

Internal Revenue Code of 1939, accumulated earnings and profits as of the changeover date, and as of the beginning of each taxable year thereafter, shall be reduced by the depreciation sustained before March 1, 1913, as computed under subsection (d)(1)(B); and

“(2) DEFINITION OF EQUITY CAPITAL.—In determining the adjusted basis of assets for the purpose of section 437(c) of the Internal Revenue Code of 1939 (and in addition to any other adjustments required by such Code), the basis shall be reduced by depreciation sustained before March 1, 1913 (as computed under subsection (d)), together with any depreciation allowable under subsection (e)(2) for any period before the year for which the excess profits credit is being computed.

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

“(1) DEPRECIATION.—The term ‘depreciation’ means exhaustion, wear and tear, and obsolescence.

“(2) CHANGEOVER.—The term ‘changeover’ means a change from the retirement to the straight line method of computing the allowance of deductions for depreciation.

“(3) CHANGEOVER DATE.—The term ‘changeover date’ means the first day of the first taxable year for which the changeover was effective.

“(4) 1956 ADJUSTMENT DATE.—The term ‘1956 adjustment date’ means, in the case of any taxpayer, the first day of his first taxable year beginning after December 31, 1955.

“(5) PREDECESSOR.—The term ‘predecessor’ means any person from whom property of a kind or class to which this section refers was acquired, if the basis of such property is determined by reference to its basis in the hands of such person. Where a series of transfers of property has occurred and where in each instance the basis of the property was determined by reference to its basis in the hands of the prior holder, the term includes each such prior holder.

“(6) The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(7) The term ‘Commissioner’ means the Commissioner of Internal Revenue.”

§ 1017. Discharge of indebtedness

(a) General rule

If—

(1) an amount is excluded from gross income under subsection (a) of section 108 (relating to discharge of indebtedness), and

(2) under subsection (b)(2)(E), (b)(5), or (c)(1) of section 108, any portion of such amount is to be applied to reduce basis,

then such portion shall be applied in reduction of the basis of any property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs.

(b) Amount and properties determined under regulations

(1) In general

The amount of reduction to be applied under subsection (a) (not in excess of the portion referred to in subsection (a)), and the particular properties the bases of which are to be reduced, shall be determined under regulations prescribed by the Secretary.

(2) Limitation in title 11 case or insolvency

In the case of a discharge to which subparagraph (A) or (B) of section 108(a)(1) applies, the reduction in basis under subsection (a) of this section shall not exceed the excess of—

(A) the aggregate of the bases of the property held by the taxpayer immediately after the discharge, over

(B) the aggregate of the liabilities of the taxpayer immediately after the discharge.

The preceding sentence shall not apply to any reduction in basis by reason of an election under section 108(b)(5).

(3) Certain reductions may only be made in the basis of depreciable property

(A) In general

Any amount which under subsection (b)(5) or (c)(1) of section 108 is to be applied to reduce basis shall be applied only to reduce the basis of depreciable property held by the taxpayer.

(B) Depreciable property

For purposes of this section, the term “depreciable property” means any property of a character subject to the allowance for depreciation, but only if a basis reduction under subsection (a) will reduce the amount of depreciation or amortization which otherwise would be allowable for the period immediately following such reduction.

(C) Special rule for partnership interests

For purposes of this section, any interest of a partner in a partnership shall be treated as depreciable property to the extent of such partner’s proportionate interest in the depreciable property held by such partnership. The preceding sentence shall apply only if there is a corresponding reduction in the partnership’s basis in depreciable property with respect to such partner.

(D) Special rule in case of affiliated group

For purposes of this section, if—

(i) a corporation holds stock in another corporation (hereinafter in this subparagraph referred to as the “subsidiary”), and

(ii) such corporations are members of the same affiliated group which file a consolidated return under section 1501 for the taxable year in which the discharge occurs,

then such stock shall be treated as depreciable property to the extent that such subsidiary consents to a corresponding reduction in the basis of its depreciable property.

(E) Election to treat certain inventory as depreciable property

(i) In general

At the election of the taxpayer, for purposes of this section, the term “depreciable property” includes any real property which is described in section 1221(a)(1).

(ii) Election

An election under clause (i) shall be made on the taxpayer’s return for the taxable year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Secretary. Such an election, once made, may be revoked only with the consent of the Secretary.

(F) Special rules for qualified real property business indebtedness

In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

(ii) subparagraph (E) shall not apply, and

(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a).

(4) Special rules for qualified farm indebtedness

(A) In general

Any amount which under subsection (b)(2)(E) of section 108 is to be applied to reduce basis and which is attributable to an amount excluded under subsection (a)(1)(C) of section 108—

(i) shall be applied only to reduce the basis of qualified property held by the taxpayer, and

(ii) shall be applied to reduce the basis of qualified property in the following order:

(I) First the basis of qualified property which is depreciable property.

(II) Second the basis of qualified property which is land used or held for use in the trade or business of farming.

(III) Then the basis of other qualified property.

(B) Qualified property

For purposes of this paragraph, the term “qualified property” has the meaning given to such term by section 108(g)(3)(C).

(C) Certain rules made applicable

Rules similar to the rules of subparagraphs (C), (D), and (E) of paragraph (3) shall apply for purposes of this paragraph and section 108(g).

(c) Special rules

(1) Reduction not to be made in exempt property

In the case of an amount excluded from gross income under section 108(a)(1)(A), no reduction in basis shall be made under this section in the basis of property which the debtor treats as exempt property under section 522 of title 11 of the United States Code.

(2) Reductions in basis not treated as dispositions

For purposes of this title, a reduction in basis under this section shall not be treated as a disposition.

(d) Recapture of reductions

(1) In general

For purposes of sections 1245 and 1250—

(A) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

(B) any reduction under this section shall be treated as a deduction allowed for depreciation.

(2) Special rule for section 1250

For purposes of section 1250(b), the determination of what would have been the depre-

ciation adjustments under the straight line method shall be made as if there had been no reduction under this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 301; Pub. L. 94-455, title XIX, §§1906(b)(13)(A), 1951(c)(1), Oct. 4, 1976, 90 Stat. 1834, 1840; Pub. L. 96-589, §2(b), Dec. 24, 1980, 94 Stat. 3394; Pub. L. 99-514, title IV, §405(b), title VIII, §822(b)(4), (5), Oct. 22, 1986, 100 Stat. 2224, 2373; Pub. L. 100-647, title I, §1004(a)(5), Nov. 10, 1988, 102 Stat. 3386; Pub. L. 101-508, title XI, §11704(a)(12), Nov. 5, 1990, 104 Stat. 1388-518; Pub. L. 103-66, title XIII, §13150(c)(6)-(8), Aug. 10, 1993, 107 Stat. 448; Pub. L. 104-188, title I, §1703(n)(5), Aug. 20, 1996, 110 Stat. 1877; Pub. L. 105-206, title VI, §6023(11), July 22, 1998, 112 Stat. 825; Pub. L. 106-170, title V, §532(c)(2)(S), Dec. 17, 1999, 113 Stat. 1931.)

AMENDMENTS

1999—Subsec. (b)(3)(E)(i). Pub. L. 106-170 substituted “1221(a)(1)” for “1221(1)”.

1998—Subsec. (a)(2). Pub. L. 105-206 substituted “(b)(2)(E)” for “(b)(2)(D)”.

1996—Subsec. (b)(4)(A). Pub. L. 104-188 substituted “subsection (b)(2)(E)” for “subsection (b)(2)(D)”.

1993—Subsec. (a)(2). Pub. L. 103-66, §13150(c)(6), substituted “, (b)(5), or (c)(1)” for “or (b)(5)”.

Subsec. (b)(3)(A). Pub. L. 103-66, §13150(c)(7), inserted “or (c)(1)” after “subsection (b)(5)”.

Subsec. (b)(3)(F). Pub. L. 103-66, §13150(c)(8), added subpar. (F).

1990—Subsec. (b)(4)(C). Pub. L. 101-508 substituted “subparagraphs” for “subparagraph”.

1988—Subsec. (b)(4). Pub. L. 100-647 substituted “Special rules for” for “Ordering rule in the case of” in heading, and amended text generally. Prior to amendment, text read as follows: “Any amount which is excluded from gross income under section 108(a) by reason of the discharge of qualified farm indebtedness (within the meaning of section 108(g)(2)) and which under subsection (b) of section 108 is to be applied to reduce basis shall be applied—

“(A) first to reduce the tax attributes described in section 108(b)(2) (other than subparagraph (D) thereof),

“(B) then to reduce basis of property other than property described in subparagraph (C), and

“(C) then to reduce the basis of land used or held for use in the trade or business of farming.”

1986—Subsec. (a)(2). Pub. L. 99-514, §822(b)(4), substituted “or (b)(5)” for “, (b)(5), or (c)(1)(A)”.

Subsec. (b)(3)(A). Pub. L. 99-514, §822(b)(5), struck out “or (c)(1)(A)” after “subsection (b)(5)”.

Subsec. (b)(4). Pub. L. 99-514, §405(b), added par. (4).

1980—Pub. L. 96-589 generally revised and expanded the section to specify the amount of reduction of basis of property under different subsections of section 108 of this title and the property to which such reduction is applicable, and provided for recapture of reductions for purposes of gains from depreciable property.

1976—Pub. L. 94-455, §§1906(b)(13)(A), 1951(c)(1), substituted “section 108” for “section 108(a)” in three places and struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§13001-13444, to which such amend-

ment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to discharges after Dec. 31, 1992, in taxable years ending after such date, see section 13150(d) of Pub. L. 103-66, set out as a note under section 108 of this title.

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 OF 1986 AMENDMENT

Amendment by section 405(b) of Pub. L. 99-514 applicable to discharges of indebtedness occurring after Apr. 9, 1986, in taxable years ending after such date, see section 405(c) of Pub. L. 99-514, set out as a note under section 108 of this title.

Amendment by section 822(b)(4), (5) of Pub. L. 99-514 applicable to discharges after Dec. 31, 1986, see section 822(c) of Pub. L. 99-514, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 applicable to transactions which occur after Dec. 31, 1980, other than transactions which occur in a proceeding in a bankruptcy case or similar judicial proceeding or in a proceeding under Title 11 commencing on or after Dec. 31, 1980, with an exception permitting the debtor to make the amendment applicable to transactions occurring after Sept. 30, 1979 in a specified manner, see section 7(a) and (f) of Pub. L. 96-589, set out as a note under section 108 of this title.

[§ 1018. Repealed. Pub. L. 96-589, § 6(h)(1), Dec. 24, 1980, 94 Stat. 3410]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 301; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1901(a)(124), 90 Stat. 1784, provided for adjustment of capital structure before Sept. 22, 1938.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, but not to apply to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as an Effective Date of 1980 Amendment note under section 108 of this title.

§ 1019. Property on which lessee has made improvements

Neither the basis nor the adjusted basis of any portion of real property shall, in the case of the lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludable from gross income under section 109 (relating to improvements by lessee on lessor's property). If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1942, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

(Aug. 16, 1954, ch. 736, 68A Stat. 301.)

[§ 1020. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(125), Oct. 4, 1976, 90 Stat. 1784]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 302, related to election to have section 1016(a)(2)(B) of this title apply in respect of periods since Feb. 28, 1913, and before Jan. 1, 1952.

§ 1021. Sale of annuities

In case of the sale of an annuity contract, the adjusted basis shall in no case be less than zero.

(Aug. 16, 1954, ch. 736, 68A Stat. 302.)

[§ 1022. Repealed. Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300]

Section, added Pub. L. 107-16, title V, § 542(a), June 7, 2001, 115 Stat. 76, related to treatment of property acquired from a decedent dying after Dec. 31, 2009.

TERMINATION OF REPEAL

For termination of repeal of section by section 304 of Pub. L. 111-312, see Effective and Termination Dates of Repeal note below.

TERMINATION OF SECTION

For termination of section by section 901 of Pub. L. 107-16, see Effective and Termination Dates note below.

PRIOR PROVISIONS

A prior section 1022, added Pub. L. 88-272, title II, § 225(j)(1), Feb. 26, 1964, 78 Stat. 92, dealt with the increase in basis with respect to certain foreign personal holding company stock or securities, prior to repeal by Pub. L. 94-455, title XIX, § 1901(a)(126), Oct. 4, 1976, 90 Stat. 1784, applicable with respect to stock or securities acquired from a decedent dying after Oct. 4, 1976.

Another prior section 1022, act Aug. 16, 1954, ch. 736, 68A Stat. 302, relating to cross references, was renumbered section 1023.

EFFECTIVE AND TERMINATION DATES

Repeal of section applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

Section 901 of Pub. L. 107-16 applicable to repeal by section 301(a) of Pub. L. 111-312, see section 304 of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

Section applicable to estates of decedents dying after Dec. 31, 2009, see section 542(f)(1) of Pub. L. 107-16, set out as an Effective and Termination Dates of 2001 Amendment note under section 121 of this title.

Section inapplicable to estates of decedents dying, gifts made, or generation skipping transfers, after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such estates, gifts, and transfers as if it had never been enacted, see section 901 of Pub. L. 107-16, set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title.

§ 1023. Cross references

(1) For certain distributions by a corporation which are applied in reduction of basis of stock, see section 301(c)(2).

(2) For basis in case of construction of new vessels, see chapter 533 of title 46, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 302, § 1022; renumbered § 1023, Pub. L. 88-272, title II, § 225(j)(1), Feb. 26, 1964, 78 Stat. 92; renumbered § 1024 and