

the foreign corporation begins, as determined under section 1297(e)(2); and

(B) The stock of the foreign corporation held by the shareholder is treated as stock of a PFIC, pursuant to section 1298(b)(1), because, at any time during the shareholder's holding period of the stock, other than the qualified portion, the corporation was a PFIC that was not a QEF.

(3) [Reserved] For further guidance see § 1.1291-9T(j)(3).

(k) *Effective/applicability date.* (1) The rules of this section, except for paragraph (j)(2)(v) of this section, are applicable as of April 1, 1995.

(2) The rules of paragraph (j)(2)(v) of this section are applicable as of December 8, 2005.

(3) [Reserved] For further guidance see § 1.1291-9T(k)(3).

[T.D. 8701, 61 FR 68151, Dec. 27, 1996; 62 FR 7155, Feb. 18, 1997, as amended by T.D. 8750, 63 FR 13, Jan. 2, 1998; T.D. 9231, 70 FR 72915, Dec. 8, 2005; T.D. 9360, 72 FR 54821, Sept. 27, 2007; T.D. 9650, 78 FR 79608, Dec. 31, 2013]

§ 1.1291-9T Deemed dividend election (temporary).

(a) through (j)(2) [Reserved] For further guidance see § 1.1291-9(a) through (j)(2).

(3) *Shareholder.* A *shareholder* is a United States person that is a shareholder as defined in § 1.1291-1T(b)(7) or an indirect shareholder as defined in § 1.1291-1T(b)(8).

(k) *Effective/applicability date*—(1) [Reserved] For further guidance see § 1.1291-9(k)(1).

(2) [Reserved] For further guidance see § 1.1291-9(k)(2).

(3) Paragraph (j)(3) of this section applies to taxable years of shareholders ending on or after December 31, 2013.

(l) *Expiration date.* The applicability of paragraph (j)(3) of this section expires on December 30, 2016.

[T.D. 9650, 78 FR 79608, Dec. 31, 2013]

§ 1.1291-10 Deemed sale election.

(a) *Deemed sale election.* This section provides rules for making the election under section 1291(d)(2)(A) (deemed sale election). Under that section, a shareholder (as defined in § 1.1291-9(j)(3)) of a PFIC that is an unpedigreed QEF may elect to recognize gain with respect to the stock of the unpedigreed QEF held

on the qualification date (as defined in paragraph (e) of this section). If the shareholder makes the deemed sale election, the PFIC will become a pedigreed QEF with respect to the shareholder. A shareholder that makes the deemed sale election is treated as having sold, for its fair market value, the stock of the PFIC that the shareholder held on the qualification date. The gain recognized on the deemed sale is taxed under section 1291 as an excess distribution received on the qualification date. In the case of an election made by an indirect shareholder, the amount of gain to be recognized and taxed as an excess distribution is the amount of gain that the direct owner of the stock of the PFIC would have realized on an actual sale or other disposition of the stock of the PFIC indirectly owned by the shareholder. Any loss realized on the deemed sale is not recognized. For the definitions of PFIC, QEF, unpedigreed QEF, and pedigreed QEF, see § 1.1291-9(j) (1) and (2).

(b) *Who may make the election.* A shareholder of an unpedigreed QEF may make the deemed sale election provided the shareholder held stock of that PFIC on the qualification date. A shareholder is treated as holding stock of the PFIC on the qualification date if its holding period with respect to that stock under section 1223 includes the qualification date. A deemed sale election may be made by a shareholder that would realize a loss on the deemed sale.

(c) *Time for making the election.* The shareholder makes the deemed sale election in the shareholder's return for the taxable year that includes the qualification date. If the shareholder and the PFIC have the same taxable year, the shareholder makes the deemed sale election in either the original return for the taxable year for which the shareholder makes the section 1295 election, or in an amended return for that year. If the shareholder and the PFIC have different taxable years, the deemed sale election must be made in an amended return for the taxable year that includes the qualification date. If the deemed sale election is made in an amended return, the amended return must be filed by a date that is within three years of the due