EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108–357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

PART IV—DEDUCTION FOR DIVIDENDS PAID

Sec.
561. Definition of deduction for dividends paid.
562. Rules applicable in determining dividends eligible for dividends paid deduction.
563. Rules relating to dividends paid after close of taxable year.
564. Dividend carryover.
565. Consent dividends.

§ 561. Definition of deduction for dividends paid

(a) General rule

The deduction for dividends paid shall be the sum of—

(1) the dividends paid during the taxable year,

(2) the consent dividends for the taxable year (determined under section 565), and

(3) in the case of a personal holding company, the dividend carryover described in section 564.

(b) Special rules applicable

In determining the deduction for dividends paid, the rules provided in section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) and section 563 (relating to dividends paid after the close of the taxable year) shall be applicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 198; Pub. L. 87–403, § 3(f), Feb. 2, 1962, 76 Stat. 8; Pub. L. 94–455, title XIX, § 1901(b)(32)(H), Oct. 4, 1976, 90 Stat. 1800.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–455 redesignated existing provisions of par. (1) as subsec. (b) and struck out par. (2) relating to special adjustment on disposition of antitrust stock as a dividend.

1962—Subsec. (b). Pub. L. 87–403 designated existing provisions as par. (1) and added par. (2).

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 1962 AMENDMENT

Amendment by Pub. L. 87–403 applicable only with respect to distributions made after Feb. 2, 1962, see section 3(g) of Pub. L. 87–403, set out as a note under section 312 of this title.

§ 562. Rules applicable in determining dividends eligible for dividends paid deduction

(a) General rule

For purposes of this part, the term ''dividend'' shall, except as otherwise provided in this section, include only dividends described in section 316 (relating to definition of dividends for purposes of corporate distributions).

(b) Distributions in liquidation

(1) Except in the case of a personal holding company described in section 542—

(A) in the case of amounts distributed in liquidation, the part of such distribution which is properly chargeable to earnings and profits accumulated after February 28, 1913, shall be treated as a dividend for purposes of computing the dividends paid deduction, and

(B) in the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.

For purposes of subparagraph (A), a liquidation includes a redemption of stock to which section 302 applies. Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company.

(2) In the case of a complete liquidation of a personal holding company, occurring within 24 months after the adoption of a plan of liquidation, the amount of any distribution within such period pursuant to such plan shall be treated as a dividend for purposes of computing the dividends paid deduction, to the extent that such amount is distributed to corporate distributees and represents such corporate distributees' allocable share of the undistributed personal holding company income for the taxable year of such distribution computed without regard to this paragraph and without regard to subparagraph (B) of section 316(b)(2).

(c) Preferential dividends

The amount of any distribution shall not be considered as a dividend for purposes of computing the dividends paid deduction, unless such distribution is pro rata, with no preference to any share of stock as compared with other shares of the same class, and with no preference to one class of stock as compared with another class except to the extent that the former is entitled (without reference to waivers of their rights by shareholders) to such preference. In the case of a distribution by a regulated investment company to a shareholder who made an initial investment of at least $10,000,000 in such company, such distribution shall not be treated as not being pro rata or as being preferential solely by reason of an increase in the distribution by reason of reductions in administrative expenses of the company.

(d) Distributions by a member of an affiliated group

In the case where a corporation which is a member of an affiliated group of corporations filing or required to file a consolidated return for a taxable year is required to file a separate personal holding company schedule for such taxable year, a distribution by such corporation to another member of the affiliated group shall be considered as a dividend for purposes of comput-

ing the dividends paid deduction if such distribution would constitute a dividend under the other provisions of this section to a recipient which is not a member of an affiliated group.

(e) Special rules for real estate investment trusts

In the case of a real estate investment trust, in determining the amount of dividends under section 316 for purposes of computing the dividends paid deduction, the earnings and profits of such trust for any taxable year beginning after December 31, 1980, shall be increased by the total amount of gain (if any) on the sale or exchange of real property by such trust during such taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 198; Pub. L. 88–272, title II, § 225(f)(3), Feb. 26, 1964, 78 Stat. 88; Pub. L. 97–248, title II, § 222(e)(7), Sept. 3, 1982, 96 Stat. 480; Pub. L. 97–448, title I, § 102(c)(2), Jan. 12, 1983, 96 Stat. 2370; Pub. L. 99–514, title VI, § 657(a), title XVIII, § 1804(d)(1), Oct. 22, 1986, 100 Stat. 2299, 2800; Pub. L. 108–357, title IV, § 413(c)(9), Oct. 22, 2004, 118 Stat. 1507.)

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108–357 struck out ''or a foreign personal holding company described in section 552'' after ''section 542'' in introductory provisions.

1986—Subsec. (b)(1). Pub. L. 99–514, § 1804(d)(1), inserted at end ''Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company.''

Subsec. (c). Pub. L. 99–514, § 657(a), inserted at end ''In the case of a distribution by a regulated investment company to a shareholder who made an initial investment of at least $10,000,000 in such company, such distribution shall not be treated as not being pro rata or as being preferential solely by reason of an increase in the distribution by reason of reductions in administrative expenses of the company.''

1983—Subsec. (e). Pub. L. 97–448 added subsec. (e).

1982—Subsec. (b)(1). Pub. L. 97–248 inserted sentence at end providing that, for purposes of subpar. (A), a liquidation includes a redemption of stock to which section 302 applies.

1964—Subsec. (b). Pub. L. 88–272 designated existing provisions as subpars. (A) and (B) of par. (1), excepted personal holding companies in section 542, and foreign personal holding companies in section 552 therefrom, and added par. (2).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108–357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 657(b) of Pub. L. 99–514 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to distributions after the date of the enactment of this Act [Oct. 22, 1986].''

Section 1804(d)(2) of Pub. L. 99–514 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to distributions after September 27, 1985.''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to distributions after Aug. 31, 1982, with exceptions for certain partial liquidations, see section 222(f) of Pub. L. 97–248, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment Pub. L. 88–272 applicable to distributions made in any taxable year of the distributing corporation 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.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

§ 563. Rules relating to dividends paid after close of taxable year

(a) Accumulated earnings tax

In the determination of the dividends paid deduction for purposes of the accumulated earnings tax imposed by section 531, a dividend paid after the close of any taxable year and on or before the 15th day of the third month following the close of such taxable year shall be considered as paid during such taxable year.

(b) Personal holding company tax

In the determination of the dividends paid deduction for purposes of the personal holding company tax imposed by section 541, a dividend paid after the close of any taxable year and on or before the 15th day of the third month following the close of such taxable year shall, to the extent the taxpayer elects in its return for the taxable year, be considered as paid during such taxable year. The amount allowed as a dividend by reason of the application of this subsection with respect to any taxable year shall not exceed either—

(1) The undistributed personal holding company income of the corporation for the taxable year, computed without regard to this subsection, or

(2) 20 percent of the sum of the dividends paid during the taxable year, computed without regard to this subsection.

(c) Dividends considered as paid on last day of taxable year

For the purpose of applying section 562(a), with respect to distributions under subsection (a) or (b) of this section, a distribution made after the close of a taxable year and on or before the 15th day of the third month following the close of the taxable year shall be considered as made on the last day of such taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 199; Pub. L. 91–172, title IX, § 914(a), Dec. 30, 1969, 83 Stat. 723; Pub. L. 101–239, title VII, § 7401(b), Dec. 19, 1989, 103 Stat. 2356; Pub. L. 108–357, title IV, § 413(c)(10), Oct. 22, 2004, 118 Stat. 1507.)