



TaxNewsFlash

United States

No. 2025-076
February 24, 2025

U.S. Tax Court: U.S. parent company not allowed foreign tax credits under former section 902 and section 960

The U.S. Tax Court today held, based on the plain text of former section 902 (as it existed prior to 2018) and section 960, that a U.S. parent company was not allowed foreign tax credits (FTCs) for income taxes paid or accrued by lower tier controlled foreign corporations (CFCs) owned by the company through upper tier CFCs and a U.S. partnership interposed between the two tiers.

The case is: *Eaton Corporation and Subsidiaries v. Commissioner*, 164 T.C. No. 4 (February 24, 2025). Read the Tax Court's [opinion](#)

Summary

The taxpayer was a U.S. corporation and parent of two tiers of CFCs with a U.S. partnership interposed between the two tiers. For 2007 and 2008, the U.S. partnership included in its gross income under section 951 the subpart F income of the lower tier CFCs, as well as amounts determined under section 956. The partnership made no distributions to its partners in 2007 or 2008, and the taxpayer did not increase its gross income on account of the partnership's inclusions under section 951.

In a prior opinion in this case (152 T.C. 43, 54 (2019)), the Tax Court held that the partnership's inclusions under section 951 increased the earnings and profits (E&P) of its partners—the upper tier CFCs. In this opinion, the court considered the question of whether the taxpayer was entitled to FTCs with respect to taxes paid or accrued by the lower tier CFCs owned by the partnership under sections 901, 902, and 960.

The court concluded that the taxpayer was not entitled to FTCs (i) under section 902 because there was no dividend distribution from the lower tier CFCs or (ii) under section 960 because the section 951(a) inclusions with respect to the lower tier CFCs were not taken into gross income directly by a U.S. corporation, but instead by a U.S. partnership with CFC partners. Because the taxpayer could not show that it was entitled to be deemed to have paid foreign income tax, it was not entitled to a credit on account of the same under section 901(a).

kpmg.com/socialmedia



The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG International Limited is a private English company limited by guarantee and does not provide services to clients. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.3712, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)