

the request of the Secretary, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1235; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5862, act Aug. 16, 1954, ch. 736, 68A Stat. 729, prior to the general revision of this chapter by Pub. L. 90-618.

#### AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

#### EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

#### CROSS REFERENCES

Seizure and forfeiture of carriers transporting contraband articles, see section 80301 et seq. of Title 49, Transportation.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5682, 7326 of this title; title 31 section 9703.

### CHAPTER 54—GREENMAIL

Sec.  
5881. Greenmail.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 275 of this title.

### § 5881. Greenmail

#### (a) Imposition of tax

There is hereby imposed on any person who receives greenmail a tax equal to 50 percent of gain or other income of such person by reason of such receipt.

#### (b) Greenmail

For purposes of this section, the term “greenmail” means any consideration transferred by a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation from any shareholder if—

- (1) such shareholder held such stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,
- (2) at some time during the 2-year period ending on the date of such acquisition—
  - (A) such shareholder,
  - (B) any person acting in concert with such shareholder, or
  - (C) any person who is related to such shareholder or person described in subparagraph (B),

made or threatened to make a public tender offer for stock of such corporation, and

- (3) such acquisition is pursuant to an offer which was not made on the same terms to all shareholders.

For purposes of the preceding sentence, payments made in connection with, or in transactions related to, an acquisition shall be treated as paid in such acquisition.

#### (c) Other definitions

For purposes of this section—

##### (1) Public tender offer

The term “public tender offer” means any offer to purchase or otherwise acquire stock or assets in a corporation if such offer was or would be required to be filed or registered with any Federal or State agency regulating securities.

##### (2) Related person

A person is related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b).

#### (d) Tax applies whether or not amount recognized

The tax imposed by this section shall apply whether or not the gain or other income referred to in subsection (a) is recognized.

#### (e) Administrative provisions

For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

(Added Pub. L. 100-203, title X, §10228(a), Dec. 22, 1987, 101 Stat. 1330-417; amended Pub. L. 100-647, title II, §2004(o)(1)(A), (B)(i), (C), (2), Nov. 10, 1988, 102 Stat. 3608.)

#### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647, §2004(o)(1)(A), substituted “gain or other income of such person by reason of such receipt” for “gain realized by such person on such receipt”.

Subsec. (b). Pub. L. 100-647, §2004(o)(1)(B)(i), substituted “a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation” for “a corporation to directly or indirectly acquire its stock”.

Subsec. (d). Pub. L. 100-647, §2004(o)(1)(C), substituted “amount” for “gain” in heading and inserted “or other income” after “the gain” in text.

Subsec. (e). Pub. L. 100-647, §2004(o)(2), added subsec. (e).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2004(o)(1)(A), (C), (2) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

Section 2004(o)(1)(B)(ii) of Pub. L. 100-647 provided that: “The amendment made by clause (i) [amending this section] shall apply to transactions occurring on or after March 31, 1988.”

#### EFFECTIVE DATE

Section 10228(d) of Pub. L. 100-203 provided that: “The amendments made by this section [enacting this chapter and amending section 275 of this title] shall apply to consideration received after the date of the enactment of this Act [Dec. 22, 1987] in taxable years ending after such date; except that such amendments shall not apply in the case of any acquisition pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.”