

(2) ADD ANY LOSS COMPUTED UNDER SUBSECTION (C) OF THIS SECTION TO ITS TAXABLE NET EARNINGS.

(C) SAME -- COMPUTATION.

(1) TO COMPUTE THE QUALIFYING AMOUNT ALLOWED UNDER THIS SECTION, AN INTERNATIONAL BANKING FACILITY SHALL DETERMINE ITS GROSS EARNINGS DERIVED, DIRECTLY OR INDIRECTLY, FROM ANY FOREIGN EXCHANGE TRADING OR HEDGING TRANSACTION THAT RELATES TO MAKING, ARRANGING FOR, PLACING, OR SERVICING A LOAN TO A FOREIGN PERSON IF:

(I) SUBSTANTIALLY ALL OF THE PROCEEDS OF THAT LOAN ARE USED OUTSIDE THE UNITED STATES; OR

(II) ALL OF THE PROCEEDS ARE USED IN AN APPROVED FOREIGN TRADE ZONE BY:

1. A FOREIGN INDIVIDUAL;

2. AN INDIVIDUAL RESIDING IN THE UNITED STATES; OR

3. A FOREIGN BRANCH OF A COMPANY THAT IS ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR OF A STATE, IS NOT A BANK, AND HAS AT LEAST 80% OWNERSHIP OR CONTROL OF THE FOREIGN BRANCH.

(2) FROM THE GROSS EARNINGS COMPUTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN INTERNATIONAL BANKING FACILITY SHALL SUBTRACT ALL DEDUCTIONS OR EXPENSES, DIRECTLY OR INDIRECTLY, RELATED TO THOSE GROSS EARNINGS.

(3) FROM THE ADJUSTED GROSS EARNINGS CALCULATED UNDER PARAGRAPH (2) OF THIS SUBSECTION, AN INTERNATIONAL BANKING FACILITY SHALL SUBTRACT THE PRODUCT OF MULTIPLYING THE ADJUSTED GROSS EARNINGS BY A FRACTION:

(I) THE NUMERATOR OF WHICH IS THE FISCAL YEAR AVERAGE AMOUNT OF LIABILITY THAT WAS NEITHER OWED TO NOR RECEIVED FROM A FOREIGN PERSON; AND

(II) THE DENOMINATOR OF WHICH IS THE FISCAL YEAR AVERAGE AMOUNT OF LIABILITY THAT WAS OWED TO OR RECEIVED FROM ANY PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 81, § 128A(a)(3) and (5) and the first sentence of (a) and (i).

In subsections (a)(2)(i)3. and (c)(1)(ii)3. of this section, the words "organized under the laws of the United States or of a state" are substituted for the former word "domestic", for clarity.