

or losses, the amount by which an overall domestic loss reduces foreign source income in a taxable year shall be determined in accordance with § 1.904(b)-1(h)(1)(i) and (iii).

(e) *Reductions of overall domestic loss accounts.* The taxpayer shall subtract the following amounts from its overall domestic loss accounts at the end of its taxable year in the following order, if applicable:

(1) *Pre-recapture reduction for amounts allocated to other taxpayers.* An overall domestic loss account is reduced by the amount of any overall domestic loss which is allocated to another taxpayer in accordance with § 1.1502-9T (relating to consolidated overall domestic losses).

(2) *Reduction for amounts recaptured.* An overall domestic loss account is reduced by the amount of any U.S. source income that is recharacterized in accordance with § 1.904(g)-2T(c) (relating to recapture under section 904(g)(1)).

(f) *Effective/applicability date.* This section applies to any taxpayer that sustains an overall domestic loss for a taxable year beginning after *December 21, 2007*. Taxpayers may choose to apply this section to overall domestic losses sustained in other taxable years beginning after *December 31, 2006*, as well.

(g) *Expiration date.* The applicability of this section expires on *December 20, 2010*.

[T.D. 9371, 72 FR 72599, Dec. 21, 2007]

**§ 1.904(g)-2 Recapture of overall domestic losses.**

[Reserved] For further guidance, see § 1.904(g)-2T.

[T.D. 9371, 72 FR 72599, Dec. 21, 2007]

**§ 1.904(g)-2T Recapture of overall domestic losses (temporary).**

(a) *In general.* A taxpayer shall recapture an overall domestic loss as provided in this section. Recapture is accomplished by treating a portion of the taxpayer's U.S. source taxable income as foreign source income. The recharacterized income is allocated among and increases foreign source income in separate categories in proportion to the balances of the overall domestic loss accounts with respect to

those separate categories. As a result, if the taxpayer elects the benefits of section 901, the taxpayer's foreign tax credit limitation is increased. As provided in § 1.904(g)-1T(f)(2), the balance in a taxpayer's overall domestic loss account with respect to a separate category is reduced at the end of each taxable year by the amount of loss recaptured during that taxable year. Recapture continues until such time as the amount of U.S. source income recharacterized as foreign source income equals the amount in the overall domestic loss account.

(b) *Determination of U.S. source taxable income for purposes of recapture.* For purposes of determining the amount of an overall domestic loss subject to recapture, the taxpayer's taxable income from U.S. sources shall be computed in accordance with the rules set forth in § 1.904(g)-1T(c)(4).

(c) *Section 904(g)(1) recapture.* The amount of any U.S. source taxable income subject to recharacterization in a taxable year in which paragraph (a) of this section is applicable is the lesser of the aggregate balance in taxpayer's overall domestic loss accounts in each separate category (after reduction of such account in accordance with § 1.904(g)-1T(e)) or fifty percent of the taxpayer's U.S. source taxable income (as determined under paragraph (b) of this section).

(d) *Effective/applicability date.* This section applies to any taxpayer that sustains an overall domestic loss for a taxable year beginning after *December 21, 2007*. Taxpayers may choose to apply this section to overall domestic losses sustained in other taxable years beginning after *December 31, 2006*, as well.

(e) *Expiration date.* The applicability of this section expires on *December 20, 2010*.

[T.D. 9371, 72 FR 72599, Dec. 21, 2007]

**§ 1.904(g)-3 Ordering rules for the allocation of net operating losses, net capital losses, U.S. source losses, and separate limitation losses, and for recapture of separate limitation losses, overall foreign losses, and overall domestic losses.**

[Reserved]. For further guidance, see § 1.904(g)-3T.

[T.D. 9371, 72 FR 72599, Dec. 21, 2007]