

be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

(Aug. 16, 1954, ch. 736, 68A Stat. 360.)

**§ 1463. Tax paid by recipient of income**

If—

(1) any person, in violation of the provisions of this chapter, fails to deduct and withhold any tax under this chapter, and

(2) thereafter the tax against which such tax may be credited is paid,

the tax so required to be deducted and withheld shall not be collected from such person; but this section shall in no case relieve such person from liability for interest or any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

(Aug. 16, 1954, ch. 736, 68A Stat. 360; Pub. L. 101-239, title VII, §7743(a), Dec. 19, 1989, 103 Stat. 2406; Pub. L. 104-188, title I, §1704(t)(9), Aug. 20, 1996, 110 Stat. 1887.)

AMENDMENTS

1996—Pub. L. 104-188 substituted “this section” for “this subsection”.

1989—Pub. L. 101-239 amended section generally. Prior to amendment, section read as follows: “If any tax required under this chapter to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed on or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.”

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7743(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [amending this section] shall apply to failures after December 31, 1989.”

**§ 1464. Refunds and credits with respect to withheld tax**

Where there has been an overpayment of tax under this chapter, any refund or credit made under chapter 65 shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

(Aug. 16, 1954, ch. 736, 68A Stat. 360.)

**[§ 1465. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(156), Oct. 4, 1976, 90 Stat. 1789]**

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 360, defined withholding agent.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

**[CHAPTER 4—REPEALED]**

**[§ 1471. Repealed. Pub. L. 94-455, title XIX, § 1901(b)(13)(A), Oct. 4, 1976, 90 Stat. 1840]**

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 361, related to recovery of excessive profits on government contracts.

SAVINGS PROVISION

Section 1951(b)(13)(B) of Pub. L. 94-455 provided that: “If the amount of profit required to be paid into the

Treasury under section 2382 or 7300 of title 10, United States Code is not voluntarily paid, the Secretary of the Treasury or his delegate shall collect the same under the methods employed to collect taxes under subtitle A [this subtitle]. All provisions of law (including penalties) applicable with respect to such taxes and not inconsistent with section 2382 or 7300 of title 10 of such Code, shall apply with respect to the assessment, collection, or payment of excess profits to the Treasury as provided in the preceding sentence, and to refunds by the Treasury of overpayments of excess profits into the Treasury.”

**[§§ 1481, 1482. Repealed. Pub. L. 101-508, title XI, § 11801(a)(37), Nov. 5, 1990, 104 Stat. 1388-521]**

Section 1481, acts Aug. 16, 1954, ch. 736, 68A Stat. 362; June 21, 1965, Pub. L. 89-44, title VIII, §809(d)(5)(B), 79 Stat. 168; Oct. 4, 1976, Pub. L. 94-455, title XIX, §§1901(a)(157), 1906(b)(13)(A), 1951(b)(14)(A), 90 Stat. 1789, 1834, 1840, related to mitigation of effect of renegotiation of government contracts.

Section 1482, added Pub. L. 85-866, title I, §62(a), Sept. 2, 1958, 72 Stat. 1648, related to readjustment for repayments made pursuant to price redeterminations.

SAVINGS PROVISION

For provisions that nothing in repeal 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.

**[CHAPTER 5—REPEALED]**

**[§§ 1491, 1492. Repealed. Pub. L. 105-34, title XI, § 1131(a), Aug. 5, 1997, 111 Stat. 978]**

Section 1491, acts Aug. 16, 1954, ch. 736, 68A Stat. 365; Oct. 4, 1976, Pub. L. 94-455, title X, §1015(a), 90 Stat. 1617; Nov. 6, 1978, Pub. L. 95-600, title VII, §701(u)(14)(A), 92 Stat. 2919; Aug. 20, 1996, Pub. L. 104-188, title I, §1907(b)(1), 110 Stat. 1916, imposed tax on transfers to avoid income tax.

Section 1492, acts Aug. 16, 1954, ch. 736, 68A Stat. 365; Jan. 12, 1971, Pub. L. 91-681, §1(b), 84 Stat. 2066; Oct. 4, 1976, Pub. L. 94-455, title X, §1015(b), title XIX, §1906(b)(13)(A), 90 Stat. 1618, 1834; Nov. 6, 1978, Pub. L. 95-600, title VII, §701(u)(14)(B), 92 Stat. 2919; July 18, 1984, Pub. L. 98-369, div. A, title I, §131(f)(1), 98 Stat. 665, related to nontaxable transfers.

**[§ 1493. Repealed. Pub. L. 89-809, title I, § 103(l)(2), Nov. 13, 1966, 80 Stat. 1554]**

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 365, defined foreign trust.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1966, see section 103(n)(1) of Pub. L. 89-809, set out as an Effective Date of 1966 Amendment note under section 871 of this title.

**[§ 1494. Repealed. Pub. L. 105-34, title XI, § 1131(a), Aug. 5, 1997, 111 Stat. 978]**

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 365; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), 90 Stat. 1834; July 18, 1984, Pub. L. 98-369, div. A, title I, §131(f)(2), 98 Stat. 665; Aug. 20, 1996, Pub. L. 104-188, title I, §1902(a), 110 Stat. 1909, provided for payment and collection of the tax imposed under section 1491 of this title.

**CHAPTER 6—CONSOLIDATED RETURNS**

Subchapter	Sec. <sup>1</sup>
A. Returns and Payment of Tax .....	1501
B. Related Rules .....	1551

**Subchapter A—Returns and Payment of Tax**

Sec.	
1501.	Privilege to file consolidated returns.
1502.	Regulations.
1503.	Computation and payment of tax.
1504.	Definitions.
1505.	Cross references.

**§ 1501. Privilege to file consolidated returns**

An affiliated group of corporations shall, subject to the provisions of this chapter, have the privilege of making a consolidated return with respect to the income tax imposed by chapter 1 for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the condition that all corporations which at any time during the taxable year have been members of the affiliated group consent to all the consolidated return regulations prescribed under section 1502 prior to the last day prescribed by law for the filing of such return. The making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year, the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(Aug. 16, 1954, ch. 736, 68A Stat. 367.)

**§ 1502. Regulations**

The Secretary shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the income-tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability. In carrying out the preceding sentence, the Secretary may prescribe rules that are different from the provisions of chapter 1 that would apply if such corporations filed separate returns.

(Aug. 16, 1954, ch. 736, 68A Stat. 367; Pub. L. 94-455, title XIX, §1906(b) (13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 108-357, title VIII, §844(a), Oct. 22, 2004, 118 Stat. 1600.)

**AMENDMENTS**

2004—Pub. L. 108-357 inserted at end “In carrying out the preceding sentence, the Secretary may prescribe rules that are different from the provisions of chapter 1 that would apply if such corporations filed separate returns.”

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

**EFFECTIVE DATE OF 2004 AMENDMENT**

Pub. L. 108-357, title VIII, §844(c), Oct. 22, 2004, 118 Stat. 1600, provided that: “This section [amending this section], and the amendment made by this section,

<sup>1</sup> Section numbers editorially supplied.

section], and the amendment made by this section, shall apply to taxable years beginning before, on, or after the date of the enactment of this Act [Oct. 22, 2004].”

**DUAL RESIDENT COMPANIES**

Pub. L. 100-647, title VI, §6126, Nov. 10, 1988, 102 Stat. 3713, provided that:

“(a) GENERAL RULE.—In the case of a transaction which—

“(1) involves the transfer after the date of the enactment of this Act [Nov. 10, 1988] by a domestic corporation, with respect to which there is a qualified excess loss account, of its assets and liabilities to a foreign corporation in exchange for all of the stock of such foreign corporation, followed by the complete liquidation of the domestic corporation into the common parent, and

“(2) qualifies, pursuant to Revenue Ruling 87-27, as a reorganization which is described in section 368(a)(1)(F) of the 1986 Code,

then, solely for purposes of applying Treasury Regulation section 1.1502-19 to such qualified excess loss account, such foreign corporation shall be treated as a domestic corporation in determining whether such foreign corporation is a member of the affiliated group of the common parent.

“(b) TREATMENT OF INCOME OF NEW FOREIGN CORPORATION.—

“(1) IN GENERAL.—In any case to which subsection (a) applies, for purposes of the 1986 Code—

“(A) the source and character of any item of income of the foreign corporation referred to in subsection (a) shall be determined as if such foreign corporation were a domestic corporation,

“(B) the net amount of any such income shall be treated as subpart F income (without regard to section 952(c) of the 1986 Code), and

“(C) the amount in the qualified excess loss account referred to in subsection (a) shall—

“(i) be reduced by the net amount of any such income, and

“(ii) be increased by the amount of any such income distributed directly or indirectly to the common parent described in subsection (a).

“(2) LIMITATION.—Paragraph (1) shall apply to any item of income only to the extent that the net amount of such income does not exceed the amount in the qualified excess loss account after being reduced under paragraph (1)(C) for prior income.

“(3) BASIS ADJUSTMENTS NOT APPLICABLE.—To the extent paragraph (1) applies to any item of income, there shall be no increase in basis under section 961(a) of such Code on account of such income (and there shall be no reduction in basis under section 961(b) of such Code on account of an exclusion attributable to the inclusion of such income).

“(4) RECOGNITION OF GAIN.—For purposes of paragraph (1), if the foreign corporation referred to in subsection (a) transfers any property acquired by such foreign corporation in the transaction referred to in subsection (a) (or transfers any other property the basis of which is determined in whole or in part by reference to the basis of property so acquired) and (but for this paragraph) there is not full recognition of gain on such transfer, the excess (if any) of—

“(A) the fair market value of the property transferred, over

“(B) its adjusted basis,

shall be treated as gain from the sale or exchange of such property and shall be recognized notwithstanding any other provision of law. Proper adjustment shall be made to the basis of any such property for gain recognized under the preceding sentence.

“(c) DEFINITIONS.—For purposes of this section—

“(1) COMMON PARENT.—The term ‘common parent’ means the common parent of the affiliated group which included the domestic corporation referred to in subsection (a)(1).

“(2) QUALIFIED EXCESS LOSS ACCOUNT.—The term ‘qualified excess loss account’ means any excess loss