

**§ 1.1473-1 Section 1473 definitions.**

**(a) Definition of withholdable payment—**

- (1) In general. Except as otherwise provided in this paragraph (a) and § 1.1471-2(b) (regarding grandfathered obligations), the term withholdable payment means—
  - (i) Any payment of U.S. source FDAP income (as defined in paragraph (a)(2) of this section); and
  - (ii) For any sales or other dispositions occurring after December 31, 2018, any gross proceeds from the sale or other disposition (as defined in paragraph (a)(3)(i) of this section) of any property of a type that can produce interest or dividends that are U.S. source FDAP income.
  
- (2) U.S. source FDAP income defined—
  - (i) In general—
    - (A) FDAP income defined. For purposes of chapter 4, the term FDAP income means fixed or determinable annual or periodic income that is described in § 1.1441-2(b)(1) or § 1.1441-2(c) (excluding income described in paragraph (a)(2)(vi) of this section or § 1.1441-2(b)(2) (such as gains derived from the sale of certain property)) and including the types of income enumerated in paragraphs (a)(2)(iii) through (v) of this section.
    - (B) U.S. source. The term U.S. source means derived from sources within the United States. A payment is derived from sources within the United States if it is income treated as derived from sources within the United States under sections 861 through 865 and other relevant provisions of the Code. In the case of a payment of FDAP income for which the source cannot be determined at the time of payment, see § 1.1471-2(a)(5).
    - (C) Exceptions to withholding on U.S. source FDAP income not applicable under chapter 4. Except as otherwise provided in paragraph (a)(4) of this section, no exception to withholding on U.S. source FDAP income for purposes other than chapter 4 applies for purposes of determining whether a payment of such income is a withholdable payment under chapter 4. Thus, for example, an exclusion from an amount subject to withholding under § 1.1441-2(a) or an exclusion from taxation under section 881 does not apply for purposes of determining whether such income constitutes a withholdable payment.
  - (ii) Special rule for certain interest. Interest that is described in section 861(a)(1)(A) (relating to interest paid by foreign branches of domestic corporations and partnerships) is treated as U.S. source FDAP income.
  - (iii) Original issue discount. The rules described in § 1.1441-2(b)(3)(ii) for determining when an amount representing original issue discount is subject to withholding for chapter 3 purposes apply for purposes of determining when original issue discount from sources within the United States is U.S. source FDAP income.
  - (iv) REMIC residual interests. U.S. source FDAP income includes an amount described in § 1.1441-2(b)(5).
  - (v) Withholding liability of payee that is satisfied by withholding agent. If a withholding agent satisfies a withholding liability arising under chapter 4 with respect to a withholdable payment from the withholding agent's own funds, the satisfaction of such liability is treated as an additional payment of U.S. source FDAP income to the payee to the extent that the withholding agent's satisfaction of such withholding liability also satisfies a tax liability of the payee under section 881 or 871 with respect to the same payment, and the satisfaction of the tax liability constitutes additional income to the payee under § 1.1441-3(f) that is U.S. source FDAP income. In such case, the amount of any additional payment treated as made by the withholding agent for purposes of this paragraph (a)(2)(v) and any tax liability resulting from such payment shall be determined under § 1.1441-3(f). See § 1.1474-6 regarding the coordination of the withholding requirements under chapters 3 and 4 in the case of a withholdable payment that is also subject to withholding under chapter 3.
  - (vi) Special rule for sales of interest bearing debt obligations. Income that is otherwise described as U.S. source FDAP income in paragraphs (a)(2)(i) through (v) of this section does not include an amount of interest accrued on the date of a sale or exchange of

an interest bearing debt obligation if the sale occurs between two interest payment dates and is not part of a plan described in § 1.1441-3(b)(2)(ii).

(vii) Payment of U.S. source FDAP income—

- (A) Amount of payment of U.S. source FDAP income. The amount of U.S. source FDAP income is the gross amount of the payment of such income, unreduced by any deductions or offsets. The rules of § 1.1441-3(b)(1) shall apply to determine the amount of an interest payment on an interest-bearing obligation. In the case of a corporate distribution, the distributing corporation or intermediary shall determine the portion of the distribution that is treated as U.S. source FDAP income under this paragraph (a)(2) in the same manner as the distributing corporation or intermediary determines the portion of the distribution subject to withholding under § 1.1441-3(c). Any portion of a payment on a debt instrument or a corporate distribution that does not constitute U.S. source FDAP income under this paragraph (a)(2) solely because of a provision other than the source rules of sections 861 through 865 shall be taken into account as gross proceeds under paragraph (a)(3) of this section. For rules regarding the determination of the amount of a payment of U.S. source FDAP income under paragraph (a)(2) of this section made in a medium other than U.S. dollars, see § 1.1441-3(e). For determining the amount of a payment of a dividend equivalent, see section 871(m) and the regulations thereunder.
- (B) When payment of U.S. source FDAP income is made. A payment is considered made when the amount would be includible in the income of the beneficial owner under the U.S. tax principles governing the cash method of accounting. If an FFI acts as an intermediary with respect to a payment of U.S. source FDAP income, the FFI will be treated as making a payment of such U.S. source FDAP income to the person with respect to which the FFI acts as an intermediary when it pays or credits such amount to such person. The following rules also apply for purposes of this paragraph (a)(2)(vii)(B): §§ 1.1441-2(e)(2) (regarding when a payment is considered made in the case of income allocated under section 482); 1.1441-2(e)(3) (regarding blocked income); 1.1441-2(e)(4) (regarding when a dividend is considered paid); and 1.1441-2(e)(5) (regarding when interest is considered paid if a foreign person has made an election under § 1.884-4(c)(1)).