

lows: “In the case of any tax-exempt obligation (as defined in section 1275(a)(3)) from which 1 or more coupons have been stripped—

“(1) the amount of original issue discount determined under subsection (a) with respect to any stripped bond or stripped coupon from such obligation shall be the amount which produces a yield to maturity (as of the purchase date) equal to the lower of—

“(A) the coupon rate of interest on such obligation before the separation of coupons, or

“(B) the yield to maturity (on the basis of purchase price) of the stripped obligation or coupon,

“(2) the amount of original issue discount determined under paragraph (1) shall be taken into account in determining the adjusted basis of the holder under section 1288.

“(3) subsection (b)(1) shall not apply, and

“(4) subsection (b)(2) shall be applied by increasing the basis of the bond or coupon by the interest accrued but not paid before the time such bond or coupon was disposed of (and not previously reflected in basis).”

1986—Subsec. (b)(1). Pub. L. 99-514, §1803(a)(13)(B)(i), amended par. (1) generally, designating existing provisions as subpar. (A) and adding subpar. (B).

Subsec. (b)(2). Pub. L. 99-514, §1803(a)(13)(B)(ii), substituted “the amount included in gross income under paragraph (1)” for “the amount of the accrued interest described in paragraph (1)”.

Subsec. (d). Pub. L. 99-514, §1879(s)(1), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In the case of any tax-exempt obligation (as defined in section 1275(a)(3))—

“(1) subsections (a) and (b)(1) shall not apply,

“(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

“(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to purchases and dispositions after Oct. 22, 2004, see section 831(c) of Pub. L. 108-357, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1018(q)(4)(B) of Pub. L. 100-647 provided that: “(i) Except as provided in clause (ii), the amendment made by subparagraph (A) [amending this section] shall apply to any purchase or sale after June 10, 1987, of any stripped tax-exempt obligation or stripped coupon from such an obligation.

“(ii) If—

“(I) any person held any obligation or coupon in stripped form on June 10, 1987, and

“(II) such obligation or coupon was held by such person on such date for sale in the ordinary course of such person’s trade or business,

the amendment made by subparagraph (A) shall not apply to any sale of such obligation or coupon by such person and shall not apply to any such obligation or coupon while held by another person who purchased such obligation or coupon from the person referred to in subclause (I).”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1803(a)(13)(B) of Pub. L. 99-514 applicable to obligations acquired after Oct. 22, 1986, see section 1803(a)(13)(C) of Pub. L. 99-514, set out as a note under section 1276 of this title.

Section 1879(s)(2) of Pub. L. 99-514 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to any purchase or sale of any stripped tax-exempt obligation or stripped coupon from such an obligation after the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE

Section applicable to taxable years ending after July 18, 1984, except as otherwise provided, see section 44 of

Pub. L. 98-369, set out as a note under section 1271 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.

§ 1287. Denial of capital gain treatment for gains on certain obligations not in registered form

(a) In general

If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

(b) Definitions

For purposes of subsection (a)—

(1) Registration-required obligation

The term “registration-required obligation” has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

(2) Registered form

The term “registered form” has the same meaning as when used in section 163(f).

(Added Pub. L. 98-369, div. A, title I, §41(a), July 18, 1984, 98 Stat. 552; amended Pub. L. 111-147, title V, §502(a)(2)(D), Mar. 18, 2010, 124 Stat. 107.)

AMENDMENT OF SUBSECTION (b)(1)

Pub. L. 111-147, title V, §502(a)(2)(D), (f), Mar. 18, 2010, 124 Stat. 107, 108, provided that, applicable to obligations issued after the date which is 2 years after Mar. 18, 2010, subsection (b)(1) of this section is amended by striking “except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-147 applicable to obligations issued after the date which is 2 years after Mar. 18, 2010, see section 502(f) of Pub. L. 111-147, set out as a note under section 149 of this title.

EFFECTIVE DATE

Section applicable to taxable years ending after July 18, 1984, except as otherwise provided, see section 44 of Pub. L. 98-369, set out as a note under section 1271 of this title.

§ 1288. Treatment of original issue discount on tax-exempt obligations

(a) General rule

Original issue discount on any tax-exempt obligation shall be treated as accruing—

(1) for purposes of section 163, in the manner provided by section 1272(a) (determined without regard to paragraph (7) thereof), and

(2) for purposes of determining the adjusted basis of the holder, in the manner provided by

section 1272(a) (determined with regard to paragraph (7) thereof).

(b) Definitions and special rules

For purposes of this section—

(1) Original issue discount

The term “original issue discount” has the meaning given to such term by section 1273(a) without regard to paragraph (3) thereof. In applying section 483 or 1274, under regulations prescribed by the Secretary, appropriate adjustments shall be made to the applicable Federal rate to take into account the tax exemption for interest on the obligation.

(2) Tax-exempt obligation

The term “tax-exempt obligation” has the meaning given to such term by section 1275(a)(3).

(3) Short-term obligations

In applying this section to obligations with maturity of 1 year or less, rules similar to the rules of section 1283(b) shall apply.

(Added Pub. L. 98-369, div. A, title I, §41(a), July 18, 1984, 98 Stat. 553; amended Pub. L. 100-647, title I, §1006(u)(3), Nov. 10, 1988, 102 Stat. 3427.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647 substituted “paragraph (7)” for “paragraph (6)” in pars. (1) and (2).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section applicable to taxable years ending after July 18, 1984, and applicable to obligations issued after Sept. 3, 1982, and acquired after Mar. 1, 1984, see section 44 of Pub. L. 98-369, set out as a note under section 1271 of this title.

PART VI—TREATMENT OF CERTAIN PASSIVE FOREIGN INVESTMENT COMPANIES

Subpart

- A. Interest on tax deferral.
- B. Treatment of qualified electing funds.
- C. Election of mark to market for marketable stock.
- D. General provisions.

AMENDMENTS

1997—Pub. L. 105-34, title XI, §1122(d)(6), Aug. 5, 1997, 111 Stat. 977, added items for subparts C and D and struck out former item for subpart C “General provisions”.

SUBPART A—INTEREST ON TAX DEFERRAL

Sec.

1291. Interest on tax deferral.

§ 1291. Interest on tax deferral

(a) Treatment of distributions and stock dispositions

(1) Distributions

If a United States person receives an excess distribution in respect of stock in a passive foreign investment company, then—

(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer’s holding period for the stock,

(B) with respect to such excess distribution, the taxpayer’s gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

- (i) the current year, or
- (ii) any period in the taxpayer’s holding period before the 1st day of the 1st taxable year of the company which begins after December 31, 1986, and for which it was a passive foreign investment company, and

(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

(2) Dispositions

If the taxpayer disposes of stock in a passive foreign investment company, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

(3) Definitions

For purposes of this section—

(A) Holding period

The taxpayer’s holding period shall be determined under section 1223; except that—

(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied.

(B) Current year

The term “current year” means the taxable year in which the excess distribution or disposition occurs.

(b) Excess distribution

(1) In general

For purposes of this section, the term “excess distribution” means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

(2) Total excess distribution

For purposes of this subsection—

(A) In general

The term “total excess distribution” means the excess (if any) of—

(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer’s holding period before the taxable year).