

tion] shall apply to taxable years beginning after December 31, 1981.”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(6) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION CAMPAIGN CONTRIBUTIONS; COLLATERAL

Section 302(b) of Pub. L. 95-502, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1974, except that notwithstanding any other provision of law to the contrary, no amounts held at the date of enactment of this bill [Oct. 21, 1978] by an organization described in section 527(e)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] in escrow, in separate accounts for the payment of Federal taxes, or in any other fund which are proceeds described in section 527(c)(3)(D) of such Code may be used, directly or indirectly, to make a contribution or expenditure (as defined in section 301(e) and (f) of the Federal Election Campaign Act of 1971; 2 U.S.C. 431(f)) in connection with any election held before January 1, 1979.

“(2) Such amounts as described in (1) above shall not be considered as security or collateral for any loan by any State or national bank or any other person or organization.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to 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

Section 10(e) of Pub. L. 93-625 provided that: “The amendments made by subsections (a), (b), (c), and (d) [enacting this section and amending sections 501 and 6012 of this title] shall apply to taxable years beginning after December 31, 1974.”

NOTIFICATION OF INTERACTION OF REPORTING REQUIREMENTS

Pub. L. 107-276, § 4, Nov. 2, 2002, 116 Stat. 1932, provided that:

“(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Federal Election Commission, shall publicize—

“(1) the effect of the amendments made by this Act [amending this section and sections 6012, 6033, 6104, and 7207 of this title], and

“(2) the interaction of requirements to file a notification or report under section 527 of the Internal Revenue Code of 1986 and reports under the Federal Election Campaign Act of 1971 [2 U.S.C. 431 et seq.].

“(b) INFORMATION.—Information provided under subsection (a) shall be included in any appropriate form, instruction, notice, or other guidance issued to the public by the Secretary of the Treasury or the Federal Election Commission regarding reporting requirements of political organizations (as defined in section 527 of the Internal Revenue Code of 1986) or reporting requirements under the Federal Election Campaign Act of 1971 [2 U.S.C. 431 et seq.].”

PART VII—CERTAIN HOMEOWNERS ASSOCIATIONS

Sec. 528. Certain homeowners associations.

AMENDMENTS

1976—Pub. L. 94-455, title XXI, § 2101(a), Oct. 4, 1976, 90 Stat. 1897, added part heading and analysis for part VII.

§ 528. Certain homeowners associations

(a) General rule

A homeowners association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(b) Tax imposed

A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall be equal to 30 percent of the homeowners association taxable income (32 percent of such income in the case of a timeshare association).

(c) Homeowners association defined

For purposes of this section—

(1) Homeowners association

The term “homeowners association” means an organization which is a condominium management association, a residential real estate management association, or a timeshare association if—

(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from—

(i) owners of residential units in the case of a condominium management association,

(ii) owners of residences or residential lots in the case of a residential real estate management association, or

(iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,

(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property and, in the case of a timeshare association, for activities provided to or on behalf of members of the association,

(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

(2) Condominium management association

The term “condominium management association” means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project sub-

stantially all of the units of which are used by individuals for residences.

(3) Residential real estate management association

The term “residential real estate management association” means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

(4) Timeshare association

The term “timeshare association” means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership interest in, real property constituting association property.

(5) Association property

The term “association property” means—

- (A) property held by the organization,
- (B) property commonly held by the members of the organization,
- (C) property within the organization privately held by the members of the organization, and
- (D) property owned by a governmental unit and used for the benefit of residents of such unit.

In the case of a timeshare association, such term includes property in which the timeshare association, or members of the association, have rights arising out of recorded easements, covenants, or other recorded instruments to use property related to the timeshare project.

(d) Homeowners association taxable income defined

(1) Taxable income defined

For purposes of this section, the homeowners association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

- (A) the gross income for the taxable year (excluding any exempt function income), over
- (B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

(2) Modifications

For purposes of this subsection—

- (A) there shall be allowed a specific deduction of \$100,
- (B) no net operating loss deduction shall be allowed under section 172, and
- (C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

(3) Exempt function income

For purposes of this subsection, the term “exempt function income” means any amount received as membership dues, fees, or assessments from—

- (A) owners of condominium housing units in the case of a condominium management association,

- (B) owners of real property in the case of a residential real estate management association, or

- (C) owners of timeshare rights to use, or timeshare ownership interests in, real property in the case of a timeshare association.

(Added Pub. L. 94-455, title XXI, § 2101(a), Oct. 4, 1976, 90 Stat. 1897; amended Pub. L. 95-600, title III, § 301(b)(7), title IV, § 403(c)(2), title VII, § 701(n)(1), Nov. 6, 1978, 92 Stat. 2821, 2868, 2907; Pub. L. 96-605, title I, § 105(a), Dec. 28, 1980, 94 Stat. 3523; Pub. L. 105-34, title IX, § 966(a)-(d), Aug. 5, 1997, 111 Stat. 894, 895.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34, § 966(d), which directed amendment of subsec. (b) by inserting before the period “(32 percent of such income in the case of a timeshare association)”, was executed by making the insertion before the period at end to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 105-34, § 966(a)(1)(A), substituted “, a residential real estate management association, or a timeshare association” for “or a residential real estate management association” in introductory provisions.

Subsec. (c)(1)(B)(iii). Pub. L. 105-34, § 966(a)(1)(B), added cl. (iii).

Subsec. (c)(1)(C). Pub. L. 105-34, § 966(a)(1)(C), inserted before comma at end “and, in the case of a timeshare association, for activities provided to or on behalf of members of the association”.

Subsec. (c)(4). Pub. L. 105-34, § 966(a)(2), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 105-34, § 966(c), inserted concluding provisions “In the case of a timeshare association, such term includes property in which the timeshare association, or members of the association, have rights arising out of recorded easements, covenants, or other recorded instruments to use property related to the timeshare project.”

Pub. L. 105-34, § 966(a)(2), redesignated par. (4) as (5). Subsec. (d)(3)(C). Pub. L. 105-34, § 966(b), added subpar. (C).

1980—Subsec. (b). Pub. L. 96-605 substituted provision that all income of a homeowners association be taxed at a rate of 30 per cent for provision that all income of a homeowners association be taxed a sum computed by multiplying the homeowners association taxable income by the highest rate of tax specified in section 11(b) of this title and struck out provision providing for alternative tax in case of capital gains.

1978—Subsec. (b)(1). Pub. L. 95-600, § 301(b)(7), substituted “Such tax shall be computed by multiplying the homeowners association taxable income by the highest rate of tax specified in section 11(b)” for “Such tax shall consist of a normal tax and a surtax computed as provided in section 11 as though the homeowners association were a corporation and as though the homeowners association taxable income were the taxable income referred to in section 11” and struck out provision that for purposes of this subsection, the surtax exemption provided by section 11(d) not be allowed.

Subsec. (b)(2)(B). Pub. L. 95-600, § 403(c)(2), substituted provision related to amount being determined according to section 1201(a) for provision requiring an amount of 30 percent.

Subsec. (c)(2). Pub. L. 95-600, § 701(n)(1), substituted “by individuals for residences” for “as residences”.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 966(e) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1996.”

EFFECTIVE DATE OF 1980 AMENDMENT

Section 105(b) of Pub. L. 96-605 provided that: “The amendment made by subsection (a) [amending this sec-

tion] shall apply to taxable years beginning after December 31, 1980.”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(7) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

Section 403(d)(3) of Pub. L. 95-600 provided that: “The amendments made by paragraphs (2), (3), and (4) of subsection (c) [amending this section and sections 857 and 904 of this title] shall take effect on the date of the enactment of this Act [Nov. 6, 1978].”

Section 701(n)(2) of Pub. L. 95-600 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to taxable years beginning after December 31, 1973.”

EFFECTIVE DATE

Section 2101(e) of Pub. L. 94-455 provided that: “Except as provided in subsection (f)(2) [set out as a note under section 216 of this title], the amendments made by this section [enacting this section and amending sections 216 and 6012 of this title] shall apply to taxable years beginning after December 31, 1973.”

PART VIII—HIGHER EDUCATION SAVINGS ENTITIES

Sec.	
529.	Qualified tuition programs.
530.	Coverdell education savings accounts.

AMENDMENTS

2004—Pub. L. 108-311, title IV, § 408(b)(2), Oct. 4, 2004, 118 Stat. 1192, amended directory language of Pub. L. 107-22, § 1(a)(6). See 2001 Amendment note below.

2001—Pub. L. 107-22, § 1(a)(6), July 26, 2001, 115 Stat. 196, as amended by Pub. L. 108-311, title IV, § 408(b)(2), Oct. 4, 2004, 118 Stat. 1192, substituted “Coverdell education savings accounts” for “Education individual retirement accounts” in item 530.

Pub. L. 107-16, title IV, § 402(a)(4)(E), June 7, 2001, 115 Stat. 61, struck out “State” before “tuition” in item 529.

1997—Pub. L. 105-34, title II, §§ 211(e)(1)(A), 213(e)(3), Aug. 5, 1997, 111 Stat. 812, 817, substituted “HIGHER EDUCATION SAVINGS ENTITIES” for “QUALIFIED STATE TUITION PROGRAMS” in heading and added item 530.

§ 529. Qualified tuition programs

(a) General rule

A qualified tuition program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

(b) Qualified tuition program

For purposes of this section—

(1) In general

The term “qualified tuition program” means a program established and maintained by a State or agency or instrumentality thereof or by 1 or more eligible educational institutions—

(A) under which a person—

- (i) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or
- (ii) in the case of a program established and maintained by a State or agency or in-

strumentality thereof, may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, and

(B) which meets the other requirements of this subsection.

Except to the extent provided in regulations, a program established and maintained by 1 or more eligible educational institutions shall not be treated as a qualified tuition program unless such program provides that amounts are held in a qualified trust and such program has received a ruling or determination that such program meets the applicable requirements for a qualified tuition program. For purposes of the preceding sentence, the term “qualified trust” means a trust which is created or organized in the United States for the exclusive benefit of designated beneficiaries and with respect to which the requirements of paragraphs (2) and (5) of section 408(a) are met.

(2) Cash contributions

A program shall not be treated as a qualified tuition program unless it provides that purchases or contributions may only be made in cash.

(3) Separate accounting

A program shall not be treated as a qualified tuition program unless it provides separate accounting for each designated beneficiary.

(4) No investment direction

A program shall not be treated as a qualified tuition program unless it provides that any contributor to, or designated beneficiary under, such program may not directly or indirectly direct the investment of any contributions to the program (or any earnings thereon).

(5) No pledging of interest as security

A program shall not be treated as a qualified tuition program if it allows any interest in the program or any portion thereof to be used as security for a loan.

(6) Prohibition on excess contributions

A program shall not be treated as a qualified tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

(c) Tax treatment of designated beneficiaries and contributors

(1) In general

Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

(A) a designated beneficiary under a qualified tuition program, or

(B) a contributor to such program on behalf of a designated beneficiary,

with respect to any distribution or earnings under such program.

(2) Gift tax treatment of contributions

For purposes of chapters 12 and 13—