

under sections 51 and 6154 of this title], the amendments made by this section [enacting section 6425, amending this section and sections 6020, 6154, 6651, 6655, 7203, and 7701, and repealing sections 6016 and 6074 of this title] shall apply with respect to taxable years beginning after December 31, 1967.”

EFFECTIVE DATE OF 1964 AMENDMENT

Section 214(c) of Pub. L. 88-272 provided that: “The amendments made by subsections (a) [amending this section] and (b) [amending sections 244, 246, 804, and 809 of this title] shall apply with respect to dividends received in taxable years ending after December 31, 1963.”

EFFECTIVE DATE OF 1960 AMENDMENT

Section 3(c) of Pub. L. 86-779 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 861 of this title] shall apply to dividends received after December 31, 1959, in taxable years ending after such date.”

Amendment by section 10(g) of Pub. L. 86-779 applicable with respect to taxable years of real estate investment trusts beginning after Dec. 31, 1960, see section 10(k) of Pub. L. 86-779, set out as an Effective Date note under section 856 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 57(d) of Pub. L. 85-866 provided that: “The amendments made by this section [enacting sections 1242 and 1243 and amending this section and sections 165 and 246 of this title] shall apply with respect to taxable years beginning after the date of the enactment of this Act [Sept. 2, 1958].”

SAVINGS PROVISION

For provisions that nothing in amendment 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.

§ 244. Dividends received on certain preferred stock

(a) General rule

In the case of a corporation, there shall be allowed as a deduction an amount computed as follows:

(1) First determine the amount received as dividends on the preferred stock of a public utility which is subject to taxation under this chapter and with respect to which the deduction provided in section 247 for dividends paid is allowable.

(2) Then multiply the amount determined under paragraph (1) by the fraction—

(A) the numerator of which is 14 percent, and

(B) the denominator of which is that percentage which equals the highest rate of tax specified in section 11(b).

(3) Finally ascertain the amount which is 70 percent of the excess of—

(A) the amount determined under paragraph (1), over

(B) the amount determined under paragraph (2).

(b) Exception

If the dividends described in subsection (a)(1) are qualifying dividends (as defined in section 243(b)(1), but determined without regard to section 243(d)(4))—

(1) subsection (a) shall be applied separately to such qualifying dividends, and

(2) for purposes of subsection (a)(3), the percentage applicable to such qualifying dividends shall be 100 percent in lieu of 70 percent.

(Aug. 16, 1954, ch. 736, 68A Stat. 73; Pub. L. 88-272, title II, § 214(b)(1), Feb. 26, 1964, 78 Stat. 55; Pub. L. 95-600, title III, § 301(b)(3), Nov. 6, 1978, 92 Stat. 2820; Pub. L. 99-514, title VI, § 611(a)(2), Oct. 22, 1986, 100 Stat. 2249; Pub. L. 100-203, title X, § 10221(a)(2), Dec. 22, 1987, 101 Stat. 1330-408; Pub. L. 100-647, title II, § 2004(i)(2), Nov. 10, 1988, 102 Stat. 3603.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-647 substituted “section 243(d)(4)” for “section 243(c)(4)”.

1987—Subsecs. (a)(3), (b)(2). Pub. L. 100-203 substituted “70 percent” for “80 percent”.

1986—Subsecs. (a)(3), (b)(2). Pub. L. 99-514 substituted “80 percent” for “85 percent”.

1978—Subsec. (a)(2)(B). Pub. L. 95-600 substituted “the highest rate of tax specified in section 11(b)” for “the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11”.

1964—Pub. L. 88-272 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to dividends received or accrued after Dec. 31, 1987, in taxable years ending after such date, see section 10221(e)(1) of Pub. L. 100-203, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to dividends received or accrued after Dec. 31, 1986, in taxable years ending after such date, see section 611(b) of Pub. L. 99-514, set out as a note under section 246 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to dividends received in taxable years ending after Dec. 31, 1963, see section 214(c) of Pub. L. 88-272, set out as a note under section 243 of this title.

§ 245. Dividends received from certain foreign corporations

(a) Dividends from 10-percent owned foreign corporations

(1) In general

In the case of dividends received by a corporation from a qualified 10-percent owned foreign corporation, there shall be allowed as a deduction an amount equal to the percent (specified in section 243 for the taxable year) of the U.S.-source portion of such dividends.

(2) Qualified 10-percent owned foreign corporation

For purposes of this subsection, the term “qualified 10-percent owned foreign corpora-

tion” means any foreign corporation (other than a passive foreign investment company) if at least 10 percent of the stock of such corporation (by vote and value) is owned by the taxpayer.

(3) U.S.-source portion

For purposes of this subsection, the U.S.-source portion of any dividend is an amount which bears the same ratio to such dividend as—

(A) the post-1986 undistributed U.S. earnings, bears to

(B) the total post-1986 undistributed earnings.

(4) Post-1986 undistributed earnings

For purposes of this subsection, the term “post-1986 undistributed earnings” has the meaning given to such term by section 902(c)(1).

(5) Post-1986 undistributed U.S. earnings

For purposes of this subsection, the term “post-1986 undistributed U.S. earnings” means the portion of the post-1986 undistributed earnings which is attributable to—

(A) income of the qualified 10-percent owned foreign corporation which is effectively connected with the conduct of a trade or business within the United States and subject to tax under this chapter, or

(B) any dividend received (directly or through a wholly owned foreign corporation) from a domestic corporation at least 80 percent of the stock of which (by vote and value) is owned (directly or through such wholly owned foreign corporation) by the qualified 10-percent owned foreign corporation.

(6) Special rule

If the 1st day on which the requirements of paragraph (2) are met with respect to any foreign corporation is in a taxable year of such corporation beginning after December 31, 1986, the post-1986 undistributed earnings and the post-1986 undistributed U.S. earnings of such corporation shall be determined by only taking into account periods beginning on and after the 1st day of the 1st taxable year in which such requirements are met.

(7) Coordination with subsection (b)

Earnings and profits of any qualified 10-percent owned foreign corporation for any taxable year shall not be taken into account under this subsection if the deduction provided by subsection (b) would be allowable with respect to dividends paid out of such earnings and profits.

(8) Disallowance of foreign tax credit

No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the United States-source portion of any dividend received by a corporation from a qualified 10-percent-owned foreign corporation.

(9) Coordination with section 904

For purposes of section 904, the U.S.-source portion of any dividend received by a corpora-

tion from a qualified 10-percent owned foreign corporation shall be treated as from sources in the United States.

(10) Coordination with treaties

If—

(A) any portion of a dividend received by a corporation from a qualified 10-percent-owned foreign corporation would be treated as from sources in the United States under paragraph (9),

(B) under a treaty obligation of the United States (applied without regard to this subsection), such portion would be treated as arising from sources outside the United States, and

(C) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such dividend (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such portion of such dividend).

(11) Coordination with section 1248

For purposes of this subsection, the term “dividend” does not include any amount treated as a dividend under section 1248.

(b) Certain dividends received from wholly owned foreign subsidiaries

(1) In general

In the case of dividends described in paragraph (2) received from a foreign corporation by a domestic corporation which, for its taxable year in which such dividends are received, owns (directly or indirectly) all of the outstanding stock of such foreign corporation, there shall be allowed as a deduction (in lieu of the deduction provided by subsection (a)) an amount equal to 100 percent of such dividends.

(2) Eligible dividends

Paragraph (1) shall apply only to dividends which are paid out of the earnings and profits of a foreign corporation for a taxable year during which—

(A) all of its outstanding stock is owned (directly or indirectly) by the domestic corporation to which such dividends are paid; and

(B) all of its gross income from all sources is effectively connected with the conduct of a trade or business within the United States.

(3) Exception

Paragraph (1) shall not apply to any dividends if an election under section 1562 is effective for either—

(A) the taxable year of the domestic corporation in which such dividends are received, or

(B) the taxable year of the foreign corporation out of the earnings and profits of which such dividends are paid.

(c) Certain dividends received from FSC

(1) In general

In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

(A) 100 percent of any dividend received from another corporation which is distrib-

uted out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

(B) 70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2)) of any dividend received from another corporation which is distributed out of earnings and profits attributable to effectively connected income received or accrued by such other corporation while such other corporation was a FSC.

(2) Exception for certain dividends

Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

(A) is section 923(a)(2) nonexempt income (within the meaning of section 927(d)(6)), or

(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

(3) No deduction under subsection (a) or (b)

No deduction shall be allowable under subsection (a) or (b) with respect to any dividend which is distributed out of earnings and profits of a corporation accumulated while such corporation was a FSC.

(4) Definitions

For purposes of this subsection—

(A) Foreign trade income; exempt foreign trade income

The terms “foreign trade income” and “exempt foreign trade income” have the respective meanings given such terms by section 923.

(B) Effectively connected income

The term “effectively connected income” means any income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States and is subject to tax under this chapter. Such term shall not include any foreign trade income.

(C) FSC

The term “FSC” has the meaning given such term by section 922.

(5) References to prior law

Any reference in this subsection to section 922, 923, or 927 shall be treated as a reference to such section as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.

(Aug. 16, 1954, ch. 736, 68A Stat. 73; Pub. L. 87-834, §5(c), Oct. 16, 1962, 76 Stat. 977; Pub. L. 89-809, title I, §104(d), (e), Nov. 13, 1966, 80 Stat. 1558; Pub. L. 98-369, div. A, title VIII, §801(b)(1), (2)(B), July 18, 1984, 98 Stat. 994, 995; Pub. L. 99-514, title XII, §1226(a), title XVIII, §1876(d)(1), (j), Oct. 22, 1986, 100 Stat. 2559, 2898, 2900; Pub. L. 100-203, title X, §10221(d)(1), Dec. 22, 1987, 101 Stat. 1330-409; Pub. L. 100-647, title I, §§1006(e)(16), 1012(l)(2), (3), (bb)(9)(A), Nov. 10, 1988, 102 Stat. 3403, 3513, 3537; Pub. L. 101-239, title VII, §7811(i)(14), Dec. 19, 1989, 103 Stat. 2411; Pub. L. 108-357, title IV, §413(c)(3), Oct. 22, 2004,

118 Stat. 1507; Pub. L. 110-172, §11(g)(3), (4), Dec. 29, 2007, 121 Stat. 2490.)

REFERENCES IN TEXT

Section 1562, referred to in subsec. (b)(3), was repealed by Pub. L. 91-172, title IV, §401(a)(2), Dec. 30, 1969, 83 Stat. 600.

The FSC Repeal and Extraterritorial Income Exclusion Act of 2000, referred to in subsec. (c)(5), is Pub. L. 106-519, Nov. 15, 2000, 114 Stat. 2423. For complete classification of this Act to the Code, see Short Title of 2000 Amendments note set out under section 1 of this title and Tables.

AMENDMENTS

2007—Subsec. (c)(4)(C). Pub. L. 110-172, §11(g)(3), added subpar. (C).

Subsec. (c)(5). Pub. L. 110-172, §11(g)(4), added par. (5).

2004—Subsec. (a)(2). Pub. L. 108-357 struck out “foreign personal holding company or” after “(other than a”.

1989—Subsec. (a)(8). Pub. L. 101-239 made clarifying amendment to directory language of Pub. L. 100-647, §1012(l)(2)(A), see 1988 Amendment note below.

1988—Subsec. (a)(8). Pub. L. 100-647, §1012(l)(2)(A), as amended by Pub. L. 101-239, substituted “Disallowance of foreign tax credit” for “Coordination with section 902” in heading and amended text generally. Prior to amendment, text read as follows: “In the case of a dividend received by a corporation from a qualified 10-percent owned foreign corporation, no credit shall be allowed under section 901 for any taxes treated as paid under section 902 with respect to the U.S.-source portion of such dividend.”

Subsec. (a)(10), (11). Pub. L. 100-647, §1012(l)(2)(B), (3), added pars. (10) and (11).

Subsec. (c). Pub. L. 100-647, §1012(bb)(9)(A), amended subsec. (c) generally, revising and restating provisions of pars. (1) to (4).

Subsec. (d). Pub. L. 100-647, §1006(e)(16), struck out subsec. (d) which read as follows: “PROPERTY DISTRIBUTIONS.—For purposes of this section, the amount of any distribution of property other than money shall be the amount determined by applying section 301(b)(1)(B).”

1987—Subsec. (c)(1)(B). Pub. L. 100-203 substituted “70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2))” for “85 percent”.

1986—Subsec. (a). Pub. L. 99-514, §1226(a), in amending subsec. (a) generally, substituted “Dividends from 10-percent owned foreign corporations” for “General rule” as heading, and in text substituted provisions set out in nine numbered paragraphs allowing for deduction for dividends received from certain foreign corporations qualifying as “10-percent owned foreign corporations” for former provisions which directed that, in the case of dividends received from a foreign corporation (other than a foreign personal holding company) which was subject to taxation under this chapter, if, for an uninterrupted period of not less than 36 months ending with the close of such foreign corporation’s taxable year in which such dividends were paid (or, if the corporation had not been in existence for 36 months at the close of such taxable year, for the period the foreign corporation had been in existence as of the close of such taxable year) such foreign corporation had been engaged in trade or business within the United States and if 50 percent or more of the gross income of such corporation from all sources for such period was effectively connected with the conduct of a trade or business within the United States, there was allowed as a deduction in the case of a corporation a percentage of dividends received.

Subsec. (c)(1). Pub. L. 99-514, §1876(d)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to 100 percent of any dividend received by such corporation from another corporation which is distributed out of

earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC. The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend."

Subsec. (c)(3). Pub. L. 99-514, §1876(j), added par. (3). Former par. (3) redesignated (4).

Pub. L. 99-514, §1876(d)(1)(B), inserted "For purposes of this subsection, the term 'qualified interest and carrying charges' means any interest or carrying charges (as defined in section 927(d)(1)) derived from a transaction which results in foreign trade income."

Subsec. (c)(4). Pub. L. 99-514, §1876(j), redesignated former par. (3) as (4).

1984—Subsec. (c). Pub. L. 98-369 added subsec. (c), redesignated former subsec. (c) as (d), and substituted therein "this section" for "subsections (a) and (b)".

1966—Subsec. (a). Pub. L. 89-809, §104(d), (e)(2), substituted "and if 50 percent or more of the gross income of such corporation from all sources for such period is effectively connected with the conduct of a trade or business within the United States" for "and has derived 50 percent or more of its gross income from sources within the United States" in provisions preceding par. (1), "which is effectively connected with the conduct of a trade or business within the United States" for "from sources within the United States" in par. (1), "which is effectively connected with the conduct of a trade or business within the United States," for "from sources within the United States" in par. (2), and inserted provisions following par. (2).

Subsecs. (b), (c). Pub. L. 89-809, §104(e)(1), (3), added subsec. (b), redesignated former subsec. (b) as (c), and substituted therein "subsections (a) and (b)" for "subsection (a)".

1962—Subsec. (b). Pub. L. 87-834 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

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 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1012(bb)(9)(B) of Pub. L. 100-647 provided that: "The amendment made by subparagraph (A) [amending this section] shall apply as if included in the provision of the Tax Reform Act of 1984 [Pub. L. 98-369, div. A] to which it relates."

Amendment by sections 1006(e)(16) and 1012(l)(2), (3) of 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 OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to dividends received or accrued after Dec. 31, 1987, in taxable years ending after such date, see section 10221(e)(1) of Pub. L. 100-203, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1226(c)(1) of Pub. L. 99-514 provided that: "The amendment made by subsection (a) [amending

this section] shall apply to distributions out of earnings and profits for taxable years beginning after December 31, 1986."

Amendment by section 1876(d)(1), (j) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 805(a) of title VIII of div. A of Pub. L. 98-369, as amended by Pub. L. 99-514, §2, title XVIII, §1876(i), (o), (p)(4), Oct. 22, 1986, 100 Stat. 2095, 2900-2902, provided that:

"(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this title [enacting sections 921 to 927 of this title, amending this section and sections 246, 274, 275, 441, 901, 904, 906, 934, 936, 951, 956, 992, 993, 995, 996, 999, 1248, 6011, 6072, 6501, 6686, and 7651 of this title, and enacting provisions set out as notes under sections 921 and 991 of this title] shall apply to transactions after December 31, 1984, in taxable years ending after such date.

"(2) SPECIAL RULE FOR CERTAIN CONTRACTS.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, any event or activity required to occur or required to be performed, before January 1, 1985, by section 924(c) or (d) or 925(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be treated as meeting the requirements of such section if such event or activity is with respect to—

"(A) any lease of more than 3 years duration which was entered into before January 1, 1985,

"(B) any contract with respect to which the taxpayer uses the completed contract method of accounting which was entered into before January 1, 1985, or

"(C) in the case of any contract other than a lease or contract described in subparagraph (A) or (B), any contract which was entered into before January 1, 1985; except that this subparagraph shall only apply to the first 3 taxable years of the FSC ending after January 1, 1985, or such later taxable years as the Secretary of the Treasury or his delegate may prescribe.

"(3) SECTION 801(d)(10).—The amendment made by section 801(d)(10) [amending section 996 of this title] shall apply to distributions on or after June 22, 1984.

"(4) SECTION 803.—The amendments made by section 803 [amending section 441 of this title] shall apply to taxable years beginning after December 31, 1984."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 104(n) of Pub. L. 89-809, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to distributions made after Dec. 31, 1962, see section 5(d) of Pub. L. 87-834, set out as a note under section 301 of this title.

DIVIDENDS RECEIVED OR ACCRUED DURING 1987

Section 1006(b)(1) of Pub. L. 100-647 provided that: "In the case of dividends received or accrued during 1987—

"(A) subparagraph (B) of section 245(c)(1) of the 1986 Code shall be applied by substituting '80 percent' for the percentage specified therein, and

"(B) subparagraph (B) of section 861(a)(2) of the 1986 Code shall be applied by substituting '100ths' for the fraction specified therein."

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.

§ 246. Rules applying to deductions for dividends received

(a) Deduction not allowed for dividends from certain corporations

(1) In general

The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

(2) Subsection not to apply to certain dividends of Federal Home Loan Banks

(A) Dividends out of current earnings and profits

In the case of any dividend paid by any FHLB out of earnings and profits of the FHLB for the taxable year in which such dividend was paid, paragraph (1) shall not apply to that portion of such dividend which bears the same ratio to the total dividend as—

- (i) the dividends received by the FHLB from the FHLMC during such taxable year, bears to
- (ii) the total earnings and profits of the FHLB for such taxable year.

(B) Dividends out of accumulated earnings and profits

In the case of any dividend which is paid out of any accumulated earnings and profits of any FHLB, paragraph (1) shall not apply to that portion of the dividend which bears the same ratio to the total dividend as—

- (i) the amount of dividends received by such FHLB from the FHLMC which are out of earnings and profits of the FHLMC—
 - (I) for taxable years ending after December 31, 1984, and
 - (II) which were not previously treated as distributed under subparagraph (A) or this subparagraph, bears to
- (ii) the total accumulated earnings and profits of the FHLB as of the time such dividend is paid.

For purposes of clause (ii), the accumulated earnings and profits of the FHLB as of January 1, 1985, shall be treated as equal to its retained earnings as of such date.

(C) Coordination with section 243

To the extent that paragraph (1) does not apply to any dividend by reason of subparagraph (A) or (B) of this paragraph, the requirement contained in section 243(a) that the corporation paying the dividend be subject to taxation under this chapter shall not apply.

(D) Definitions

For purposes of this paragraph—

(i) FHLB

The term “FHLB” means any Federal Home Loan Bank.

(ii) FHLMC

The term “FHLMC” means the Federal Home Loan Mortgage Corporation.

(iii) Taxable year of FHLB

The taxable year of an FHLB shall, except as provided in regulations prescribed by the Secretary, be treated as the calendar year.

(iv) Earnings and profits

The earnings and profits of any FHLB for any taxable year shall be treated as equal to the sum of—

- (I) any dividends received by the FHLB from the FHLMC during such taxable year, and
- (II) the total earnings and profits (determined without regard to dividends described in subclause (I)) of the FHLB as reported in its annual financial statement prepared in accordance with section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440).

(b) Limitation on aggregate amount of deductions

(1) General rule

Except as provided in paragraph (2), the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and subsection (a) or (b) of section 245 shall not exceed the percentage determined under paragraph (3) of the taxable income computed without regard to the deductions allowed by sections 172, 199, 243(a)(1), 244(a), subsection (a) or (b) of section 245, and 247, without regard to any adjustment under section 1059, and without regard to any capital loss carryback to the taxable year under section 1212(a)(1).

(2) Effect of net operating loss

Paragraph (1) shall not apply for any taxable year for which there is a net operating loss (as determined under section 172).

(3) Special rules

The provisions of paragraph (1) shall be applied—

- (A) first separately with respect to dividends from 20-percent owned corporations (as defined in section 243(c)(2)) and the percentage determined under this paragraph shall be 80 percent, and
- (B) then separately with respect to dividends not from 20-percent owned corporations and the percentage determined under this paragraph shall be 70 percent and the taxable income shall be reduced by the aggregate amount of dividends from 20-percent owned corporations (as so defined).

(c) Exclusion of certain dividends

(1) In general

No deduction shall be allowed under section 243, 244, or 245, in respect of any dividend on any share of stock—