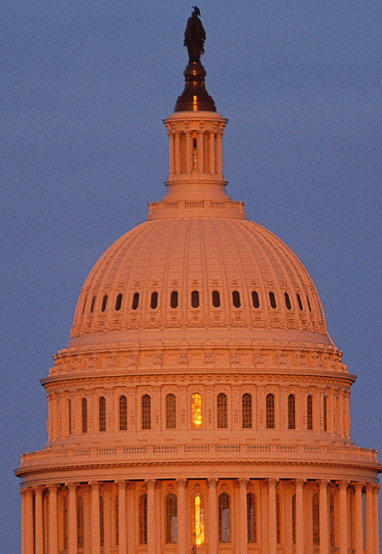




TaxNewsFlash

United States



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IRS practice unit: Overview of section 245A dividends received deduction

The IRS Large Business and International (LB&I) division today publicly released a “practice unit”—part of a series of IRS examiner “job aides” and training materials intended to describe for IRS agents leading practices about tax concepts in general and specific types of transactions.

The title of the “concept unit” (as referred to by the IRS) is: *Section 245A dividends received deduction overview*

Read the concept unit on the [IRS practice unit webpage](#) (posting date of January 4, 2022).

Background

The “Tax Cuts and Jobs Act” (TCJA) transitioned the United States from a primarily deferral-based international tax system to a participation exemption system coupled with immediate taxation of certain offshore earnings. This transition was implemented through several interlocking provisions of the Code—sections 245A, 951A and 965. All three provisions have different effective dates and thus TCJA created periods in which some but not all of them apply. The new system also operates alongside the pre-TCJA subpart F regime that taxes certain offshore earnings using a longstanding rule for attributing pro rata shares of a foreign corporation’s earnings to its U.S. shareholders.

Section 245A allows an exemption for certain foreign income of a domestic corporation that is a U.S. shareholder (within the meaning of section 951(b)) by means of a 100% dividends received deduction (DRD) for the foreign source portion of dividends received from “specified 10%-owned foreign corporations.” The 100% DRD is only available to domestic C corporations that are neither real estate investment trusts nor regulated investment companies. The corporate shareholder must satisfy the one-year holding period requirement in section 246(c).

Under this participation exemption system, a foreign tax credit or foreign tax deduction is not allowed for foreign taxes, including withholding taxes, paid or accrued with respect to any dividend that is benefiting from the 100% deduction.

Section 245A is effective for distributions made after December 31, 2017.

The section 245A DRD is generally intended to be available only with respect to distributions of residual untaxed foreign-source earnings and profits (E&P) remaining after application of section 951 (subpart F income) and section 951A (global intangible low-taxed income (GILTI)).

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