

“(B) such change shall be treated as made with the consent of the Secretary, and

“(C) except as provided in paragraph (3), the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 5-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

“(3) SPECIAL RULE FOR FLOOR SPECIALISTS AND MARKET MAKERS.—

“(A) IN GENERAL.—If—

“(i) a taxpayer (or any predecessor) used the last-in first-out (LIFO) method of accounting with respect to any qualified securities for the 5-taxable year period ending with its last taxable year ending before December 31, 1993, and

“(ii) any portion of the net amount described in paragraph (2)(C) is attributable to the use of such method of accounting,

then paragraph (2)(C) shall be applied by taking such portion into account ratably over the 15-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

“(B) QUALIFIED SECURITY.—For purposes of this paragraph, the term ‘qualified security’ means any security acquired—

“(i) by a floor specialist (as defined in section 1236(d)(2) of the Internal Revenue Code of 1986) in connection with the specialist’s duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

“(ii) by a taxpayer who is a market maker in connection with the taxpayer’s duties as a market maker, but only if—

“(I) the security is included on the National Association of Security Dealers Automated Quotation System,

“(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

“(III) as of the last day of the taxable year preceding the taxpayer’s first taxable year ending on or after December 31, 1993, the taxpayer (or any predecessor) has been actively and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date).”

PART III—ADJUSTMENTS

Sec.	
481.	Adjustments required by changes in method of accounting.
482.	Allocation of income and deductions among taxpayers.
483.	Interest on certain deferred payments.

AMENDMENTS

1964—Pub. L. 88-272, title II, §224(b), Feb. 26, 1964, 78 Stat. 79, added item 483.

§ 481. Adjustments required by changes in method of accounting

(a) General rule

In computing the taxpayer’s taxable income for any taxable year (referred to in this section as the “year of the change”)—

(1) if such computation is under a method of accounting different from the method under which the taxpayer’s taxable income for the preceding taxable year was computed, then

(2) there shall be taken into account those adjustments which are determined to be nec-

essary solely by reason of the change in order to prevent amounts from being duplicated or omitted, except there shall not be taken into account any adjustment in respect of any taxable year to which this section does not apply unless the adjustment is attributable to a change in the method of accounting initiated by the taxpayer.

(b) Limitation on tax where adjustments are substantial

(1) Three year allocation

If—

(A) the method of accounting from which the change is made was used by the taxpayer in computing his taxable income for the 2 taxable years preceding the year of the change, and

(B) the increase in taxable income for the year of the change which results solely by reason of the adjustments required by subsection (a)(2) exceeds \$3,000,

then the tax under this chapter attributable to such increase in taxable income shall not be greater than the aggregate increase in the taxes under this chapter (or under the corresponding provisions of prior revenue laws) which would result if one-third of such increase in taxable income were included in taxable income for the year of the change and one-third of such increase were included for each of the 2 preceding taxable years.

(2) Allocation under new method of accounting

If—

(A) the increase in taxable income for the year of the change which results solely by reason of the adjustments required by subsection (a)(2) exceeds \$3,000, and

(B) the taxpayer establishes his taxable income (under the new method of accounting) for one or more taxable years consecutively preceding the taxable year of the change for which the taxpayer in computing taxable income used the method of accounting from which the change is made,

then the tax under this chapter attributable to such increase in taxable income shall not be greater than the net increase in the taxes under this chapter (or under the corresponding provisions of prior revenue laws) which would result if the adjustments required by subsection (a)(2) were allocated to the taxable year or years specified in subparagraph (B) to which they are properly allocable under the new method of accounting and the balance of the adjustments required by subsection (a)(2) was allocated to the taxable year of the change.

(3) Special rules for computations under paragraphs (1) and (2)

For purposes of this subsection—

(A) There shall be taken into account the increase or decrease in tax for any taxable year preceding the year of the change to which no adjustment is allocated under paragraph (1) or (2) but which is affected by a net operating loss (as defined in section 172) or by a capital loss carryback or carryover (as defined in section 1212), determined

with reference to taxable years with respect to which adjustments under paragraph (1) or (2) are allocated.

(B) The increase or decrease in the tax for any taxable year for which an assessment of any deficiency, or a credit or refund of any overpayment, is prevented by any law or rule of law, shall be determined by reference to the tax previously determined (within the meaning of section 1314(a)) for such year.

(C) In applying section 7807(b)(1), the provisions of chapter 1 (other than subchapter E, relating to self-employment income) and chapter 2 of the Internal Revenue Code of 1939 shall be treated as the corresponding provisions of the Internal Revenue Code of 1939.

(c) Adjustments under regulations

In the case of any change described in subsection (a), the taxpayer may, in such manner and subject to such conditions as the Secretary may by regulations prescribe, take the adjustments required by subsection (a)(2) into account in computing the tax imposed by this chapter for the taxable year or years permitted under such regulations.

(Aug. 16, 1954, ch. 736, 68A Stat. 160; Pub. L. 85-866, title I, §29(a), (b), Sept. 2, 1958, 72 Stat. 1626-1628; Pub. L. 91-172, title V, §512(f)(4), Dec. 30, 1969, 83 Stat. 641; Pub. L. 94-455, title XIX, §§1901(a)(70), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1776, 1834; Pub. L. 96-471, §2(b)(3), Oct. 19, 1980, 94 Stat. 2254.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsec. (b)(3)(C), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. Chapters 1 and 2 of the Internal Revenue Code of 1939 were comprised of sections 1 to 482 and 500 to 784, respectively, of former Title 26. Chapters 1 (except sections 143 and 144) and 2 were repealed by section 7851(a)(1) of this title. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See, also, section 7851(e) of this title for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

AMENDMENTS

1980—Subsec. (d). Pub. L. 96-471 struck out subsec. (d) which provided that this section was not to apply to a change to which section 453 of this title, relating to change to installment method, applied.

1976—Subsecs. (b)(1), (2). Pub. L. 94-455, §1901(a)(70)(B), struck out “, other than the amount of such adjustments to which paragraph (4) or (5) applies,” after “required by subsection (a)(2)”.

Subsec. (b)(4), (5), (6). Pub. L. 94-455, §1901(a)(70)(A), struck out par. (4) which related to special rule for pre-1954 general adjustments, par. (5) which related to special rule for pre-1954 adjustments in case of certain decedents, and par. (6) which related to the application of the special rule for pre-1954 general adjustments.

Subsec. (c). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1969—Subsec. (b)(3)(A). Pub. L. 91-172 substituted “loss carryback or carryover” for “loss carryover”.

1958—Subsec. (a)(2). Pub. L. 85-866, §29(a)(1), inserted “unless the adjustment is attributable to a change in the method of accounting initiated by the taxpayer”, after “does not apply”.

Subsec. (b)(1). Pub. L. 85-866, §29(b)(1)–(3), inserted “, other than the amount of such adjustments to which paragraph (4) or (5) applies,” after “subsection (a)(2)” and substituted “the aggregate increase in the taxes” for “the aggregate of the taxes” and “which would result if one-third of such increase in taxable income” for “which would result if one-third of such increase”.

Subsec. (b)(2). Pub. L. 85-866, §29(b)(1), (4), inserted “other than the amount of such adjustments to which paragraph (4) or (5) applies,” after “subsection (a)(2)”, wherever appearing and “(or under the corresponding provisions of prior revenue laws)” after “the net increase in the taxes under this Chapter”.

Subsec. (b)(3)(A). Pub. L. 85-866, §29(b)(5), substituted “paragraph (1) or (2)” for “paragraph (2)”, wherever appearing.

Subsec. (b)(4) to (6). Pub. L. 85-866, §29(a)(2), added pars. (4) to (6).

EFFECTIVE DATE OF 1980 AMENDMENT

For effective date of amendment by Pub. L. 96-471, see section 6(a)(1) of Pub. L. 96-471, set out as an Effective Date note under section 453 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(70) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 29(d) of Pub. L. 85-866, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 381 of this title] shall apply with respect to any change in a method of accounting where the year of the change (within the meaning of section 481 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) is a taxable year beginning after December 31, 1953, and ending after August 16, 1954.

“(2) EXCEPTION FOR CERTAIN AGREEMENTS.—The amendments made by subsections (a), (b)(I), and (c) [amending this section and section 381 of this title] shall not apply if before the date of the enactment of this Act [Sept. 2, 1958]—

“(A) the taxpayer applied for a change in the method of accounting in the manner provided by regulations prescribed by the Secretary of the Treasury or his delegate, and

“(B) the taxpayer and the Secretary of the Treasury or his delegate agreed to the terms and conditions for making the change.”

CHANGES IN TREATMENT OF POLICYHOLDER DIVIDENDS BY QUALIFIED GROUP SELF-INSURERS' FUNDS

Pub. L. 101-239, title VII, §7816(m), Dec. 19, 1989, 103 Stat. 2421, provided that: “If, for the 1st taxable year beginning on or after January 1, 1987, a qualified group self-insurers' fund changes its treatment of policyholder dividends to take into account such dividends no earlier than the date that the State regulatory authority determines the amount of the policyholder dividend that may be paid, then such change shall be treated as a change in a method of accounting and no adjustment under section 481(a) of the Internal Revenue Code of 1986 shall be made with respect to such change in method of accounting.”

TRANSITIONAL PROVISIONS FOR INCOME TAX TREATMENT OF DEALER RESERVE INCOME

Pub. L. 86-459, May 13, 1960, 74 Stat. 124, authorized any person who computed taxable income under the ac-

crual method of accounting for his most recent taxable year ending on or before June 22, 1959, and who treated dealer reserve income for such taxable year as accruable for a subsequent taxable year, to elect before Sept. 1, 1960, to have section 481 of this title apply to the treatment for income tax purposes of dealer reserve income.

ELECTION TO RETURN TO FORMER METHOD OF
ACCOUNTING

Section 29(e) of Pub. L. 85-866 authorized an election by certain taxpayers, who, for any taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, and before Sept. 2, 1958, computed their taxable incomes using different accounting methods in succeeding taxable years, to return to their first method of accounting, where the election was made within six months after Sept. 2, 1958. Claims for refunds of overpayments of tax resulting from the election were to be filed within one year after the date of the election. Such an election was to be considered a consent to an assessment of a deficiency resulting from the election, where the assessment is made within one year after the date of the election.

§ 482. Allocation of income and deductions among taxpayers

In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Secretary may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses. In the case of any transfer (or license) of intangible property (within the meaning of section 936(h)(3)(B)), the income with respect to such transfer or license shall be commensurate with the income attributable to the intangible.

(Aug. 16, 1954, ch. 736, 68A Stat. 162; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, title XII, §1231(e)(1), Oct. 22, 1986, 100 Stat. 2562.)

AMENDMENTS

1986—Pub. L. 99-514 inserted at end “In the case of any transfer (or license) of intangible property (within the meaning of section 936(h)(3)(B)), the income with respect to such transfer or license shall be commensurate with the income attributable to the intangible.”

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, but only with respect to transfers after Nov. 16, 1985, or licenses granted after such date, or before such date with respect to property not in existence or owned by the taxpayer on such date, except that for purposes of section 936(h)(5)(C) of this title, such amendment applicable to taxable years beginning after Dec. 31, 1986, without regard to when the transfer or license was made, see section 1231(g)(2) of Pub. L. 99-514, set out as a note under section 936 of this title.

REGULATIONS

For requirement that, not later than 180 days after July 18, 1984, the Secretary of the Treasury modify the

safe harbor interest rates applicable under the regulations prescribed under this section so that such rates are consistent with the rates applicable under section 483 of this title by reason of the amendments made by Pub. L. 98-369, see section 44(b)(2) of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

STUDY OF APPLICATION AND ADMINISTRATION OF THIS
SECTION

Pub. L. 101-508, title XI, §11316, Nov. 5, 1990, 104 Stat. 1388-458, directed Secretary of the Treasury or his delegate to conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986 and not later than Mar. 1, 1992, submit to Committee on Ways and Means of House of Representatives and Committee on Finance of Senate a report on the study, together with such recommendations as he deemed advisable.

§ 483. Interest on certain deferred payments

(a) Amount constituting interest

For purposes of this title, in the case of any payment—

- (1) under any contract for the sale or exchange of any property, and
- (2) to which this section applies,

there shall be treated as interest that portion of the total unstated interest under such contract which, as determined in a manner consistent with the method of computing interest under section 1272(a), is properly allocable to such payment.

(b) Total unstated interest

For purposes of this section, the term “total unstated interest” means, with respect to a contract for the sale or exchange of property, an amount equal to the excess of—

- (1) the sum of the payments to which this section applies which are due under the contract, over
- (2) the sum of the present values of such payments and the present values of any interest payments due under the contract.

For purposes of the preceding sentence, the present value of a payment shall be determined under the rules of section 1274(b)(2) using a discount rate equal to the applicable Federal rate determined under section 1274(d).

(c) Payments to which subsection (a) applies

(1) In general

Except as provided in subsection (d), this section shall apply to any payment on account of the sale or exchange of property which constitutes part or all of the sales price and which is due more than 6 months after the date of such sale or exchange under a contract—

- (A) under which some or all of the payments are due more than 1 year after the date of such sale or exchange, and
- (B) under which there is total unstated interest.

(2) Treatment of other debt instruments

For purposes of this section, a debt instrument of the purchaser which is given in consideration for the sale or exchange of property shall not be treated as a payment, and any payment due under such debt instrument shall be treated as due under the contract for the sale or exchange.