the qualified shareholder stock ownership test of § 1.883-4(a) in order to satisfy the stock ownership test of § 1.883-1(c)(2), and be considered a qualified foreign corporation.

Example 2. Ship Co is a CFC for more than half the days of its taxable year. Ship Co is organized in a qualified foreign country. Corp A, a foreign corporation whose stock is owned by a citizen and resident of a foreign country, owns 40 percent of the value of the stock of Ship Co for the entire taxable year. X, a domestic partnership, owns the remaining 60 percent of the value of the stock of Ship Co for Ship Co's entire taxable year. X is owned by 20 partners, all of whom are U.S. citizens and each of whom has owned a 5-percent interest in X for the entire taxable year of Ship Co. Ship Co satisfies the qualified U.S. person ownership test of paragraph (b)(1) of this section because 60 percent of the value of the stock of Ship Co is owned, applying the attribution of ownership rules of paragraph (b)(4) of this section, for at least half the number of days of Ship Co's taxable year by the partners of X, who are all qualified U.S. persons as defined in paragraph (b)(2) of this section. If Ship Co satisfies the substantiation and reporting requirements of paragraphs (c) and (d) of this section, it will meet the stock ownership test of § 1.883-1(c)(2).

Example 3. Ship Co is a foreign corporation organized in a qualified foreign country. Ship Co has two classes of stock, Class A representing 60 percent of the vote and value of all the shares outstanding of Ship Co, and Class B representing the remaining 40 percent of the vote and value of Ship Co. A, a U.S. citizen, holds for the entire taxable year all of the Class A stock, which is issued in

bearer form, and B, a nonresident alien, owns all the Class B stock, which is in registered form. Ship Co cannot satisfy the qualified U.S. person ownership test of paragraph (b)(1) of this section because A's bearer shares cannot be taken into account as being owned by a qualified U.S. person in determining if the qualified U.S. person ownership test has been met; the shares are, however, taken into account in determining the total value of Ship Co's outstanding shares.

(c) *Substantiation of CFC stock ownership*—(1) *In general.* A foreign corporation that relies on this CFC test to satisfy the stock ownership test of § 1.883-1(c)(2) must establish all the facts necessary to demonstrate to the Commissioner that it satisfies the qualified U.S. person ownership test of paragraph (b)(1) of this section. Specifically, the CFC must obtain a written ownership statement, signed under penalties of perjury by an individual authorized to sign that person's Federal tax or information return, from—

(i) Each qualified U.S. person upon whose stock ownership it relies to meet this test; and

(ii) Each domestic intermediary described in paragraph (b)(4) of this section, each foreign intermediary (including a foreign corporation, partnership, trust, or estate), and mere legal owners or record holders acting as nominees standing in the chain of ownership between each such qualified U.S. person and the CFC, if any.

(2) *Ownership statements from qualified U.S. persons.* A qualified U.S. person ownership statement must contain the following information:

(i) The qualified U.S. person's name, permanent address, and taxpayer identification number.

(ii) If the qualified U.S. person owns shares directly in the CFC, the number of shares of each class of stock of the CFC owned by the qualified person, the period of time during the taxable year of the CFC when the person owned the stock, and a representation that its interest in the CFC is not held through bearer shares.

(iii) If the qualified person owns an indirect interest in the CFC through an intermediary described in paragraph (c)(1)(ii) of this section, the name of that intermediary, the amount and nature of the interest in the intermediary, the period of time during the

taxable year of the CFC when the person held such interest, and, in the case of an interest in a foreign corporate intermediary, a representation that such interest is not held through bearer shares.

(iv) Any other information as specified in guidance published by the Internal Revenue Service (see § 601.601(d)(2) of this chapter).

(3) *Ownership statements from intermediaries.* An intermediary ownership statement required of an intermediary described in paragraph (c)(1)(ii) of this section must contain the following information:

(i) The intermediary's name, permanent address, and taxpayer identification number, if any.

(ii) If the intermediary directly owns stock in the CFC, the number of shares of each class of stock of the CFC owned by the intermediary, the period of time during the taxable year of the CFC when the intermediary owned the stock, and a representation that such interest is not held through bearer shares.

(iii) If the intermediary indirectly owns the stock of the CFC, the name and address of each intermediary standing in the chain of ownership between it and the CFC, the period of time during the taxable year of the CFC when the intermediary owned the interest, the percentage of interest it holds indirectly in the CFC, and, in the case of a foreign corporate intermediary, a representation that its interest is not held through bearer shares.

(iv) Any other information as specified in guidance published by the Internal Revenue Service (see § 601.601(d)(2) of this chapter).

(4) *Three-year period of validity.* The rules of § 1.883-4(d)(2)(ii) apply for purposes of determining the validity of the ownership statements required under paragraph (c)(2) of this section.

(5) *Availability and retention of documents for inspection.* The documentation described in this paragraph (c) must be retained by the corporation seeking qualified foreign corporation status (the CFC) until the expiration of the statute of limitations for the taxable

year of the CFC to which the documentation relates. Such documentation must be made available for inspection by the Commissioner at such place as the Commissioner may request in writing in accordance with § 1.883-1T(c)(3)(ii).

(d) *Reporting requirements.* A foreign corporation that relies on the CFC test of this section to satisfy the stock ownership test of § 1.883-1(c)(2) must provide the following information in addition to the information required by § 1.883-1(c)(3) to be included in its Form 1120-F, “U.S. Income Tax Return of a Foreign Corporation,” for the taxable year. The information must be based upon the documentation received by the foreign corporation pursuant to paragraph (c) of this section and must be current as of the end of the corporation’s taxable year—

(1) The percentage of the value of the shares of the CFC that is owned by all qualified U.S. persons identified in paragraph (c)(2) of this section, applying the attribution of ownership rules of paragraph (b)(4) of this section;

(2) The period during which such qualified U.S. persons held such stock;

(3) The period during which the foreign corporation was a CFC;

(4) A statement that the CFC is directly held by qualified U.S. persons and does not have any bearer shares outstanding or, in the alternative, that it is not relying on direct or indirect ownership of such shares to meet the qualified U.S. person ownership test; and

(5) Any other relevant information specified by Form 1120-F, and its accompanying instructions, or in guidance published by the Internal Revenue Service (see § 601.601(d)(2) of this chapter).

[T.D. 9332, 72 FR 34607, June 25, 2007]

§ 1.883-4 Qualified shareholder stock ownership test.

(a) *General rule.* A foreign corporation satisfies the stock ownership test of § 1.883-1(c)(2) if more than 50 percent of the value of its outstanding shares is owned, or treated as owned by applying the attribution rules of paragraph (c) of this section, for at least half of the number of days in the foreign corporation’s taxable year by one or more

qualified shareholders, as defined in paragraph (b) of this section. 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 stock ownership test of § 1.883-1(c)(2) pursuant to this section unless the foreign corporation meets the substantiation and reporting requirements of paragraphs (d) and (e) of this section.

(b) *Qualified shareholder—(1) General rule.* A shareholder is a qualified shareholder only if the shareholder—

(i) With respect to the category of income for which the foreign corporation is seeking an exemption, is—

(A) An individual who is a resident, as described in paragraph (b)(2) of this section, of a qualified foreign country;

(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 § 1.883-2(a);

(D) A not-for-profit organization described in paragraph (b)(4) of this section that is not a pension fund as defined in paragraph (b)(5) of this section and that is organized in a qualified foreign country;

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

(ii) Does not own its interest in the foreign corporation through bearer shares, either directly or by applying the attribution rules of paragraph (c) of this section; and