

(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; Dec. 19, 1989, Pub. L. 101-239, title VII, § 7743(a), 103 Stat. 2406; Aug. 20, 1996, Pub. L. 104-188, title I, § 1704(t)(9), 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 Repealed.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[CHAPTER 4—REPEALED]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 Repealed.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 29 of this title.

CHAPTER 5—TAX ON TRANSFERS TO AVOID INCOME TAX

Sec.	
1491.	Imposition of tax.
1492.	Nontaxable transfers.
1493.	Definition of foreign trust. ¹
1494.	Payment and collection.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 991, 6013, 7851 of this title.

§ 1491. Imposition of tax

There is hereby imposed on the transfer of property by a citizen or resident of the United States, or by a domestic corporation or partnership, or by an estate or trust which is not a foreign estate or trust, to a foreign corporation as paid-in surplus or as a contribution to capital, or to a foreign estate or trust, or to a foreign partnership, an excise tax equal to 35 percent of the excess of—

(1) the fair market value of the property so transferred, over

(2) the sum of—

(A) the adjusted basis (for determining gain) of such property in the hands of the transferor, plus

(B) the amount of the gain recognized to the transferor at the time of the transfer.

If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.

(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.)

¹ Section repealed by Pub. L. 89-809 without corresponding amendment of chapter analysis.