

paragraph (1) shall be made without regard to the fact that distributions in redemption coming within the terms of such paragraphs were subsequently made.

(Aug. 16, 1954, ch. 736, 68A Stat. 182; Pub. L. 91-172, title IX, §906(a), Dec. 30, 1969, 83 Stat. 714; Pub. L. 94-455, title XIX, §1901(a)(75), Oct. 4, 1976, 90 Stat. 1777; Pub. L. 95-600, title III, §371(c), Nov. 6, 1978, 92 Stat. 2859; Pub. L. 104-188, title I, §1704(t)(33), Aug. 20, 1996, 110 Stat. 1889.)

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104-188 substituted “section 172(f)” for “section 172(i)”.

1978—Subsec. (b)(4), (5). Pub. L. 95-600 added par. (4) and redesignated former par. (4) as (5).

1976—Subsec. (b)(2). Pub. L. 94-455, §1901(a)(75)(A), struck out “with respect to taxable years of the corporation ending after May 26, 1969” after “redemption needs” means”.

Subsec. (b)(4). Pub. L. 94-455, §1901(a)(75)(B), struck out “or (2)” after “paragraph (1)”.

1969—Pub. L. 91-172 designated existing provisions as subsec. (a)(1) and added subsecs. (a)(2), (3) and (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable with respect to taxable years beginning after Sept. 30, 1979, see section 371(d) of Pub. L. 95-600, set out as a note under section 172 of this title.

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 OF 1969 AMENDMENT

Section 906(b) of Pub. L. 91-172, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendment made by subsection (a) [amending this section] shall apply to the tax imposed under section 531 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to taxable years ending after May 26, 1969.”

PART II—PERSONAL HOLDING COMPANIES

- Sec.
- 541. Imposition of personal holding company tax.
- 542. Definition of personal holding company.
- 543. Personal holding company income.
- 544. Rules for determining stock ownership.
- 545. Undistributed personal holding company income.
- 546. Income not placed on annual basis.
- 547. Deduction for deficiency dividends.

§ 541. Imposition of personal holding company tax

In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the undistributed personal holding company income (as defined in section 545) of every personal holding company (as defined in section 542) a personal holding company tax equal to 15 percent of the undistributed personal holding company income.

(Aug. 16, 1954, ch. 736, 68A Stat. 182; Pub. L. 88-272, title II, §225(a), Feb. 26, 1964, 78 Stat. 79; Pub. L. 97-34, title I, §101(d)(2), Aug. 13, 1981, 95 Stat. 184; Pub. L. 99-514, title I, §104(b)(8), Oct. 22, 1986, 100 Stat. 2105; Pub. L. 101-508, title XI, §11802(f)(1), Nov. 5, 1990, 104 Stat. 1388-530; Pub.

L. 103-66, title XIII, §§13201(b)(2), 13202(b), Aug. 10, 1993, 107 Stat. 459, 461; Pub. L. 107-16, title I, §101(c)(5), June 7, 2001, 115 Stat. 43; Pub. L. 108-27, title III, §302(e)(6), May 28, 2003, 117 Stat. 764.)

AMENDMENT OF SECTION

For termination of amendment by section 303 of Pub. L. 108-27, see Effective and Termination Dates of 2003 Amendment note below.

For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.

AMENDMENTS

2003—Pub. L. 108-27, §§302(e)(6), 303, temporarily substituted “equal to 15 percent of the undistributed personal holding company income.” for “equal to the product of the highest rate of tax under section 1(c) and the undistributed personal holding company income.” See Effective and Termination Dates of 2003 Amendment note below.

2001—Pub. L. 107-16, §§101(c)(5), 901, temporarily substituted “equal to the product of the highest rate of tax under section 1(c) and the undistributed personal holding company income.” for “equal to 39.6 percent of the undistributed personal holding company income.” See Effective and Termination Dates of 2001 Amendment note below.

1993—Pub. L. 103-66, §13202(b), substituted “39.6 percent” for “36 percent”.

Pub. L. 103-66, §13201(b)(2), substituted “36 percent” for “28 percent”.

1990—Pub. L. 101-508 struck out “(38.5 percent in the case of taxable years beginning in 1987)” after “28 percent”.

1986—Pub. L. 99-514 substituted “28 percent (38.5 percent in the case of taxable years beginning in 1987)” for “50 percent”.

1981—Pub. L. 97-34 substituted “50 percent” for “70 percent”.

1964—Pub. L. 88-272 reduced the tax from 75 percent of undistributed income not in excess of \$2,000, and 85 percent when in excess of \$2,000, to 70 percent.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108-27 applicable, except as otherwise provided, to taxable years beginning after Dec. 31, 2002, see section 302(f) of Pub. L. 108-27, set out as a note under section 1 of this title.

Amendment by Pub. L. 108-27 inapplicable to taxable years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 303 of Pub. L. 108-27, as amended, set out as a note under section 1 of this title.

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to payments made in taxable years beginning after Dec. 31, 2000, see section 431(d) of Pub. L. 107-16, set out as a note under section 62 of this title.

Amendment by Pub. L. 107-16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to taxable years beginning after Dec. 31, 1992, see sections 13201(c) and 13202(c) of Pub. L. 103-66, set out as notes under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of

Pub. L. 99-514, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 101(f)(1) of Pub. L. 97-34, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 225(l) of Pub. L. 88-272 set out as a note under section 316 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

§ 542. Definition of personal holding company

(a) General rule

For purposes of this subtitle, the term “personal holding company” means any corporation (other than a corporation described in subsection (c)) if—

(1) Adjusted ordinary gross income requirement

At least 60 percent of its adjusted ordinary gross income (as defined in section 543(b)(2)) for the taxable year is personal holding company income (as defined in section 543(a)), and

(2) Stock ownership requirement

At any time during the last half of the taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than 5 individuals. For purposes of this paragraph, an organization described in section 401(a), 501(c)(17), or 509(a) or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) or a corresponding provision of a prior income tax law shall be considered an individual.

(b) Corporations filing consolidated returns

(1) General rule

In the case of an affiliated group of corporations filing or required to file a consolidated return under section 1501 for any taxable year, the adjusted ordinary gross income requirement of subsection (a)(1) of this section shall, except as provided in paragraphs (2) and (3), be applied for such year with respect to the consolidated adjusted ordinary gross income and the consolidated personal holding company income of the affiliated group. No member of such an affiliated group shall be considered to meet such adjusted ordinary gross income requirement unless the affiliated group meets such requirement.

(2) Ineligible affiliated group

Paragraph (1) shall not apply to an affiliated group of corporations if—

(A) any member of the affiliated group of corporations (including the common parent

corporation) derived 10 percent or more of its adjusted ordinary gross income for the taxable year from sources outside the affiliated group, and

(B) 80 percent or more of the amount described in subparagraph (A) consists of personal holding company income (as defined in section 543).

For purposes of this paragraph, section 543 shall be applied as if the amount described in subparagraph (A) were the adjusted ordinary gross income of the corporation.

(3) Excluded corporations

Paragraph (1) shall not apply to an affiliated group of corporations if any member of the affiliated group (including the common parent corporation) is a corporation excluded from the definition of personal holding company under subsection (c).

(4) Certain dividend income received by a common parent

In applying paragraph (2) (A) and (B), personal holding company income and adjusted ordinary gross income shall not include dividends received by a common parent corporation from another corporation if—

(A) the common parent corporation owns, directly or indirectly, more than 50 percent of the outstanding voting stock of such other corporation, and

(B) such other corporation is not a personal holding company for the taxable year in which the dividends are paid.

(5) Certain dividend income received from a nonincludible life insurance company

In the case of an affiliated group of corporations filing or required to file a consolidated return under section 1501 for any taxable year, there shall be excluded from consolidated personal holding company income and consolidated adjusted ordinary gross income for purposes of this part dividends received by a member of the affiliated group from a life insurance company taxable under section 801 that is not a member of the affiliated group solely by reason of the application of paragraph (2) of subsection (b) of section 1504.

(c) Exceptions

The term “personal holding company” as defined in subsection (a) does not include—

(1) a corporation exempt from tax under subchapter F (sec. 501 and following);

(2) a bank as defined in section 581, or a domestic building and loan association within the meaning of section 7701(a)(19);

(3) a life insurance company;

(4) a surety company;

(5) a foreign corporation,¹

(6) a lending or finance company if—

(A) 60 percent or more of its ordinary gross income (as defined in section 543(b)(1)) is derived directly from the active and regular conduct of a lending or finance business;

(B) the personal holding company income for the taxable year (computed without regard to income described in subsection (d)(3)

¹ So in original. The comma probably should be a semicolon.