Subsec. (f). Pub. L. 98–369 amended subsec. (f) generally, substituting provisions relating to maximum rate of interest on certain transfers of land between related parties for provisions which related to exceptions and limitations now covered in subsec. (d) of this section.

Subsec. (g). Pub. L. 98–369 amended subsec. (g) generally, substituting provisions which related to calling for the promulgation of regulations by the Secretary for provisions which related to the maximum rate of interest on certain transfers of land between related parties now covered in subsec. (f) of this section.

Subsec. (h). Pub. L. 98–369 added subsec. (h).

1983—Subsec. (g)(4). Pub. L. 97–448 substituted ''Paragraph (1)'' for ''This section''.

1981—Subsec. (g). Pub. L. 97–34 added subsec. (g).

1976—Subsecs. (b), (c)(1)(B), (e). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (f)(3). Pub. L. 94–455, § 1901(b)(3)(B), substituted ''all of the gain, if any, on such'' for ''no part of any gain on such'' and ''ordinary income'' for gain from the sale or exchange of property other than a capital asset''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by 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 1985 AMENDMENT

Amendment by Pub. L. 99–121 applicable to sales and exchanges after June 30, 1985, in taxable years ending after such date, see section 105(a)(1) of Pub. L. 99–121, set out as a note under section 1274 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years ending after July 18, 1984, and applicable to sales or exchanges after Dec. 31, 1984, but not applicable to any sale or exchange pursuant to a written contract which was binding on Mar. 1, 1984, and at all times thereafter before the sale or exchange, see section 44 of Pub. L. 98–369, set out as an Effective Date note under section 1271 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–34, title I, § 126(b), Aug. 13, 1981, 95 Stat. 202, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to payments made after June 30, 1981, pursuant to sales or exchanges after such date.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(b)(3)(B) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section applicable to payments made after Dec. 31, 1963, on account of sales or exchanges of property after June 30, 1963, other than a sale or exchange pursuant to written contract, including an irrevocable written option, entered into before July 1, 1963, see section 224(d) of Pub. L. 88–272, set out as an Effective Date of 1964 Amendment note under section 163 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.

TREATMENT OF TRANSFERS OF LAND BETWEEN RELATED PARTIES

Pub. L. 99–514, title XVIII, § 1803(a)(9), Oct. 22, 1986, 100 Stat. 2794, provided that: ''In the case of any sale or exchange before July 1, 1985, to which section 483(f) of the Internal Revenue Code of 1954 [now 1986] (as in effect on the day before the date of the enactment of Public Law 99–121 [Oct. 11, 1985]) applies, such section shall be treated as providing that the discount rate to be used for purposes of section 483(c)(1) of such Code shall be 6 percent, compounded semiannually.''

TRANSITIONAL RULE FOR PURPOSES OF IMPUTED INTEREST RULES

Provisions, respecting treatment of debt instruments received in exchange for property, relating to special rules for sales after Dec. 31, 1984, and before July 1, 1985, general rule for assumptions of loans, exception for assumptions of loans made on or before Oct. 15, 1984, and exception for assumptions of loans with respect to certain property, see section 44(b)(4)–(7) of Pub. L. 98–369, as amended, set out as an Effective Date note under section 1271 of this title.

Subchapter F—Exempt Organizations

Part

I. General rule.
II. Private foundations.
III. Taxation of business income of certain exempt organizations.
IV. Farmers' cooperatives.
V. Shipowners' protection and indemnity associations.
VI. Political organizations.
VII. Certain homeowners associations.
VIII. Higher education savings entities.

AMENDMENTS

1997—Pub. L. 105–34, title II, § 211(e)(1)(B), Aug. 5, 1997, 111 Stat. 812, substituted ''Higher education savings entities'' for ''Qualified State tuition programs'' in part VIII heading.

1996—Pub. L. 104–188, title I, § 1806(b)(2), Aug. 20, 1996, 110 Stat. 1898, added part VIII heading.

1976—Pub. L. 94–455, title XXI, § 2101(d), Oct. 4, 1976, 90 Stat. 1899, added part VII heading.

1975—Pub. L. 93–625, § 10(d), Jan. 3, 1975, 88 Stat. 2119, added part VI heading.

1969—Pub. L. 91–172, title I, § 101(j)(58), Dec. 30, 1969, 83 Stat. 532, added part II heading, and redesignated former parts II, III and IV as parts III, IV and V, respectively.

PART I—GENERAL RULE

Sec.

501. Exemption from tax on corporations, certain trusts, etc.
502. Feeder organizations.
503. Requirements for exemption.
504. Status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying or because of political activities.
505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c).

AMENDMENTS

1987—Pub. L. 100–203, title X, § 10711(b)(2)(B), Dec. 22, 1987, 101 Stat. 1330–464, substituted ''substantial lobby-

ing or because of political activities'' for ''substantial lobbying'' in item 504.

1984—Pub. L. 98–369, div. A, title V, § 513(b), July 18, 1984, 98 Stat. 865, added item 505.

1976—Pub. L. 94–455, title XIII, § 1307(d)(3)(B), Oct. 4, 1976, 90 Stat. 1728, added item 504.

1969—Pub. L. 91–172, title I, § 101(j)(61), Dec. 30, 1969, 83 Stat. 532, struck out item 504 ''Denial of exemption''.

§ 501. Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation

An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(b) Tax on unrelated business income and certain other activities

An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II, III, and VI of this subchapter, but (notwithstanding parts II, III, and VI of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(c) List of exempt organizations

The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

(A) is exempt from Federal income taxes—

(i) under such Act as amended and supplemented before July 18, 1984, or

(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or

(B) is described in subsection (*l*).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section. Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual. For purposes of providing for the payment of sick and accident benefits to members of such an association and their dependents, the term ''dependent'' shall include any individual who is a child (as defined in section 152(f)(1)) of a member who as of the end of the calendar year has not attained age 27.

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) which do not provide for the payment of life, sick, accident, or other benefits.

(11) Teachers' retirement fund associations of a purely local character, if—

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

(12)(A) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(B) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from a nonmember telephone company for the performance of communication services which involve members of the mutual or cooperative telephone company,

(ii) from qualified pole rentals,

(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company, or

(iv) from the prepayment of a loan under section 306A, 306B, or 311[1] of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from qualified pole rentals, or

(ii) from any provision or sale of electric energy transmission services or ancillary services if such services are provided on a nondiscriminatory open access basis under an open access transmission tariff approved or accepted by FERC or under an independent transmission provider agreement approved or accepted by FERC (other than income received or accrued directly or indirectly from a member),

(iii) from the provision or sale of electric energy distribution services or ancillary services if such services are provided on a nondiscriminatory open access basis to distribute electric energy not owned by the mutual or electric cooperative company—

(I) to end-users who are served by distribution facilities not owned by such company or any of its members (other than income received or accrued directly or indirectly from a member), or

(II) generated by a generation facility not owned or leased by such company or any of its members and which is directly connected to distribution facilities owned by such company or any of its members (other than income received or accrued directly or indirectly from a member),

(iv) from any nuclear decommissioning transaction, or

(v) from any asset exchange or conversion transaction.

(D) For purposes of this paragraph, the term ''qualified pole rental'' means any rental of a pole (or other structure used to support wires) if such pole (or other structure)—

(i) is used by the telephone or electric company to support one or more wires which are used by such company in providing telephone or electric services to its members, and

(ii) is used pursuant to the rental to support one or more wires (in addition to the wires described in clause (i)) for use in connection with the transmission by wire of electricity or of telephone or other communications.

For purposes of the preceding sentence, the term ''rental'' includes any sale of the right to use the pole (or other structure).

(E) For purposes of subparagraph (C)(ii), the term ''FERC'' means the Federal Energy Regulatory Commission and references to such term shall be treated as including the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))).

(F) For purposes of subparagraph (C)(iv), the term ''nuclear decommissioning transaction'' means—

(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

(G) For purposes of subparagraph (C)(v), the term ''asset exchange or conversion transaction'' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

(i) generating, transmitting, distributing, or selling electric energy, or

(ii) producing, transmitting, distributing, or selling natural gas.

(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

(ii) For purposes of clause (i), the term ''load loss transaction'' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

[1] See References in Text note below.

(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

(II) the megawatt hours of electric energy sold during the base year to such members.

(v) For purposes of clause (iv)(II), the term ''base year'' means—

(I) the calendar year preceding the start-up year, or

(II) at the election of the mutual or cooperative electric company, the second or third calendar years preceding the start-up year.

(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

(vii) For purposes of this subparagraph, the start-up year is the first year that the mutual or cooperative electric company offers nondiscriminatory open access or the calendar year which includes the date of the enactment of this subparagraph, if later, at the election of such company.

(viii) A company shall not fail to be treated as a mutual or cooperative electric company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

(ix) For purposes of subparagraph (A), in the case of a mutual or cooperative electric company, income received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(14)(A) Credit unions without capital stock organized and operated for mutual purposes and without profit.

(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of shares or deposits in—

(i) domestic building and loan associations,

(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit,

(iii) mutual savings banks not having capital stock represented by shares, or

(iv) mutual savings banks described in section 591(b)[2]

(C) Corporations or associations organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for associations or banks described in clause (i), (ii), or (iii) of subparagraph (B); but only if 85 percent or more of the income is attributable to providing such reserve funds and to investments. This subparagraph shall not apply to any corporation or association entitled to exemption under subparagraph (B).

(15)(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

(i)(I) the gross receipts for the taxable year do not exceed $600,000, and

(II) more than 50 percent of such gross receipts consist of premiums, or

(ii) in the case of a mutual insurance company—

(I) the gross receipts of which for the taxable year do not exceed $150,000, and

(II) more than 35 percent of such gross receipts consist of premiums.

Clause (ii) shall not apply to a company if any employee of the company, or a member of the employee's family (as defined in section 2032A(e)(2)), is an employee of another company exempt from taxation by reason of this paragraph (or would be so exempt but for this sentence).

(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

(C) For purposes of subparagraph (B), the term ''controlled group'' has the meaning given such term by section 831(b)(2)(B)(ii), except that in applying section 831(b)(2)(B)(ii) for purposes of this subparagraph, subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded.

(16) Corporations organized by an association subject to part IV of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

[2] So in original. Probably should be followed by a period.

(17)(A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(i) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities, with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits,

(ii) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)), and

(iii) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

(i) merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subparagraph (A) are then reduced by any sick, accident, or unemployment compensation benefits received under State or Federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(ii) merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(iii) merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subparagraph (A)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees were eligible under such other plan, but only if the employees eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subparagraph (A).

(C) A plan shall be considered to meet the requirements of subparagraph (A) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(D) The term ''supplemental unemployment compensation benefits'' means only—

(i) benefits which are paid to an employee because of his involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(ii) sick and accident benefits subordinate to the benefits described in clause (i).

(E) Exemption shall not be denied under subsection (a) to any organization entitled to such exemption as an association described in paragraph (9) of this subsection merely because such organization provides for the payment of supplemental unemployment benefits (as defined in subparagraph (D)(i)).

(18) A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if—

(A) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

(B) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)),

(C) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this subparagraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan, and

(D) in the case of a plan under which an employee may designate certain contributions as deductible—

(i) such contributions do not exceed the amount with respect to which a deduction is allowable under section 219(b)(3),

(ii) requirements similar to the requirements of section 401(k)(3)(A)(ii) are met with respect to such elective contributions,

(iii) such contributions are treated as elective deferrals for purposes of section 402(g), and

(iv) the requirements of section 401(a)(30) are met.

For purposes of subparagraph (D)(ii), rules similar to the rules of section 401(k)(8) shall apply. For purposes of section 4979, any excess contribution under clause (ii) shall be treated as an excess contribution under a cash or deferred arrangement.

(19) A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization—

(A) organized in the United States or any of its possessions,

(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows,,[3] widowers, ancestors, or lineal descendants of past or present members of the Armed Forces of the United States or of cadets, and

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(20) an[4] organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in this paragraph merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

(i) the purpose of such trust or trusts is exclusively—

(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

(II) to pay premiums for insurance exclusively covering such liability,

(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits; and

(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(I) the purposes described in clause (i),

(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the excess (if any), as of the close of the preceding taxable year, of—

(i) the fair market value of the assets of the trust, over

(ii) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

(D) For purposes of this paragraph:

(i) The term ''Black Lung Acts'' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to that pneumoconiosis.

(ii) The term ''qualified investments'' means—

(I) public debt securities of the United States,

(II) obligations of a State or local government which are not in default as to principal or interest, and

(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(7) of the Federal Credit Union Act, 12 U.S.C. 1752(7)) located in the United States.

(iii) The term ''miner'' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

(iv) The term ''incidental expenses'' includes legal, accounting, actuarial, and trustee expenses.

(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

(A) the purpose of such trust is exclusively—

(i) to pay any amount described in section 4223(c) or (h) of the Employee Retirement Income Security Act of 1974, and

(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(i) the purposes described in subparagraph (A), or

(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(D),

[3] So in original.

[4] So in original. Probably should be capitalized.

(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b), 4223(h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.

(23) Any association organized before 1880 more than 75 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents.

(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986).

(25)(A) Any corporation or trust which—

(i) has no more than 35 shareholders or beneficiaries,

(ii) has only 1 class of stock or beneficial interest, and

(iii) is organized for the exclusive purposes of—

(I) acquiring real property and holding title to, and collecting income from, such property, and

(II) remitting the entire amount of income from such property (less expenses) to 1 or more organizations described in subparagraph (C) which are shareholders of such corporation or beneficiaries of such trust.

For purposes of clause (iii), the term ''real property'' shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest.

(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by 1 or more organizations described in subparagraph (C).

(C) An organization is described in this subparagraph if such organization is—

(i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a),

(ii) a governmental plan (within the meaning of section 414(d)),

(iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing, or

(iv) any organization described in paragraph (3).

(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—

(i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and

(ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust.

(E)(i) For purposes of this title—

(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

(ii) For purposes of this subparagraph, the term ''qualified subsidiary'' means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock.

(F) For purposes of subparagraph (A), the term ''real property'' includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income.

(26) Any membership organization if—

(A) such organization is established by a State exclusively to provide coverage for

medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

(i) insurance issued by the organization, or

(ii) a health maintenance organization under an arrangement with the organization,

(B) the only individuals receiving such coverage through the organization are individuals—

(i) who are residents of such State, and

(ii) who, by reason of the existence or history of a medical condition—

(I) are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization, or

(II) are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

(C) the composition of the membership in such organization is specified by such State, and

(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.

A spouse and any qualifying child (as defined in section 24(c)) of an individual described in subparagraph (B) (without regard to this sentence) shall be treated as described in subparagraph (B).

(27)(A) Any membership organization if—

(i) such organization is established before June 1, 1996, by a State exclusively to reimburse its members for losses arising under workmen's compensation acts,

(ii) such State requires that the membership of such organization consist of—

(I) all persons who issue insurance covering workmen's compensation losses in such State, and

(II) all persons and governmental entities who self-insure against such losses, and

(iii) such organization operates as a nonprofit organization by—

(I) returning surplus income to its members or workmen's compensation policyholders on a periodic basis, and

(II) reducing initial premiums in anticipation of investment income.

(B) Any organization (including a mutual insurance company) if—

(i) such organization is created by State law and is organized and operated under State law exclusively to—

(I) provide workmen's compensation insurance which is required by State law or with respect to which State law provides significant disincentives if such insurance is not purchased by an employer, and

(II) provide related coverage which is incidental to workmen's compensation insurance,

(ii) such organization must provide workmen's compensation insurance to any employer in the State (for employees in the State or temporarily assigned out-of-State) which seeks such insurance and meets other reasonable requirements relating thereto,

(iii)(I) the State makes a financial commitment with respect to such organization either by extending the full faith and credit of the State to the initial debt of such organization or by providing the initial operating capital of such organization, and (II) in the case of periods after the date of enactment of this subparagraph, the assets of such organization revert to the State upon dissolution or State law does not permit the dissolution of such organization, and

(iv) the majority of the board of directors or oversight body of such organization are appointed by the chief executive officer or other executive branch official of the State, by the State legislature, or by both.

(28) The National Railroad Retirement Investment Trust established under section 15(j) of the Railroad Retirement Act of 1974.

(29) CO–OP HEALTH INSURANCE ISSUERS.—

(A) IN GENERAL.—A qualified nonprofit health insurance issuer (within the meaning of section 1322 of the Patient Protection and Affordable Care Act) which has received a loan or grant under the CO–OP program under such section, but only with respect to periods for which the issuer is in compliance with the requirements of such section and any agreement with respect to the loan or grant.

(B) CONDITIONS FOR EXEMPTION.—Subparagraph (A) shall apply to an organization only if—

(i) the organization has given notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of its status under this paragraph,

(ii) except as provided in section 1322(c)(4) of the Patient Protection and Affordable Care Act, no part of the net earnings of which inures to the benefit of any private shareholder or individual,

(iii) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and

(iv) the organization does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(d) Religious and apostolic organizations

The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(e) Cooperative hospital service organizations

For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes, if—

(1) such organization is organized and operated solely—

(A) to perform, on a centralized basis, one or more of the following services which, if performed on its own behalf by a hospital which is an organization described in subsection (c)(3) and exempt from taxation under subsection (a), would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption: data processing, purchasing (including the purchasing of insurance on a group basis), warehousing, billing and collection (including the purchase of patron accounts receivable on a recourse basis), food, clinical, industrial engineering, laboratory, printing, communications, record center, and personnel (including selection, testing, training, and education of personnel) services; and

(B) to perform such services solely for two or more hospitals each of which is—

(i) an organization described in subsection (c)(3) which is exempt from taxation under subsection (a),

(ii) a constituent part of an organization described in subsection (c)(3) which is exempt from taxation under subsection (a) and which, if organized and operated as a separate entity, would constitute an organization described in subsection (c)(3), or

(iii) owned and operated by the United States, a State, the District of Columbia, or a possession of the United States, or a political subdivision or an agency or instrumentality of any of the foregoing;

(2) such organization is organized and operated on a cooperative basis and allocates or pays, within 8½ months after the close of its taxable year, all net earnings to patrons on the basis of services performed for them; and

(3) if such organization has capital stock, all of such stock outstanding is owned by its patrons.

For purposes of this title, any organization which, by reason of the preceding sentence, is an organization described in subsection (c)(3) and exempt from taxation under subsection (a), shall be treated as a hospital and as an organization referred to in section 170(b)(1)(A)(iii).

(f) Cooperative service organizations of operating educational organizations

For purposes of this title, if an organization is—

(1) organized and operated solely to hold, commingle, and collectively invest and reinvest (including arranging for and supervising the performance by independent contractors of investment services related thereto) in stocks and securities, the moneys contributed thereto by each of the members of such organization, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members,

(2) organized and controlled by one or more such members, and

(3) comprised solely of members that are organizations described in clause (ii) or (iv) of section 170(b)(1)(A)—

(A) which are exempt from taxation under subsection (a), or

(B) the income of which is excluded from taxation under section 115(a),

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

(g) Definition of agricultural

For purposes of subsection (c)(5), the term ''agricultural'' includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.

(h) Expenditures by public charities to influence legislation

(1) General rule

In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally—

(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

(2) Definitions

For purposes of this subsection—

(A) Lobbying expenditures

The term ''lobbying expenditures'' means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

(B) Lobbying ceiling amount

The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

(C) Grass roots expenditures

The term ''grass roots expenditures'' means expenditures for the purpose of influencing legislation (as defined in section 4911(d) without regard to paragraph (1)(B) thereof).

(D) Grass roots ceiling amount

The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

(3) Organizations to which this subsection applies

This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary may prescribe) to have the provisions of this subsection apply to such organization and which, for the taxable year which includes the date the election is made, is described in subsection (c)(3) and—

(A) is described in paragraph (4), and

(B) is not a disqualified organization under paragraph (5).

(4) Organizations permitted to elect to have this subsection apply

An organization is described in this paragraph if it is described in—

(A) section 170(b)(1)(A)(ii) (relating to educational institutions),

(B) section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),

(C) section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),

(D) section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),

(E) section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or

(F) section 509(a)(3) (relating to organizations supporting certain types of public charities) except that for purposes of this subparagraph, section 509(a)(3) shall be applied without regard to the last sentence of section 509(a).

(5) Disqualified organizations

For purposes of paragraph (3) an organization is a disqualified organization if it is—

(A) described in section 170(b)(1)(A)(i) (relating to churches),

(B) an integrated auxiliary of a church or of a convention or association of churches, or

(C) a member of an affiliated group of organizations (within the meaning of section 4911(f)(2)) if one or more members of such group is described in subparagraph (A) or (B).

(6) Years for which election is effective

An election by an organization under this subsection shall be effective for all taxable years of such organization which—

(A) end after the date the election is made, and

(B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary).

(7) No effect on certain organizations

With respect to any organization for a taxable year for which—

(A) such organization is a disqualified organization (within the meaning of paragraph (5)), or

(B) an election under this subsection is not in effect for such organization,

nothing in this subsection or in section 4911 shall be construed to affect the interpretation of the phrase, ''no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,'' under subsection (c)(3).

(8) Affiliated organizations

For rules regarding affiliated organizations, see section 4911(f).

(i) Prohibition of discrimination by certain social clubs

Notwithstanding subsection (a), an organization which is described in subsection (c)(7) shall not be exempt from taxation under subsection (a) for any taxable year if, at any time during such taxable year, the charter, bylaws, or other governing instrument, of such organization or any written policy statement of such organization contains a provision which provides for discrimination against any person on the basis of race, color, or religion. The preceding sentence to the extent it relates to discrimination on the basis of religion shall not apply to—

(1) an auxiliary of a fraternal beneficiary society if such society—

(A) is described in subsection (c)(8) and exempt from tax under subsection (a), and

(B) limits its membership to the members of a particular religion, or

(2) a club which in good faith limits its membership to the members of a particular religion in order to further the teachings or principles of that religion, and not to exclude individuals of a particular race or color.

(j) Special rules for certain amateur sports organizations

(1) In general

In the case of a qualified amateur sports organization—

(A) the requirement of subsection (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

(2) Qualified amateur sports organization defined

For purposes of this subsection, the term ''qualified amateur sports organization'' means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

(k) Treatment of certain organizations providing child care

For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term ''educational purposes'' includes the providing of care of children away from their homes if—

(1) substantially all of the care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

(2) the services provided by the organization are available to the general public.

***(l)* Government corporations exempt under subsection (c)(1)**

For purposes of subsection (c)(1), the following organizations are described in this subsection:

(1) The Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).

(2) The Resolution Trust Corporation established under section 21A[1] of the Federal Home Loan Bank Act.

(3) The Resolution Funding Corporation established under section 21B of the Federal Home Loan Bank Act.

(4) The Patient-Centered Outcomes Research Institute established under section 1181(b) of the Social Security Act.

(m) Certain organizations providing commercial-type insurance not exempt from tax

(1) Denial of tax exemption where providing commercial-type insurance is substantial part of activities

An organization described in paragraph (3) or (4) of subsection (c) shall be exempt from tax under subsection (a) only if no substantial part of its activities consists of providing commercial-type insurance.

(2) Other organizations taxed as insurance companies on insurance business

In the case of an organization described in paragraph (3) or (4) of subsection (c) which is exempt from tax under subsection (a) after the application of paragraph (1) of this subsection—

(A) the activity of providing commercial-type insurance shall be treated as an unrelated trade or business (as defined in section 513), and

(B) in lieu of the tax imposed by section 511 with respect to such activity, such organization shall be treated as an insurance company for purposes of applying subchapter L with respect to such activity.

(3) Commercial-type insurance

For purposes of this subsection, the term ''commercial-type insurance'' shall not include—

(A) insurance provided at substantially below cost to a class of charitable recipients,

(B) incidental health insurance provided by a health maintenance organization of a kind customarily provided by such organizations,

(C) property or casualty insurance provided (directly or through an organization described in section 414(e)(3)(B)(ii)) by a church or convention or association of churches for such church or convention or association of churches,

(D) providing retirement or welfare benefits (or both) by a church or a convention or association of churches (directly or through an organization described in section 414(e)(3)(A) or 414(e)(3)(B)(ii)) for the employees (including employees described in section 414(e)(3)(B)) of such church or convention or association of churches or the beneficiaries of such employees, and

(E) charitable gift annuities.

(4) Insurance includes annuities

For purposes of this subsection, the issuance of annuity contracts shall be treated as providing insurance.

(5) Charitable gift annuity

For purposes of paragraph (3)(E), the term ''charitable gift annuity'' means an annuity if—

(A) a portion of the amount paid in connection with the issuance of the annuity is allowable as a deduction under section 170 or 2055, and

(B) the annuity is described in section 514(c)(5) (determined as if any amount paid in cash in connection with such issuance were property).

(n) Charitable risk pools

(1) In general

For purposes of this title—

(A) a qualified charitable risk pool shall be treated as an organization organized and operated exclusively for charitable purposes, and

(B) subsection (m) shall not apply to a qualified charitable risk pool.

(2) Qualified charitable risk pool

For purposes of this subsection, the term ''qualified charitable risk pool'' means any organization—

(A) which is organized and operated solely to pool insurable risks of its members (other than risks related to medical malpractice) and to provide information to its members with respect to loss control and risk management,

(B) which is comprised solely of members that are organizations described in subsection (c)(3) and exempt from tax under subsection (a), and

(C) which meets the organizational requirements of paragraph (3).

(3) Organizational requirements

An organization (hereinafter in this subsection referred to as the ''risk pool'') meets the organizational requirements of this paragraph if—

(A) such risk pool is organized as a nonprofit organization under State law provisions authorizing risk pooling arrangements for charitable organizations,

(B) such risk pool is exempt from any income tax imposed by the State (or will be so exempt after such pool qualifies as an organization exempt from tax under this title),

(C) such risk pool has obtained at least $1,000,000 in startup capital from nonmember charitable organizations,

(D) such risk pool is controlled by a board of directors elected by its members, and

(E) the organizational documents of such risk pool require that—

(i) each member of such pool shall at all times be an organization described in subsection (c)(3) and exempt from tax under subsection (a),

(ii) any member which receives a final determination that it no longer qualifies as an organization described in subsection (c)(3) shall immediately notify the pool of such determination and the effective date of such determination, and

(iii) each policy of insurance issued by the risk pool shall provide that such policy will not cover the insured with respect to events occurring after the date such final determination was issued to the insured.

An organization shall not cease to qualify as a qualified charitable risk pool solely by reason

of the failure of any of its members to continue to be an organization described in subsection (c)(3) if, within a reasonable period of time after such pool is notified as required under subparagraph (E)(ii), such pool takes such action as may be reasonably necessary to remove such member from such pool.

(4) Other definitions

For purposes of this subsection—

(A) Startup capital

The term ''startup capital'' means any capital contributed to, and any program-related investments (within the meaning of section 4944(c)) made in, the risk pool before such pool commences operations.

(B) Nonmember charitable organization

The term ''nonmember charitable organization'' means any organization which is described in subsection (c)(3) and exempt from tax under subsection (a) and which is not a member of the risk pool and does not benefit (directly or indirectly) from the insurance coverage provided by the pool to its members.

(*o*) Treatment of hospitals participating in provider-sponsored organizations

An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1855(d) of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.

(p) Suspension of tax-exempt status of terrorist organizations

(1) In general

The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

(2) Terrorist organizations

An organization is described in this paragraph if such organization is designated or otherwise individually identified—

(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

(ii) such Executive order refers to this subsection.

(3) Period of suspension

With respect to any organization described in paragraph (2), the period of suspension—

(A) begins on the later of—

(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

(ii) the date of the enactment of this subsection, and

(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

(4) Denial of deduction

No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2),[1] 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

(5) Denial of administrative or judicial challenge of suspension or denial of deduction

Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

(6) Erroneous designation

(A) In general

If—

(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

(B) Waiver of limitations

If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is

prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

(7) Notice of suspensions

If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

(q) Special rules for credit counseling organizations

(1) In general

An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

(A) The organization—

(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

(ii) makes no loans to debtors (other than loans with no fees or interest) and does not negotiate the making of loans on behalf of debtors,

(iii) provides services for the purpose of improving a consumer's credit record, credit history, or credit rating only to the extent that such services are incidental to providing credit counseling services, and

(iv) does not charge any separately stated fee for services for the purpose of improving any consumer's credit record, credit history, or credit rating.

(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

(C) The organization establishes and implements a fee policy which—

(i) requires that any fees charged to a consumer for services are reasonable,

(ii) allows for the waiver of fees if the consumer is unable to pay, and

(iii) except to the extent allowed by State law, prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

(D) At all times the organization has a board of directors or other governing body—

(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

(E) The organization does not own more than 35 percent of—

(i) the total combined voting power of any corporation (other than a corporation which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

(ii) the profits interest of any partnership (other than a partnership which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

(iii) the beneficial interest of any trust or estate (other than a trust which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

(F) The organization receives no amount for providing referrals to others for debt management plan services, and pays no amount to others for obtaining referrals of consumers.

(2) Additional requirements for organizations described in subsection (c)(3)

(A) In general

In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

(i) The organization does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

(ii) The aggregate revenues of the organization which are from payments of creditors of consumers of the organization and which are attributable to debt management plan services do not exceed the applicable percentage of the total revenues of the organization.

(B) Applicable percentage

(i) In general

For purposes of subparagraph (A)(ii), the applicable percentage is 50 percent.

(ii) Transition rule

Notwithstanding clause (i), in the case of an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) and exempt from tax under subsection (a) on the date of the enactment of this subsection, the applicable percentage is—

(I) 80 percent for the first taxable year of such organization beginning after the date which is 1 year after the date of the enactment of this subsection, and

(II) 70 percent for the second such taxable year beginning after such date, and

(III) 60 percent for the third such taxable year beginning after such date.

(3) Additional requirement for organizations described in subsection (c)(4)

In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

(4) Credit counseling services; debt management plan services

For purposes of this subsection—

(A) Credit counseling services

The term ''credit counseling services'' means—

(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

(iii) a combination of the activities described in clauses (i) and (ii).

(B) Debt management plan services

The term ''debt management plan services'' means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.

(r) Additional requirements for certain hospitals

(1) In general

A hospital organization to which this subsection applies shall not be treated as described in subsection (c)(3) unless the organization—

(A) meets the community health needs assessment requirements described in paragraph (3),

(B) meets the financial assistance policy requirements described in paragraph (4),

(C) meets the requirements on charges described in paragraph (5), and

(D) meets the billing and collection requirement described in paragraph (6).

(2) Hospital organizations to which subsection applies

(A) In general

This subsection shall apply to—

(i) an organization which operates a facility which is required by a State to be licensed, registered, or similarly recognized as a hospital, and

(ii) any other organization which the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption under subsection (c)(3) (determined without regard to this subsection).

(B) Organizations with more than 1 hospital facility

If a hospital organization operates more than 1 hospital facility—

(i) the organization shall meet the requirements of this subsection separately with respect to each such facility, and

(ii) the organization shall not be treated as described in subsection (c)(3) with respect to any such facility for which such requirements are not separately met.

(3) Community health needs assessments

(A) In general

An organization meets the requirements of this paragraph with respect to any taxable year only if the organization—

(i) has conducted a community health needs assessment which meets the requirements of subparagraph (B) in such taxable year or in either of the 2 taxable years immediately preceding such taxable year, and

(ii) has adopted an implementation strategy to meet the community health needs identified through such assessment.

(B) Community health needs assessment

A community health needs assessment meets the requirements of this paragraph if such community health needs assessment—

(i) takes into account input from persons who represent the broad interests of the community served by the hospital facility, including those with special knowledge of or expertise in public health, and

(ii) is made widely available to the public.

(4) Financial assistance policy

An organization meets the requirements of this paragraph if the organization establishes the following policies:

(A) Financial assistance policy

A written financial assistance policy which includes—

(i) eligibility criteria for financial assistance, and whether such assistance includes free or discounted care,

(ii) the basis for calculating amounts charged to patients,

(iii) the method for applying for financial assistance,

(iv) in the case of an organization which does not have a separate billing and collections policy, the actions the organization may take in the event of non-payment, including collections action and reporting to credit agencies, and

(v) measures to widely publicize the policy within the community to be served by the organization.

(B) Policy relating to emergency medical care

A written policy requiring the organization to provide, without discrimination, care for emergency medical conditions (within the meaning of section 1867 of the Social Security Act (42 U.S.C. 1395dd)) to individuals regardless of their eligibility under the financial assistance policy described in subparagraph (A).

(5) Limitation on charges

An organization meets the requirements of this paragraph if the organization—

(A) limits amounts charged for emergency or other medically necessary care provided to individuals eligible for assistance under the financial assistance policy described in paragraph (4)(A) to not more than the amounts generally billed to individuals who have insurance covering such care, and

(B) prohibits the use of gross charges.

(6) Billing and collection requirements

An organization meets the requirement of this paragraph only if the organization does not engage in extraordinary collection actions before the organization has made reasonable efforts to determine whether the individual is eligible for assistance under the financial assistance policy described in paragraph (4)(A).

(7) Regulatory authority

The Secretary shall issue such regulations and guidance as may be necessary to carry out the provisions of this subsection, including guidance relating to what constitutes reasonable efforts to determine the eligibility of a patient under a financial assistance policy for purposes of paragraph (6).

(s) Cross reference

For nonexemption of Communist-controlled organizations, see section 11(b) of the Internal Security Act of 1950 (64 Stat. 997; 50 U.S.C. 790(b)).

(Aug. 16, 1954, ch. 736, 68A Stat. 163; Mar. 13, 1956, ch. 83, § 5(2), 70 Stat. 49; Pub. L. 86–428, § 1, Apr. 22, 1960, 74 Stat. 54; Pub. L. 86–667, § 1, July 14, 1960, 74 Stat. 534; Pub. L. 87–834, § 8(d), Oct. 16, 1962, 76 Stat. 997; Pub. L. 89–352, § 1, Feb. 2, 1966, 80 Stat. 4; Pub. L. 89–800, § 6(a), Nov. 8, 1966, 80 Stat. 1515; Pub. L. 90–364, title I, § 109(a), June 28, 1968, 82 Stat. 269; Pub. L. 91–172, title I, §§ 101(j)(3)–(6), 121(b)(5)(A), (6)(A), Dec. 30, 1969, 83 Stat. 526, 527, 541; Pub. L. 91–618, § 1, Dec. 31, 1970, 84 Stat. 1855; Pub. L. 92–418, § 1(a), Aug. 29, 1972, 86 Stat. 656; Pub. L. 93–310, § 3(a), June 8, 1974, 88 Stat. 235; Pub. L. 93–625, § 10(c), Jan. 3, 1975, 88 Stat. 2119; Pub. L. 94–455, title XIII, §§ 1307(a)(1), (d)(1)(A), 1312(a), 1313(a), title XIX, § 1906(b)(13)(A), title XXI, §§ 2113(a), 2134(b), Oct. 4, 1976, 90 Stat. 1720, 1727, 1730, 1834, 1907, 1927; Pub. L. 94–568, §§ 1(a), 2(a), Oct. 20, 1976, 90 Stat. 2697; Pub. L. 95–227, § 4(a), Feb. 10, 1978, 92 Stat. 15; Pub. L. 95–345, § 1(a), Aug. 15, 1978, 92 Stat. 481; Pub. L. 95–600, title VII, § 703(b)(2), (g)(2)(A), (B), Nov. 6, 1978, 92 Stat. 2939, 2940; Pub. L. 96–222, title I, § 108(b)(2)(B), Apr. 1, 1980, 94 Stat. 226; Pub. L. 96–364, title II, § 209(a), Sept. 26, 1980, 94 Stat. 1290; Pub. L. 96–601, § 3(a), Dec. 24, 1980, 94 Stat. 3496; Pub. L. 96–605, title I, § 106(a), Dec. 28, 1980, 94 Stat. 3523; Pub. L. 97–119, title I, § 103(c)(1), Dec. 29, 1981, 95 Stat. 1638; Pub. L. 97–248, title II, § 286(a), title III, § 354(a), (b), Sept. 3, 1982, 96 Stat. 569, 640, 641; Pub. L. 97–448, title III, § 306(b)(5), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 98–369, div. A, title X, §§ 1032(a), 1079, div. B, title VIII, § 2813(b), July 18, 1984, 98 Stat. 1033, 1056, 1206; Pub. L. 99–272, title XI, § 11012(b), Apr. 7, 1986, 100 Stat. 260; Pub. L. 99–514, title X, §§ 1012(a), 1024(b), title XI, §§ 1109(a), 1114(b)(14), title XVI, § 1603(a), title XVIII, §§ 1879(k)(1), 1899A(15), Oct. 22, 1986, 100 Stat. 2390, 2406, 2435, 2451, 2768, 2909, 2959; Pub. L. 100–203, title X, § 10711(a)(2), Dec. 22, 1987, 101 Stat. 1330–464; Pub. L. 100–647, title I, §§ 1010(b)(4), 1011(c)(7)(D), 1016(a)(1)(A), (2)–(4), 1018(u)(14), (15), (34), title II, § 2003(a)(1), (2), title VI, § 6202(a), Nov. 10, 1988, 102 Stat. 3451, 3458, 3573, 3574, 3590, 3592, 3597, 3598, 3730; Pub. L. 101–73, title XIV, § 1402(a), Aug. 9, 1989, 103 Stat. 550; Pub. L. 102–486, title XIX, § 1940(a), Oct. 24, 1992, 106 Stat. 3034; Pub. L. 103–66, title XIII, § 13146(a), (b), Aug. 10, 1993, 107 Stat. 443; Pub. L. 104–168, title XIII, § 1311(b)(1), July 30, 1996, 110 Stat. 1477; Pub. L. 104–188, title I, §§ 1114(a), 1704(j)(5), Aug. 20, 1996, 110 Stat. 1759, 1882; Pub. L. 104–191, title III, §§ 341(a), 342(a), Aug. 21, 1996, 110 Stat. 2070; Pub. L. 105–33, title IV, § 4041(a), Aug. 5, 1997, 111 Stat. 360; Pub. L. 105–34, title I, § 101(c), title IX, §§ 963(a), (b), 974(a), Aug. 5, 1997, 111 Stat. 799, 892, 898; Pub. L. 105–206, title VI, § 6023(6), (7), July 22, 1998, 112 Stat. 825; Pub. L. 107–16, title VI, § 611(d)(3)(C), June 7, 2001, 115 Stat. 98; Pub. L. 107–90, title II, § 202, Dec. 21, 2001, 115 Stat. 890; Pub. L. 108–121, title I, §§ 105(a), 108(a), Nov. 11, 2003, 117 Stat. 1338, 1339; Pub. L. 108–218, title II, § 206(a), (b), Apr. 10, 2004, 118 Stat. 610, 611; Pub. L. 108–357, title III, § 319(a), (b), Oct. 22, 2004, 118 Stat. 1470, 1471; Pub. L. 109–58, title XIII, § 1304(a), (b), Aug. 8, 2005, 119 Stat. 997; Pub. L. 109–135, title IV, § 412(bb), (cc), Dec. 21, 2005, 119 Stat. 2639; Pub. L. 109–280, title VIII, § 862(a), title XII, § 1220(a), Aug. 17, 2006, 120 Stat. 1021, 1086; Pub. L. 111–148, title I, § 1322(h)(1), title VI, § 6301(f), title IX, § 9007(a), title X, § 10903(a), Mar. 23, 2010, 124 Stat. 191, 747, 855, 1016; Pub. L. 111–152, title I, § 1004(d)(4), Mar. 30, 2010, 124 Stat. 1035.)

REFERENCES IN TEXT

Sections 306A and 306B of the Rural Electrification Act of 1936, referred to in subsec. (c)(12)(B)(iv), are classified to sections 936a and 936b, respectively, of Title 7,

Agriculture. Section 311 of the Act was classified to section 940a of Title 7 prior to repeal by Pub. L. 104–127, title VII, §780, Apr. 4, 1996, 110 Stat. 1151.

The date of the enactment of this subparagraph, referred to in subsec. (c)(12)(H)(vii), is the date of enactment of Pub. L. 108–357, which was approved Oct. 22, 2004.

The Federal Mine Safety and Health Act of 1977, referred to in subsec. (c)(21)(D)(i), is Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 742, as amended by Pub. L. 95–164, Nov. 9, 1977, 91 Stat. 1290. Part C of title IV of the Act is classified generally to part C (§931 et seq.) of subchapter IV of chapter 22 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

Section 4223 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (c)(22)(A)(i), (C), (D), is classified to section 1403 of Title 29, Labor.

Section 4049 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (c)(24), was classified to section 1349 of Title 29, prior to its repeal by Pub. L. 100–203, title IX, §9312(a), Dec. 22, 1987, 101 Stat. 1330–361.

The date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986, referred to in subsec. (c)(24), is the date of enactment of title XI of Pub. L. 99–272, which was approved Apr. 7, 1986.

The date of enactment of this subparagraph, referred to in subsec. (c)(27)(B)(iii)(I), is the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997.

Section 15(j) of the Railroad Retirement Act of 1974, referred to in subsec. (c)(28), is classified to section 231n(j) of Title 45, Railroads.

Section 1322 of the Patient Protection and Affordable Care Act, referred to in subsec. (c)(29)(A), (B)(ii), is classified to section 18042 of Title 42, The Public Health and Welfare.

The provisions of subsec. (a) of section 115, referred to in subsec. (f)(3)(B), now comprise section 115 in its entirety, following the deletion therefrom of the subsec. (a) designation by section 1901(a)(19) of Pub. L. 94–455.

The Federal Credit Union Act, referred to in subsec. (*l*)(1), is act June 26, 1934, ch. 750, 48 Stat. 1216, as amended. Title III of the Federal Credit Union Act is classified generally to subchapter III (§1795 et seq.) of chapter 14 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

Sections 21A and 21B of the Federal Home Loan Bank Act, referred to in subsec. (*l*)(2), (3), are classified to former section 1441a and section 1441b, respectively, of Title 12, Banks and Banking. Section 21A of the Act was repealed by Pub. L. 111–203, title III, §364(b), July 21, 2010, 124 Stat. 1555.

Sections 1181(b) and 1855(d) of the Social Security Act, referred to in subsecs. (*l*)(4) and (*o*), are classified to sections 1320e(b) and 1395w–25(d), respectively, of Title 42, The Public Health and Welfare.

Sections 212(a)(3)(B) and 219 of the Immigration and Nationality Act, referred to in subsec. (p)(2)(A), (C)(i), are classified to sections 1182(a)(3)(B) and 1189, respectively, of Title 8, Aliens and Nationality.

The International Emergency Economic Powers Act, referred to in subsec. (p)(2)(B), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, as amended, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

Section 5 of the United Nations Participation Act of 1945, referred to in subsec. (p)(2)(B), is classified to section 287c of Title 22, Foreign Relations and Intercourse.

Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, referred to in subsec. (p)(2)(C)(i), is classified to section 2656f(d)(2) of Title 22, Foreign Relations and Intercourse.

The date of the enactment of this subsection, referred to in subsec. (p)(3)(A)(ii), is the date of enactment of Pub. L. 108–121, which was approved Nov. 11, 2003.

Section 556(b)(2), referred to in subsec. (p)(4), was repealed by Pub. L. 108–357, title IV, §413(a)(1), Oct. 22, 2004, 118 Stat. 1506.

The date of the enactment of this subsection, referred to in subsec. (q)(2)(B)(ii), is the date of enactment of Pub. L. 109–280, which was approved Aug. 17, 2006.

Section 11(b) of the Internal Security Act of 1950 (64 Stat. 997; 50 U.S.C. 790(b)), referred to in subsec. (s), was repealed by Pub. L. 103–199, title VIII, §803(1), Dec. 17, 1993, 107 Stat. 2329.

AMENDMENTS

2010—Subsec. (c)(9). Pub. L. 111–152 inserted at end ''For purposes of providing for the payment of sick and accident benefits to members of such an association and their dependents, the term 'dependent' shall include any individual who is a child (as defined in section 152(f)(1)) of a member who as of the end of the calendar year has not attained age 27.''

Subsec. (c)(29). Pub. L. 111–148, §1322(h)(1), added par. (29).

Subsec. (*l*)(4). Pub. L. 111–148, §6301(f), added par. (4).

Subsec. (r). Pub. L. 111–148, §9007(a), added subsec. (r). Former subsec. (r) redesignated (s).

Subsec. (r)(5)(A). Pub. L. 111–148, §10903(a), substituted ''the amounts generally billed'' for ''the lowest amounts charged''.

Subsec. (s). Pub. L. 111–148, §9007(a), redesignated subsec. (r) as (s).

2006—Subsec. (c)(21)(C). Pub. L. 109–280, §862(a), amended introductory provisions and cls. (i) and (ii) generally. Prior to amendment, introductory provisions and cls. (i) and (ii) read as follows: ''Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

''(i) the excess (if any) (as of the close of the preceding taxable year) of—

''(I) the fair market value of the assets of the trust, over

''(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

''(ii) the excess (if any) of—

''(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

''(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.''

Subsecs. (q), (r). Pub. L. 109–280, §1220(a), which directed the amendment of section 501 by adding subsec. (q) and redesignating former subsec. (q) as (r), without specifying the act to be amended, was executed by making the amendments to this section, which is section 501 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2005—Subsec. (c)(12)(C). Pub. L. 109–58, §1304(a), struck out concluding provisions which read as follows: ''Clauses (ii) through (v) shall not apply to taxable years beginning after December 31, 2006.''

Subsec. (c)(12)(F). Pub. L. 109–135, §412(bb)(1), substituted ''subparagraph (C)(iv)'' for ''subparagraph (C)(iii)''.

Subsec. (c)(12)(G). Pub. L. 109–135, §412(bb)(2), substituted ''subparagraph (C)(v)'' for ''subparagraph (C)(iv)''.

Subsec. (c)(12)(H)(x). Pub. L. 109–58, §1304(b), struck out cl. (x) which read as follows: ''This subparagraph shall not apply to taxable years beginning after December 31, 2006.''

Subsec. (c)(22)(B)(ii). Pub. L. 109–135, §412(cc), substituted ''clause (ii) of paragraph (21)(D)'' for ''clause (ii) of paragraph (21)(B)''.

2004—Subsec. (c)(12)(C). Pub. L. 108–357, §319(a)(1), added cls. (ii) to (v) and concluding provisions and

struck out former cl. (ii) which read as follows: ''from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).''

Subsec. (c)(12)(E) to (G). Pub. L. 108–357, § 319(a)(2), added subpars. (E) to (G).

Subsec. (c)(12)(H). Pub. L. 108–357, § 319(b), added subpar. (H).

Subsec. (c)(15)(A). Pub. L. 108–218, § 206(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Insurance companies or associations other than life (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $350,000.''

Subsec. (c)(15)(C). Pub. L. 108–218, § 206(b), inserted before period at end '', except that in applying section 831(b)(2)(B)(ii) for purposes of this subparagraph, subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded''.

2003—Subsec. (c)(19)(B). Pub. L. 108–121, § 105(a), substituted '', widowers, ancestors, or lineal descendants'' for ''or widowers''.

Subsecs. (p), (q). Pub. L. 108–121, § 108(a), added subsec. (p) and redesignated former subsec. (p) as (q).

2001—Subsec. (c)(18)(D)(iii). Pub. L. 107–16, § 611(d)(3)(C), struck out ''(other than paragraph (4) thereof)'' after ''section 402(g)''.

Subsec. (c)(28). Pub. L. 107–90 added par. (28).

1998—Subsec. (n)(3). Pub. L. 105–206, § 6023(6), substituted ''subparagraph (E)(ii)'' for ''subparagraph (C)(ii)'' in concluding provisions.

Subsec. (*o*). Pub. L. 105–206, § 6023(7), substituted ''section 1855(d)'' for ''section 1853(e)''.

1997—Subsec. (c)(26). Pub. L. 105–34, § 101(c), inserted concluding provisions ''A spouse and any qualifying child (as defined in section 24(c)) of an individual described in subparagraph (B) (without regard to this sentence) shall be treated as described in subparagraph (B).''

Subsec. (c)(27). Pub. L. 105–34, § 963(a), (b), designated existing provisions as subpar. (A), redesignated former subpar. (A) as cl. (i), redesignated subpar. (B) as cl. (ii) and former cls. (i) and (ii) of subpar. (B) as subcls. (I) and (II), respectively, of cl. (ii), redesignated subpar. (C) as cl. (iii) and former cls. (i) and (ii) of subpar. (C) as subcls. (I) and (II), respectively, of cl. (iii), and added subpar. (B).

Subsec. (e)(1)(A). Pub. L. 105–34, § 974(a), inserted ''(including the purchase of patron accounts receivable on a recourse basis)'' after ''billing and collection''.

Subsecs. (*o*), (p). Pub. L. 105–33 added subsec. (*o*) and redesignated former subsec. (*o*) as (p).

1996—Subsec. (c)(4). Pub. L. 104–168 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(21)(D)(ii)(III). Pub. L. 104–188, § 1704(j)(5), substituted ''section 101(7)'' for ''section 101(6)'' and ''1752(7)'' for ''1752(6)''.

Subsec. (c)(26). Pub. L. 104–191, § 341(a), added par. (26).

Subsec. (c)(27). Pub. L. 104–191, § 342(a), added par. (27).

Subsecs. (n), (*o*). Pub. L. 104–188, § 1114(a), added subsec. (n) and redesignated former subsec. (n) as (*o*).

1993—Subsec. (c)(2). Pub. L. 103–66, § 13146(b), inserted at end ''Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.''

Subsec. (c)(25)(G). Pub. L. 103–66, § 13146(a), added subpar. (G).

1992—Subsec. (c)(21). Pub. L. 102–486 amended par. (21) generally, substituting present provisions consisting of subpars. (A) to (D) for former provisions consisting of subpars. (A) and (B).

1989—Subsec. (*l*). Pub. L. 101–73 amended subsec. (*l*) generally. Prior to amendment, subsec. (*l*) read as follows: ''The organization described in this subsection is the Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).''

1988—Subsec. (c)(1). Pub. L. 100–647, § 1018(u)(15), substituted ''Any'' for ''any''.

Subsec. (c)(12)(B)(iv). Pub. L. 100–647, § 2003(a)(1), added cl. (iv).

Subsec. (c)(12)(C). Pub. L. 100–647, § 2003(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued from qualified pole rentals.''

Subsec. (c)(17)(A)(ii), (iii), (18)(B), (C). Pub. L. 100–647, § 1018(u)(34), made technical amendments to Pub. L. 99–154, § 1114(b)(14). See 1986 Amendment note below.

Subsec. (c)(18)(D)(iv). Pub. L. 100–647, § 1011(c)(7)(D), added cl. (iv).

Subsec. (c)(23). Pub. L. 100–647, § 1018(u)(14), substituted ''Any'' for ''any''.

Subsec. (c)(25)(A). Pub. L. 100–647, § 1016(a)(1)(A), inserted at end ''For purposes of clause (iii), the term 'real property' shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest.''

Subsec. (c)(25)(C)(v). Pub. L. 100–647, § 1016(a)(3)(B), struck out cl. (v) which read as follows: ''any organization described in this paragraph.''

Subsec. (c)(25)(D). Pub. L. 100–647, § 1016(a)(2), substituted ''A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries'' for ''A corporation or trust described in this paragraph must permit its shareholders or beneficiaries'' in introductory text.

Subsec. (c)(25)(E), (F). Pub. L. 100–647, § 1016(a)(3)(A), (4), added subpars. (E) and (F).

Subsec. (e)(1)(A). Pub. L. 100–647, § 6202(a), inserted ''(including the purchasing of insurance on a group basis)'' after ''purchasing''.

Subsec. (m)(3)(E). Pub. L. 100–647, § 1010(b)(4)(A), added subpar. (E).

Subsec. (m)(5). Pub. L. 100–647, § 1010(b)(4)(B), added par. (5).

1987—Subsec. (c)(3). Pub. L. 100–203 inserted ''(or in opposition to)'' after ''in behalf of''.

1986—Subsec. (c)(1)(A)(i). Pub. L. 99–514, § 1899A(15), substituted ''July 18, 1984'' for ''the date of the enactment of the Tax Reform Act of 1984''.

Subsec. (c)(14)(B)(iv). Pub. L. 99–514, § 1879(k)(1), added cl. (iv).

Subsec. (c)(15). Pub. L. 99–514, § 1024(b), amended par. (15) generally. Prior to amendment, par. (15) read as follows: ''Mutual insurance companies or associations other than life or marine (including inter-insurers and reciprocal underwriters) if the gross amount received during the taxable year from the items described in section 822(b) (other than paragraph (1)(D) thereof) and premiums (including deposits and assessments) does not exceed $150,000.''

Subsec. (c)(17)(A)(ii), (iii), (18)(B), (C). Pub. L. 99–514, § 1114(b)(14), as amended by Pub. L. 100–647, § 1018(u)(34), substituted ''highly compensated employees (within the meaning of section 414(q))'' for ''officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees''.

Subsec. (c)(18)(D). Pub. L. 99–514, § 1109(a), added subpar. (D).

Subsec. (c)(24). Pub. L. 99–272 added par. (24).

Subsec. (c)(25). Pub. L. 99–514, § 1603(a), added par. (25).

Subsecs. (m), (n). Pub. L. 99–514, § 1012(a), added subsec. (m) and redesignated former subsec. (m) as (n).

1984—Subsec. (c)(1). Pub. L. 98–369, § 2813(b)(2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(1)(A). Pub. L. 98–369, § 1079, substituted provisions referring to corporations exempt from Federal income taxes under any Act of Congress as amended and supplemented before July 18, 1984, or under this title without regard to any provision of law not contained in this title and not contained in a revenue Act for provisions referring to corporations exempt from Federal income taxes under any Act of Congress as amended and supplemented.

Subsec. (k). Pub. L. 98–369, §1032(a), added subsec. (k). Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 98–369, §2813(b)(1), added subsec. (*l*). Former subsec. (*l*) redesignated (m).

Pub. L. 98–369, §1032(a), redesignated former subsec. (k) as (*l*).

Subsec. (m). Pub. L. 98–369, §2813(b)(1), redesignated former subsec. (*l*) as (m).

1983—Subsec. (c)(23). Pub. L. 97–448 substituted ''75 percent'' for ''25 percent''.

1982—Subsec. (c)(19). Pub. L. 97–248, §354(a)(1), substituted ''past or present members of the Armed Forces of the United States'' for ''war veterans'' after ''A post or organization of''.

Subsec. (c)(19)(B). Pub. L. 97–248, §354(a)(2), substituted ''past or present members of the Armed Forces of the United States'' for ''war veterans'' wherever appearing, struck out ''veterans (but not war veterans), or are'' after ''individuals who are'', and substituted ''or of cadets'' for ''or such individuals'' before '', and''.

Subsec. (c)(23). Pub. L. 97–248, §354(b), added par. (23).

Subsecs. (j), (k). Pub. L. 97–248, §286(a), added subsec. (j) and redesignated former subsec. (j) as (k).

1981—Subsec. (c)(21)(B)(iii). Pub. L. 97–119 substituted ''established under section 9501'' for ''established under section 3 of the Black Lung Benefits Revenue Act of 1977''.

1980—Subsec. (c)(12). Pub. L. 96–605 designated existing provision as subpar. (A), struck out provision that, in the case of any mutual or cooperative telephone company, the 85 per cent or more income requirement be applied without taking into account any income received or accrued from a nonmember telephone company for the performance of communication services which involve members of such mutual or cooperative telephone company, and added subpars. (B) to (D).

Subsec. (c)(21). Pub. L. 96–222 substituted ''Federal Mine Safety and Health Act of 1977'' for ''Federal Coal Mine Health and Safety Act of 1969''.

Subsec. (c)(22). Pub. L. 96–364 added par. (22).

Subsec. (i). Pub. L. 96–601 inserted provision that the restriction on religious discrimination not apply to an auxiliary of a fraternal beneficiary society if the society is described in subsec. (c)(8) of this section, is exempt from income tax under subsec. (a) of this section, and limits its membership to the members of a particular religion or to a club which in good faith limits its membership to the members of a particular religion in order to further the teachings or principles of that religion, and not to exclude individuals of a particular race or color.

1978—Subsec. (c)(12). Pub. L. 95–345 inserted provision relating to applicability of statutory provisions to mutual or cooperative telephone company of income received or accrued from a nonmember telephone company.

Subsec. (c)(20). Pub. L. 95–600, §703(b)(2), substituted ''this paragraph'' for ''section 501(c)(20)''.

Subsec. (c)(21). Pub. L. 95–227 added par. (21).

Subsecs. (g), (i). Pub. L. 95–600, §703(g)(2)(B), redesignated subsec. (g), which was added by section 2(a) of Pub. L. 94–568, as subsec. (i). Former subsec. (i), relating to cross reference, redesignated (j).

Subsecs. (i), (j). Pub. L. 95–600, §703(g)(2)(A), amended Pub. L. 95–600, §2(a). See 1976 Amendment note below.

1976—Subsec. (c)(3). Pub. L. 94–455, §§1313(a), 1307(d)(1)(A), inserted ''or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment)'' after ''educational purposes'' and inserted ''(except as otherwise provided in subsection (h))'' after ''influence legislation''.

Subsec. (c)(7). Pub. L. 94–568, §1(a), struck out requirement that clubs be ''operated exclusively'' for specified purposes but required that substantially all of club activities be for specified purposes.

Subsec. (c)(17), (18). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c)(20). Pub. L. 94–455, §2134(b), added par. (20).

Subsec. (e)(1)(A). Pub. L. 94–455, §1312(a), inserted ''clinical'' after ''food''.

Subsec. (g). Pub. L. 94–568, §2(a), added subsec. (g) relating to prohibition of discrimination by certain social clubs.

Pub. L. 94–455, §2113(a), added subsec. (g) defining agricultural. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 94–455, §§1307(a)(1), 2113(a), added subsec. (h). Former subsec. (g), relating to cross reference, redesignated (h) and further redesignated (i).

Subsec. (i). Pub. L. 94–568, §2(a), as amended by Pub. L. 95–600, §703(g)(2)(A), added subsec. (i). Former subsec. (i) redesignated (j).

Pub. L. 94–455, §1307(a)(1), redesignated subsec. (h), relating to cross reference, as (i).

Subsec. (j). Pub. L. 94–568, §2(a), as amended by Pub. L. 95–600, §703(g)(2)(A), redesignated subsec. (i), relating to cross reference, as (j).

1975—Subsec. (b). Pub. L. 93–625 inserted references to part VI of this subchapter.

1974—Subsecs. (f), (g). Pub. L. 93–310 added subsec. (f) and redesignated former subsec. (f) as (g).

1972—Subsec. (c)(19). Pub. L. 92–418 added par. (19).

1970—Subsec. (c)(13). Pub. L., 91–618 substituted ''corporation chartered solely for the purpose of disposal of bodies by burial or cremation which is not permitted'' for ''corporation chartered solely for burial purposes as a cemetery corporation and is not permitted''.

1969—Subsec. (a). Pub. L. 91–172, §101(j)(3), struck out reference to section 504.

Subsec. (b). Pub. L. 91–172, §101(j)(4), inserted reference to certain other activities in heading and to part III in text, and struck out reference to tax on unrelated income.

Subsec. (c). Pub. L. 91–172, §§101(j)(5), 121(b)(6)(A), substituted ''part IV'' for ''part III'' after ''Corporations organized by an association subject to'' and added par. 18.

Subsec. (c)(9). Pub. L. 91–172, §121(b)(5)(A), inserted reference to designated beneficiaries and struck out reference to 85 percent or more income of voluntary employees' beneficiary associations.

Subsec. (c)(10). Pub. L. 91–172, §121(b)(5)(A), substituted provisions concerning domestic fraternal societies, orders, or associations, operating under the lodge system, for provisions covering voluntary employees' beneficiary associations which would pay benefits to designated beneficiaries of members.

Subsec. (e). Pub. L. 91–172, §101(j)(6), substituted ''section 170(b)(1)(A)(iii)'' for ''section 503(b)(5)'' in last sentence.

1968—Subsecs. (e), (f). Pub. L. 90–364 added subsec. (e) and redesignated former subsec. (e) as (f).

1966—Subsec. (c)(6). Pub. L. 89–800 inserted reference to professional football leagues (whether or not administering a pension fund for football players).

Subsec. (c)(14). Pub. L. 89–352 designated as subpar. (A) provisions covering credit unions which were formerly set out preceding subpar. (A), designated as subpar. (B) and clauses (i), (ii), and (iii) thereunder provisions covering corporation or associations without capital stock organized before Sept. 1, 1957, which formerly were set out as provisions preceding subpar. (A) and as subpars. (A), (B), and (C) respectively, and added subpar. (C).

1962—Subsec. (c)(15). Pub. L. 87–834 substituted ''$150,000'' for ''$75,000''.

1960—Subsec. (c)(14). Pub. L. 86–428 substituted ''September 1, 1957'' for ''September 1, 1951''.

Subsec. (c)(17). Pub. L. 86–667 added par. (17).

1956—Subsec. (c)(15). Act Mar. 13, 1956, substituted ''the items described in section 822(b) (other than paragraph (1)(D) thereof)'' for ''interest, dividends, rents,''.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–148, title IX, §9007(f), Mar. 23, 2010, 124 Stat. 858, provided that:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section [enacting section 4959 of this title and amending this section and section 6033 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Mar. 23, 2010].

''(2) COMMUNITY HEALTH NEEDS ASSESSMENT.—The requirements of section 501(r)(3) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to taxable years beginning after the date which is 2 years after the date of the enactment of this Act.

''(3) EXCISE TAX.—The amendments made by subsection (b) [enacting section 4959 of this title] shall apply to failures occurring after the date of the enactment of this Act.''

Pub. L. 111–148, title X, §10903(b), Mar. 23, 2010, 124 Stat. 1016, provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Mar. 23, 2010].''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title VIII, §862(b), Aug. 17, 2006, 120 Stat. 1021, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.''

Pub. L. 109–280, title XII, §1220(c), Aug. 17, 2006, 120 Stat. 1089, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 513 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 17, 2006].

''(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) of section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.''

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title XIII, §1304(c), Aug. 8, 2005, 119 Stat. 997, provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 8, 2005].''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title III, §319(e), Oct. 22, 2004, 118 Stat. 1473, provided that: ''The amendments made by this section [amending this section and sections 512 and 1381 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 2004].''

Pub. L. 108–218, title II, §206(e), Apr. 10, 2004, 118 Stat. 611, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 831 of this title] shall apply to taxable years beginning after December 31, 2003.

''(2) TRANSITION RULE FOR COMPANIES IN RECEIVERSHIP OR LIQUIDATION.—In the case of a company or association which—

''(A) for the taxable year which includes April 1, 2004, meets the requirements of section 501(c)(15)(A) of the Internal Revenue Code of 1986, as in effect for the last taxable year beginning before January 1, 2004, and

''(B) on April 1, 2004, is in a receivership, liquidation, or similar proceeding under the supervision of a State court,

the amendments made by this section shall apply to taxable years beginning after the earlier of the date such proceeding ends or December 31, 2007.''

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–121, title I, §105(b), Nov. 11, 2003, 117 Stat. 1338, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Nov. 11, 2003].''

Pub. L. 108–121, title I, §108(b), Nov. 11, 2003, 117 Stat. 1341, provided that: ''The amendments made by this section [amending this section] shall apply to designations made before, on, or after the date of the enactment of this Act [Nov. 11, 2003].''

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–16 applicable to years beginning after Dec. 31, 2001, see section 611(i)(1) of Pub. L. 107–16, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 101(c) of Pub. L. 105–34 applicable to taxable years beginning after Dec. 31, 1997, see section 101(e) of Pub. L. 105–34, set out as an Effective Date note under section 24 of this title.

Pub. L. 105–34, title IX, §963(c), Aug. 5, 1997, 111 Stat. 892, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.''

Pub. L. 105–34, title IX, §974(b), Aug. 5, 1997, 111 Stat. 898, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1996.''

Pub. L. 105–33, title IV, §4041(b), Aug. 5, 1997, 111 Stat. 360, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–191, title III, §341(b), Aug. 21, 1996, 110 Stat. 2070, provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1996.''

Pub. L. 104–191, title III, §342(b), Aug. 21, 1996, 110 Stat. 2071, provided that: ''The amendment made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Aug. 21, 1996].''

Pub. L. 104–188, title I, §1114(b), Aug. 20, 1996, 110 Stat. 1760, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 20, 1996].''

Pub. L. 104–168, title XIII, §1311(d)(3), July 30, 1996, 110 Stat. 1478, provided that:

''(A) IN GENERAL.—The amendment made by subsection (b) [amending this section] shall apply to inurement occurring on or after September 14, 1995.

''(B) BINDING CONTRACTS.—The amendment made by subsection (b) shall not apply to any inurement occurring before January 1, 1997, pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such inurement occurred.''

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–66, title XIII, §13146(c), Aug. 10, 1993, 107 Stat. 443, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning on or after January 1, 1994.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–486 applicable to taxable years beginning after Dec. 31, 1991, see section 1940(d) of Pub. L. 102–486, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–73, title XIV, §1402(b), Aug. 9, 1989, 103 Stat. 551, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 9, 1989].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1011(c)(7)(D) of Pub. L. 100–647 applicable to plan years beginning after Dec. 31, 1987, with exception in case of a plan described in section 1105(c)(2) of Pub. L. 99–514, see section 1011(c)(7)(E) of Pub. L. 100–647, set out as a note under section 401 of this title.

Pub. L. 100–647, title I, §1016(a)(1)(B), Nov. 10, 1988, 102 Stat. 3573, provided that: ''The amendment made by subparagraph (A) [amending this section] shall apply with respect to property acquired by the organization after June 10, 1987, except that such amendment shall not apply to any property acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.''

Amendment by sections 1010(b)(4), 1016(a)(2)–(4), and 1018(u)(14), (15), (34) 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.

Pub. L. 100–647, title II, §2003(a)(3), Nov. 10, 1988, 102 Stat. 3598, provided that: ''The amendments made by this subsection [amending this section] shall apply to taxable years ending after the date of the enactment of the Omnibus Budget Reconciliation Act of 1986 [Oct. 21, 1986].''

Pub. L. 100–647, title VI, §6202(b), Nov. 10, 1988, 102 Stat. 3730, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to purchases before, on, or after the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable with respect to activities after Dec. 22, 1987, see section 10711(c) of Pub. L. 100–203, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1012(a) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1012(c) of Pub. L. 99–514, set out as an Effective Date note under section 833 of this title.

Amendment by section 1024(b) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1024(e) of Pub. L. 99–514, set out as a note under section 831 of this title.

Amendment by section 1109(a) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1109(c) of Pub. L. 99–514, set out as a note under section 219 of this title.

Amendment by section 1114(b)(14) of Pub. L. 99–514 applicable to years beginning after Dec. 31, 1986, see section 1114(c)(1) of Pub. L. 99–514, set out as a note under section 414 of this title.

Pub. L. 99–514, title XVI, §1603(c), Oct. 22, 1986, 100 Stat. 2769, provided that: ''The amendments made by this section [amending this section and section 514 of this title] shall apply to taxable years beginning after December 31, 1986.''

Pub. L. 99–514, title XVIII, §1879(k)(2), Oct. 22, 1986, 100 Stat. 2909, provided that: ''The amendments made by this subsection [amending this section] shall apply to taxable years ending after August 13, 1981.''

Amendment by Pub. L. 99–272 effective Jan. 1, 1986, with certain exceptions, see section 11019 of Pub. L. 99–272, set out as a note under section 1341 of Title 29, Labor.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 1032 of Pub. L. 98–369 applicable to taxable years beginning after July 18, 1984, see section 1032(c) of Pub. L. 98–369, set out as a note under section 170 of this title.

Amendment by section 2813(b) of Pub. L. 98–369 effective Oct. 1, 1979, see section 2813(c) of Pub. L. 98–369, set out as an Effective Date note under section 1795k of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 311(d) of Pub. L. 97–448, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–248, title II, §286(c), Sept. 3, 1982, 96 Stat. 570, provided that: ''The amendments made by this section [amending this section and sections 170, 2055, and 2522 of this title] shall take effect on October 5, 1976.''

Pub. L. 97–248, title III, §354(c), Sept. 3, 1982, 96 Stat. 641, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Sept. 3, 1982].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–119 effective Jan. 1, 1982, see section 103(d)(1) of Pub. L. 97–119, set out as an Effective Date note under section 9501 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–605, title I, §106(c)(1), Dec. 28, 1980, 94 Stat. 3524, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by subsection (a) [amending this section] shall apply to all taxable years to which the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies.''

Pub. L. 96–601, §3(b), Dec. 24, 1980, 94 Stat. 3496, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after October 20, 1976.''

Amendment by Pub. L. 96–364 applicable to taxable years ending after Sept. 26, 1980, see section 210(c) of Pub. L. 96–364, set out as an Effective Date note under section 418 of this title.

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as an Effective Date of 1980 Amendment note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 703(b)(2), (g)(2)(B) of Pub. L. 95–600 effective on Oct. 4, 1976, see section 703(r) of Pub. L. 95–600, set out as a note under section 46 of this title.

Pub. L. 95–600, title VII, §703(g)(2)(C), Nov. 6, 1978, 92 Stat. 2940, provided that: ''The amendments made by this paragraph [amending this section] shall take effect on October 20, 1976, as if included in Public Law 94–568.''

Pub. L. 95–345, §1(b), Aug. 15, 1978, 92 Stat. 481, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1974.''

Amendment by Pub. L. 95–227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95–227, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–568, §1(d), Oct. 20, 1976, 90 Stat. 2697, provided that: ''The amendments made by this section [amending this section and sections 277 and 512 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 20, 1976].''

Pub. L. 94–568, §2(b), Oct. 20, 1976, 90 Stat. 2697, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 20, 1976].''

Pub. L. 94–455, title XIII, §1307(e), Oct. 4, 1976, 90 Stat. 1728, provided that: ''The amendments made by this section [amending this section and sections 170, 275, 2055, 2106, 2522, 6104, 6161, 6201, 6211, 6212, 6213, 6214, 6344, 6501, 6512, 6601, and 7422 of this title and enacting sections 504 and 4911 of this title] shall apply—

''(1) except as otherwise specified in paragraph (2), in the case of amendments to subtitle A, to taxable years beginning after December 31, 1976;

''(2) in the case of the amendments made by subsection (a)(2) [enacting section 504 of this title], to

activities occurring after the date of the enactment of this Act [Oct. 4, 1976];

''(3) in the case of amendments to chapter 11, to the estates of decedents dying after December 31, 1976;

''(4) in the case of amendments to chapter 12, to gifts in calendar years beginning after December 31, 1976;

''(5) in the case of amendments to subtitle D, to taxable years beginning after December 31, 1976; and

''(6) in the case of amendments to subtitle F, on and after the date of the enactment of this Act [Oct. 4, 1976].''

Pub. L. 94–455, title XIII, §1312(b), Oct. 4, 1976, 90 Stat. 1730, provided that: ''The amendment made by this section [amending this section] shall apply to taxable years ending after December 31, 1976.''

Pub. L. 94–455, title XIII, §1313(d), Oct. 4, 1976, 90 Stat. 1730, provided that: ''The amendments made by this section [amending this section and sections 170, 2055, and 2522 of this title] shall apply on the day following the date of the enactment of this Act [Oct. 4, 1976].''

Pub. L. 94–455, title XXI, §2113(b), Oct. 4, 1976, 90 Stat. 1907, provided that: ''The amendment made by this section [amending this section] applies to taxable years ending after December 31, 1975.''

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 applicable to taxable years beginning after Dec. 31, 1974, see section 10(e) of Pub. L. 93–625, set out as an Effective Date note under section 527 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93–310, §3(b), June 8, 1974, 88 Stat. 235, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years ending after December 31, 1973.''

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92–418, §1(c), Aug. 29, 1972, 86 Stat. 656, provided that: ''The amendments made by this section [amending this section and section 512 of this title] shall apply to taxable years beginning after December 31, 1969.''

EFFECTIVE DATE OF 1970 AMENDMENT

Pub L. 91–618, §2, Dec. 31, 1970, 84 Stat. 1855, provided that: ''The amendment made by the first section of this Act [amending this section] shall apply to taxable years ending after the date of enactment of this Act [Dec. 31, 1970].''

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(3) of Pub. L. 91–172 effective Jan. 1, 1970, except that amendment of subsec. (a) of this section applicable to taxable years beginning after Dec. 31, 1969, see section 101(k)(1), (2)(B) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 121(b)(5)(A), (6)(A) of Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91–172, set out as a note under section 511 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90–364, title I, §109(b), June 28, 1968, 82 Stat. 270, provided that: ''The amendments made by subsection (a) [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [June 28, 1968].''

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89–800, §6(c), Nov. 8, 1966, 80 Stat. 1516, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Nov. 8, 1966].''

Pub. 89–352, §3, Feb. 2, 1966, 80 Stat. 4, provided in part that: ''The amendment made by the first section of this Act [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Feb. 2, 1966].''

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87–834, §8(h), Oct. 16, 1962, 76 Stat. 999, provided that: ''The amendments made by this section [enacting sections 823 to 826 of this title, amending this section and sections 821, 822, 832, 841, 1016, and 1201 of this title, and redesignating former section 823 as section 822(f) of this title] (other than by subsection (f) [amending section 831 of this title]) shall apply with respect to taxable years beginning after December 31, 1962.''

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86–667, §6, July 14, 1960, 74 Stat. 536, provided that:

''(a) Except as provided in subsection (b), the amendments made by this Act [amending this section and sections 503, 511, 513, and 514 of this title] shall apply to taxable years beginning after December 31, 1959.

''(b) In the case of loans, the amendments made by section 2 of this Act [amending section 503 of this title] shall apply only to loans made, renewed, or continued after December 31, 1959.''

Pub. L. 86–428, §2, Apr. 22, 1960, 74 Stat. 54, provided that: ''The amendment made by this Act [amending this section] shall apply only with respect to taxable years beginning after December 31, 1959.''

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Mar. 13, 1956, applicable only to taxable years beginning after Dec. 31, 1954, see section 6 of act Mar. 13, 1956, set out as a note under section 316 of this title.

REGULATIONS

Secretary of the Treasury or his delegate to issue before Feb. 1, 1988, final regulations to carry out amendments made by section 1114 of Pub. L. 99–514, see section 1141 of Pub. L. 99–514, set out as a note under section 401 of this title.

MANDATORY REVIEW OF TAX EXEMPTION FOR HOSPITALS

Pub. L. 111–148, title IX, §9007(c), Mar. 23, 2010, 124 Stat. 857, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall review at least once every 3 years the community benefit activities of each hospital organization to which section 501(r) of the Internal Revenue Code of 1986 (as added by this section) applies.''

REPORTS

Pub. L. 111–148, title IX, §9007(e), Mar. 23, 2010, 124 Stat. 858, provided that:

''(1) REPORT ON LEVELS OF CHARITY CARE.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall submit to the Committees on Ways and Means, Education and Labor [now Education and the Workforce], and Energy and Commerce of the House of Representatives and to the Committees on Finance and Health, Education, Labor, and Pensions of the Senate an annual report on the following:

''(A) Information with respect to private tax-exempt, taxable, and government-owned hospitals regarding—

''(i) levels of charity care provided,

''(ii) bad debt expenses,

''(iii) unreimbursed costs for services provided with respect to means-tested government programs, and

''(iv) unreimbursed costs for services provided with respect to non-means tested government programs.

''(B) Information with respect to private tax-exempt hospitals regarding costs incurred for community benefit activities.

''(2) REPORT ON TRENDS.—

''(A) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study on trends in the information required to be reported under paragraph (1).

''(B) REPORT.—Not later than 5 years after the date of the enactment of this Act [Mar. 23, 2010], the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall submit a report on the study conducted under subparagraph (A) to the Committees on Ways and Means, Education and Labor [now Education and the Workforce], and Energy and Commerce of the House of Representatives and to the Committees on Finance and Health, Education, Labor, and Pensions of the Senate.''

PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS

Pub. L. 107–134, title I, §104, Jan. 23, 2002, 115 Stat. 2431, provided that:

''(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

''(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made in good faith using a reasonable and objective formula which is consistently applied; and

''(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

''(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.''

SPECIAL RULE FOR CERTAIN COOPERATIVES

Pub. L. 104–168, title XIII, §1311(b)(2), July 30, 1996, 110 Stat. 1478, provided that: ''In the case of an organization operating on a cooperative basis which, before the date of the enactment of this Act [July 30, 1996], was determined by the Secretary of the Treasury or his delegate, to be described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, the allocation or return of net margins or capital to the members of such organization in accordance with its incorporating statute and bylaws shall not be treated for purposes of such Code as the inurement of the net earnings of such organization to the benefit of any private shareholder or individual. The preceding sentence shall apply only if such statute and bylaws are substantially as such statute and bylaws were in existence on the date of the enactment of this Act.''

APPLICATION OF PUB. L. 100–647 TO SECTION 501(c)(3) BONDS

Pub. L. 100–647, title I, §1013(i), Nov. 10, 1988, 102 Stat. 3559, provided that: ''In accordance with section 1302 of the Reform Act [Pub. L. 99–514, set out as a note below], each amendment and other provision of this Act [see Tables for classification] which applies to private activity bonds shall, unless otherwise expressly provided, apply to qualified 501(c)(3) bonds.''

CANCELLATION OF CERTAIN DEBTS ORIGINATED BY OR GUARANTEED BY UNITED STATES NOT TAKEN INTO ACCOUNT IN DETERMINING TAX EXEMPT STATUS OF CERTAIN ORGANIZATIONS

Pub. L. 100–647, title VI, §6203, Nov. 10, 1988, 102 Stat. 3730, provided that: ''Subparagraph (A) of section 501(c)(12) of the 1986 Code shall be applied without taking into account any income attributable to the cancellation of any loan originally made or guaranteed by the United States (or any agency or instrumentality thereof) if such cancellation occurs after 1986 and before 1990.''

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.

TREATMENT OF SECTION 501(c)(3) BONDS

Pub. L. 99–514, title XIII, §1302, Oct. 22, 1986, 100 Stat. 2658, provided that: ''Nothing in the treatment of section 501(c)(3) bonds as private activity bonds under the amendments made by this title [enacting sections 141 to 150 and 7703 of this title, amending sections 2, 22, 25, 32, 86, 103, 105, 152, 153, 163, 172, 194, 269A, 414, 879, 1016, 1398, 3402, 4701, 4940, 4942, 4988, 6362, 6652, and 7871 of this title, repealing sections 103A, 1391 to 1397, and 6039B of this title, enacting provisions set out as notes under sections 141 and 148 of this title, and amending provisions set out as a note under section 103A of this title] shall be construed as indicating how section 501(c)(3) bonds will be treated in future legislation, and any change in future legislation applicable to private activity bonds shall apply to section 501(c)(3) bonds only if expressly provided in such legislation.''

TAX-EXEMPT STATUS FOR ORGANIZATION INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS

Pub. L. 99–514, title XVI, §1605, Oct. 22, 1986, 100 Stat. 2769, provided that:

''(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, an organization shall be treated as an organization organized and operated exclusively for charitable purposes if such organization—

''(1) is organized and operated exclusively—

''(A) to provide for (directly or by arranging for and supervising the performance by independent contractors)—

''(i) reviewing technology disclosures from qualified organizations,

''(ii) obtaining protection for such technology through patents, copyrights, or other means, and

''(iii) licensing, sale, or other exploitation of such technology,

''(B) to distribute the income therefrom, to such qualified organizations after paying expenses and other amounts as agreed with the originating qualified organizations, and

''(C) to make research grants to such qualified organizations,

''(2) regularly provides the services and research grants described in paragraph (1) exclusively to 1 or more qualified organizations, except that research grants may be made to such qualified organizations through an organization which is controlled by 1 or more organizations each of which—

''(A) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 or the income of which is excluded from taxation under section 115 of such Code, and

''(B) may be a recipient of the services or research grants described in paragraph (1),

''(3) derives at least 80 percent of its gross revenues from providing services to qualified organizations located in the same State as the State in which such organization has its principal office, and

''(4) was incorporated on July 20, 1981.

''(b) QUALIFIED ORGANIZATIONS.—For purposes of this section, the term 'qualified organization' has the same

meaning given to such term by subparagraphs (A) and (B) of section 41(e)(6) (as redesignated by section 231(d)(2)) of the Internal Revenue Code of 1986.

''(c) TREATMENT OF INVESTMENT IN A TECHNOLOGY TRANSFER SERVICE ORGANIZATION.—

''(1) IN GENERAL.—A qualified investment made by a private foundation in an organization described in subparagraph (C) shall be treated as an investment described in section 4944(c) of the Internal Revenue Code of 1986 and shall not result in imposition of taxes under section 4941, 4943, 4944, 4945, or 507(c) of such Code.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) QUALIFIED INVESTMENT.—The term 'qualified investment' means a transfer by a private foundation of—

''(i) all of the patents, copyrights, know-how, and other technology or rights thereto of the private foundation, and

''(ii) investment assets, net receivables, and cash not exceeding $35,000,000,

to such organization in exchange for debt.

''(B) PRIVATE FOUNDATION.—The term 'private foundation' means—

''(i) a nonprofit corporation which was incorporated before 1913 which is described in sections 501(c)(3) and 509(a) of such Code, and which is exempt from taxation under section 501(a) of such Code, and

''(ii) the principal purposes of which are to support research by and to provide technology transfer services to organizations described in section 170(b)(1)(A) of such Code—

''(I) which are exempt from taxation under section 501(a) of such Code, or

''(II) the income of which is excluded from taxation under section 115 of such Code.

''(C) TECHNOLOGY TRANSFER ORGANIZATION.—The term 'technology transfer organization' means a corporation established after the date of the enactment of this Act [Oct. 22, 1986]—

''(i) which is organized and operated to advance the public welfare through the provision of technology transfer services to research organizations,

''(ii) no part of the net earnings of which inures to the benefit of, or is distributable to, any private shareholder, individual, or entity, other than a private foundation or research organization,

''(iii) which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office,

''(iv) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and

''(v) upon liquidation or dissolution of which all of its net assets can be distributed only to research organizations.

''(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 22, 1986].''

APPLICABILITY OF 1976 AMENDMENT TO CERTAIN ORGANIZATIONS

Pub. L. 94–455, title XIII, § 1313(c), Oct. 4, 1976, 90 Stat. 1730, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''An organization which (without regard to the amendments made by this section [amending this section and sections 170, 2055, and 2522 of this title]) is an organization described in section 170(c)(2)(B), 501(c)(3), 2055(a)(2), or 2522(a)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall not be treated as an organization not so described as a result of the amendments made by this section.''

TAX EXEMPTION FOR CERTAIN PUERTO RICAN PENSION, ETC., PLANS

Pub. L. 93–406, title II, § 1022(i), Sept. 2, 1974, 88 Stat. 942, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) GENERAL RULE.—Effective for taxable years beginning after December 31, 1973, for purposes of section 501(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to exemption from tax), any trust forming part of a pension, profit-sharing, or stock bonus plan all of the participants of which are residents of the Commonwealth of Puerto Rico shall be treated as an organization described in section 401(a) of such Code if such trust—

''(A) forms part of a pension, profit-sharing, or stock bonus plan, and

''(B) is exempt from income tax under the laws of the Commonwealth of Puerto Rico.

''(2) ELECTION TO HAVE PROVISIONS OF, AND AMENDMENTS MADE BY, TITLE II OF THIS ACT APPLY.—

''(A) If the administrator of a pension, profit-sharing, or stock bonus plan which is created or organized in Puerto Rico elects, at such time and in such manner as the Secretary of the Treasury may require, to have the provisions of this paragraph apply, for plan years beginning after the date of election any trust forming a part of such plan shall be treated as a trust created or organized in the United States for purposes of section 401(a) of the Internal Revenue Code of 1986.

''(B) An election under subparagraph (A), once made, is irrevocable.

''(C) This paragraph applies to plan years beginning after the date of enactment of this Act [Sept. 2, 1974]

''(D) The source of any distributions made under a plan which makes an election under this paragraph to participants and beneficiaries residing outside of the United States shall be determined, for purposes of subchapter N of chapter 1 of the Internal Revenue Code of 1986 by the Secretary of the Treasury in accordance with regulations prescribed by him. For purposes of this subparagraph the United States means the United States as defined in section 7701(a)(9) of the Internal Revenue Code of 1986.''

EXCHANGES FOR SALE OF POULTRY

Pub. L. 89–44, title VIII, § 811, June 21, 1965, 79 Stat. 169, provided that certain corporations, associations, or organizations organized and operated exclusively for the purpose of providing an exchange for the sale of poultry growers of a particular locality shall be treated for purposes of this title as an exempt organization and that such exemption shall apply to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, which begin before Jan. 1, 1966.

§ 502. Feeder organizations

(a) General rule

An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt from taxation under section 501 on the ground that all of its profits are payable to one or more organizations exempt from taxation under section 501.

(b) Special rule

For purposes of this section, the term ''trade or business'' shall not include—

(1) the deriving of rents which would be excluded under section 512(b)(3), if section 512 applied to the organization,

(2) any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation, or

(3) any trade or business which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions.

(Aug. 16, 1954, ch. 736, 68A Stat. 166; Pub. L. 91–172, title I, § 121(b)(7), Dec. 30, 1969, 83 Stat. 542.)

AMENDMENTS

1969—Pub. L. 91–172 redesignated first sentence of existing provisions as subsec. (a), and substantial portion of second sentence as subsec. (b)(1), and, in subsec. (b)(1) as so redesignated, inserted reference to section 512 of this title, and added pars. (2) and (3).

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91–172, set out as a note under section 511 of this title.

§ 503. Requirements for exemption

(a) Denial of exemption to organizations engaged in prohibited transactions

(1) General rule

(A) An organization described in section 501(c)(17) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1959.

(B) An organization described in section 401(a) which is referred to in section 4975(g) (2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after March 1, 1954.

(C) An organization described in section 501(c)(18) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1969.

(2) Taxable years affected

An organization described in section 501(c)(17) or (18) or paragraph (1)(B) shall be denied exemption from taxation under section 501(a) by reason of paragraph (1) only for taxable years after the taxable year during which it is notified by the Secretary that it has engaged in a prohibited transaction, unless such organization entered into such prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and such transaction involved a substantial part of the corpus or income of such organization.

(b) Prohibited transactions

For purposes of this section, the term ''prohibited transaction'' means any transaction in which an organization subject to the provisions of this section—

(1) lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(2) pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(3) makes any part of its services available on a preferential basis to;

(4) makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;

(5) sells any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or

(6) engages in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family (as defined in section 267(c)(4)) of an individual who is the creator of such trust or who has made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

(c) Future status of organizations denied exemption

Any organization described in section 501(c)(17) or (18) or subsection (a)(1)(B) which is denied exemption under section 501(a) by reason of subsection (a) of this section, with respect to any taxable year following the taxable year in which notice of denial of exemption was received, may, under regulations prescribed by the Secretary, file claim for exemption, and if the Secretary, pursuant to such regulations, is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall be exempt with respect to taxable years after the year in which such claim is filed.

[(d) Repealed. Pub. L. 101–508, title XI, § 11801(a)(22), Nov. 5, 1990, 104 Stat. 1388–521]

(e) Special rules

For purposes of subsection (b)(1), a bond, debenture, note, or certificate or other evidence of indebtedness (hereinafter in this subsection referred to as ''obligation'') shall not be treated as a loan made without the receipt of adequate security if—

(1) such obligation is acquired—

(A) on the market, either (i) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (ii) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the trust than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) from an underwriter, at a price (i) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (ii) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) directly from the issuer, at a price not less favorable to the trust than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(2) immediately following acquisition of such obligation—

(A) not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the trust, and

(B) at least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(3) immediately following acquisition of the obligation, not more than 25 percent of the assets of the trust is invested in obligations of persons described in subsection (b).

(f) Loans with respect to which employers are prohibited from pledging certain assets

Subsection (b)(1) shall not apply to a loan made by a trust described in section 401(a) to the employer (or to a renewal of such a loan or, if the loan is repayable upon demand, to a continuation of such a loan) if the loan bears a reasonable rate of interest, and if (in the case of a making or renewal)—

(1) the employer is prohibited (at the time of such making or renewal) by any law of the United States or regulation thereunder from directly or indirectly pledging, as security for such a loan, a particular class or classes of his assets the value of which (at such time) represents more than one-half of the value of all his assets;

(2) the making or renewal, as the case may be, is approved in writing as an investment which is consistent with the exempt purposes of the trust by a trustee who is independent of the employer, and no other such trustee had previously refused to give such written approval; and

(3) immediately following the making or renewal, as the case may be, the aggregate amount loaned by the trust to the employer, without the receipt of adequate security, does not exceed 25 percent of the value of all the assets of the trust.

For purposes of paragraph (2), the term ''trustee'' means, with respect to any trust for which there is more than one trustee who is independent of the employer, a majority of such independent trustees. For purposes of paragraph (3), the determination as to whether any amount loaned by the trust to the employer is loaned without the receipt of adequate security shall be made without regard to subsection (e).

(Aug. 16, 1954, ch. 736, 68A Stat. 166; Pub. L. 85–866, title I, § 30(a), (b), Sept. 2, 1958, 72 Stat. 1629, 1630; Pub. L. 86–667, § 2, July 14, 1960, 74 Stat. 535; Pub. L. 87–792, § 6, Oct. 10, 1962, 76 Stat. 827; Pub. L. 91–172, title I, §§ 101(j)(7)–(14), 121(b)(6)(B), Dec. 30, 1969, 83 Stat. 527, 542; Pub. L. 93–406, title II, § 2003(b), Sept. 2, 1974, 88 Stat. 978; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 101–508, title XI, § 11801(a)(22), Nov. 5, 1990, 104 Stat. 1388–521.)

AMENDMENTS

1990—Subsec. (d). Pub. L. 101–508 struck out subsec. (d) ''Special rule for loans'' which read as follows: ''For purposes of the application of subsection (b)(1), in the case of a loan by a trust described in section 401(a), the following rules shall apply with respect to a loan made before March 1, 1954, which would constitute a prohibited transaction if made on or after March 1, 1954:

''(1) If any part of the loan is repayable prior to December 31, 1955, the renewal of such part of the loan for a period not extending beyond December 31, 1955, on the same terms, shall not be considered a prohibited transaction.

''(2) If the loan is repayable on demand, the continuation of the loan without the receipt of adequate security and a reasonable rate of interest beyond December 31, 1955, shall be considered a prohibited transaction.''

1976—Subsecs. (a)(2), (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1974—Subsec. (a)(1)(A). Pub. L. 93–406, § 2003(b)(1), substituted ''section 501(c)(17)'' for ''section 501(c)(17) or (18)''.

Subsec. (a)(1)(B). Pub. L. 93–406, § 2003(b)(2), inserted ''which is referred to in section 4975(g)(2) or (3)''.

Subsec. (a)(2). Pub. L. 93–406, § 2003(b)(3), substituted ''or paragraph (1)(B)'' for ''or section 401''.

Subsec. (c). Pub. L. 93–406, § 2003(b)(4), substituted ''or subsection (a)(1)(B)'' for ''or section 401''.

Subsec. (g). Pub. L. 93–406, § 2003(b)(5), struck out subsec. (g) which covered trusts benefiting certain owner-employees.

1969—Subsec. (a)(1)(A). Pub. L. 91–172, §§ 101(j)(7), 121(b)(6)(B)(ii), redesignated subpar. (B) as (A) and inserted reference to section 501(c)(18). Former subpar. (A), referring to organizations described in section 501(c)(3) and to prohibited transactions engaged in after July 1, 1950, was struck out.

Subsec. (a)(1)(B). Pub. L. 91–172, § 101(j)(7), redesignated subpar. (C) as (B). Former subpar. (B), referring to organizations described in section 501(c)(17) was amended by addition of a reference to section 501(c)(18), and redesignated as subpar. (A).

Subsec. (a)(1)(C). Pub. L. 91–172, §§ 101(j)(7), 121(b)(6)(B)(i), added subpar. (C). Former subpar. (C), dealing with organizations described in section 401(a) and with prohibited transactions engaged in after Mar. 1, 1954, was redesignated as subpar. (B).

Subsec. (a)(2). Pub. L. 91–172, §§ 101(j)(8), 121(b)(6)(B)(ii), struck out reference to organizations described in section 501(c)(3), and inserted references to organizations described in section 501(c)(18).

Subsec. (b). Pub. L. 91–172, § 101(j)(14), redesignated subsec. (c) as (b). Former subsec. (b), setting out the organizations to which section applied, was struck out.

Subsec. (c). Pub. L. 91–172, §§ 101(j)(9), (14), 121(b)(6)(B)(ii), redesignated subsec. (d) as (c), struck out reference to organizations described in section 501(c)(3), and inserted reference to organizations described in section 501(c)(17). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 91–172, § 101(j)(10), (14), redesignated subsec. (g) as (d) and substituted ''subsection (b)(1)'' for ''subsection (c)(1).'' Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 91–172, § 101(j)(11), (14), redesignated subsec. (h) as (e), modified heading to read: ''Special rules'', substituted ''subsection (b)(1)'' for ''subsection (c)(1)'' in text preceding par. (1) and in par. (3), and in text preceding par. (1) struck out ''acquired by a trust described in section 401(a) or section 501(c)(17)''. Former subsec. (e), covering the disallowance of certain charitable deductions, was struck out.

Subsec. (f). Pub. L. 91–172, § 101(j)(12), (14), redesignated subsec. (i) as (f) and substituted ''Subsection (b)(1)'' for ''Subsection (c)(1)'' and ''subsection (e)'' for ''subsection (h)''. Former subsec. (f), defining ''gift or bequest'', was struck out.

Subsec. (g). Pub. L. 91–172, § 101(j)(13), (14), redesignated subsec. (j) as (g) and substituted ''subsection (b)'' for ''subsection (c)'' in par. (1). Former subsec. (g) redesignated (d).

Subsecs. (h) to (j). Pub. L. 91–172, § 101(j)(14), redesignated subsecs. (h), (i), and (j) as (e), (f), and (g), respectively. Former subsecs. (e) and (f) were struck out and former subsec. (g) was redesignated (d).

1962—Subsec. (j). Pub. L. 87–792 added subsec. (j).

1960—Subsec. (a)(1). Pub. L. 86–667, § 2(a)(1), denied exemption to an organization described in section 501(c)(17) if it has engaged in a prohibited transaction after Dec. 31, 1959.

Subsecs. (a)(2), (b), (d). Pub. L. 86–667, § 2(a)(2), (b), (c), included organizations described in section 501(c)(17).

Subsec. (h). Pub. L. 86–667, §2(d), included trusts described in section 501(c)(17).

1958—Subsec. (h). Pub. L. 85–866, §30(a), added subsec. (h).

Subsec. (i). Pub. L. 85–866, §30(b), added subsec. (i).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 effective Jan. 1, 1975, but with provision for an election to be exercised by an organization so as to constitute a savings clause with reference to the amendment, see section 2003(c) of Pub. L. 93–406, set out as an Effective Date; Savings Provisions note under section 4975 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(7)–(14) of Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 121(b)(6)(B) of Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91–172, set out as a note under section 511 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–792 applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87–792, set out as a note under section 22 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–667 applicable to taxable years beginning after Dec. 31, 1959, and in the case of loans, the amendments to this section made by Pub. L. 86–667 are applicable only to loans made, renewed, or continued after Dec. 31, 1959, see section 6 of Pub. L. 86–667, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85–866, title I, §30(c), Sept. 2, 1958, 72 Stat. 1631, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall apply with respect to taxable years ending after March 15, 1956. The amendment made by subsection (b) [amending this section] shall apply with respect to taxable years ending after the date of the enactment of this Act [Sept. 2, 1958], but only with respect to periods after such date.

''(2) EXCEPTIONS.—Nothing in subsection (a) [amending this section] shall be construed to make any transaction a prohibited transaction which, under announcements of the Internal Revenue Service made with respect to section 503(c)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] before the date of the enactment of this Act [Sept. 2, 1958], would not constitute a prohibited transaction. In the case of any bond, debenture, note, or certificate or other evidence of indebtedness acquired before the date of the enactment of this Act [Sept. 2, 1958], by a trust described in section 401(a) of such Code which is held on such date, paragraphs (2) and (3) of section 503(h) of such Code shall be treated as satisfied if such requirements would have been satisfied if such obligation had been acquired on such date of enactment [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.

§ 504. Status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying or because of political activities

(a) General rule

An organization which—

(1) was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

(2) is not an organization described in section 501(c)(3)—

(A) by reason of carrying on propaganda, or otherwise attempting, to influence legislation, or

(B) by reason of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office,

shall not at any time thereafter be treated as an organization described in section 501(c)(4).

(b) Regulations to prevent avoidance

The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

(c) Churches, etc.

Subsection (a) shall not apply to any organization which is a disqualified organization within the meaning of section 501(h)(5) (relating to churches, etc.) for the taxable year immediately preceding the first taxable year for which such organization is described in paragraph (2) of subsection (a).

(Added Pub. L. 94–455, title XIII, §1307(a)(2), Oct. 4, 1976, 90 Stat. 1721; amended Pub. L. 100–203, title X, §10711(b)(1), (2)(A), Dec. 22, 1987, 101 Stat. 1330–464.)

PRIOR PROVISIONS

A prior section 504, acts Aug. 16, 1954, ch. 736, 68A Stat. 168; Oct. 22, 1968, Pub. L. 90–630, §6(a), 82 Stat. 1330, related to denial of exemption, prior to repeal by Pub. L. 91–172, title I, §101(j)(15), Dec. 30, 1969, 83 Stat. 527. For effective date of repeal, see section 101(k)(2)(B) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

AMENDMENTS

1987—Pub. L. 100–203, §10711(b)(2)(A), substituted ''substantial lobbying or because of political activities'' for ''substantial lobbying'' in section catchline.

Subsec. (a)(2). Pub. L. 100–203, §10711(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''is not an organization described in section 501(c)(3) by reason of carrying on propaganda, or otherwise attempting, to influence legislation,''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable with respect to activities after Dec. 22, 1987, see section 10711(c) of Pub. L. 100–203, set out as a note under section 170 of this title.

CONSTRUCTION OF AMENDMENT

Pub. L. 94–455, title XIII, §1307(a)(3), Oct. 4, 1976, 90 Stat. 1722, provided that: ''It is the intent of Congress

that enactment of this section [amending section 501 and enacting section 504 of this title] is not to be regarded in any way as an approval or disapproval of the decision of the Court of Appeals for the Tenth Circuit in Christian Echoes National Ministry, Inc. versus United States, 470 F.2d 849 (1972), or of the reasoning in any of the opinions leading to that decision.''

§ 505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c)

(a) Certain requirements must be met in the case of organizations described in paragraph (9) or (20) of section 501(c)

(1) Voluntary employees' beneficiary associations, etc.

An organization described in paragraph (9) or (20) of subsection (c) of section 501 which is part of a plan shall not be exempt from tax under section 501(a) unless such plan meets the requirements of subsection (b) of this section.

(2) Exception for collective bargaining agreements

Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that such plan was the subject of good faith bargaining between such employee representatives and such employer or employers.

(b) Nondiscrimination requirements

(1) In general

Except as otherwise provided in this subsection, a plan meets the requirements of this subsection only if—

(A) each class of benefits under the plan is provided under a classification of employees which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated individuals, and

(B) in the case of each class of benefits, such benefits do not discriminate in favor of employees who are highly compensated individuals.

A life insurance, disability, severance pay, or supplemental unemployment compensation benefit shall not be considered to fail to meet the requirements of subparagraph (B) merely because the benefits available bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of employees covered by the plan.

(2) Exclusion of certain employees

For purposes of paragraph (1), there may be excluded from consideration—

(A) employees who have not completed 3 years of service,

(B) employees who have not attained age 21,

(C) seasonal employees or less than half-time employees,

(D) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and 1 or more employers which the Secretary finds to be a collective bargaining agreement if the class of benefits involved was the subject of good faith bargaining between such employee representatives and such employer or employers, and

(E) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

(3) Application of subsection where other nondiscrimination rules provided

In the case of any benefit for which a provision of this chapter other than this subsection provides nondiscrimination rules, paragraph (1) shall not apply but the requirements of this subsection shall be met only if the nondiscrimination rules so provided are satisfied with respect to such benefit.

(4) Aggregation rules

At the election of the employer, 2 or more plans of such employer may be treated as 1 plan for purposes of this subsection.

(5) Highly compensated individual

For purposes of this subsection, the determination as to whether an individual is a highly compensated individual shall be made under rules similar to the rules for determining whether an individual is a highly compensated employee (within the meaning of section 414(q)).

(6) Compensation

For purposes of this subsection, the term ''compensation'' has the meaning given such term by section 414(s).

(7) Compensation limit

A plan shall not be treated as meeting the requirements of this subsection unless under the plan the annual compensation of each employee taken into account for any year does not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time, and by the same amount, as any adjustment under section 401(a)(17)(B). This paragraph shall not apply in determining whether the requirements of section 79(d) are met.

(c) Requirement that organization notify Secretary that it is applying for tax-exempt status

(1) In general

An organization shall not be treated as an organization described in paragraph (9), (17), or (20) of section 501(c)—

(A) unless it has given notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of such status, or

(B) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary by regulations for giving notice under this subsection.

(2) Special rule for existing organizations

In the case of any organization in existence on July 18, 1984, the time for giving notice under paragraph (1) shall not expire before the date 1 year after such date of the enactment.

(Added Pub. L. 98–369, div. A, title V, § 513(a), July 18, 1984, 98 Stat. 863; amended Pub. L. 99–514, title XI, §§ 1114(b)(16), 1151(e)(2)(B), (g)(6), (j)(3), title XVIII, §§ 1851(c), 1899A(16), Oct. 22, 1986, 100 Stat. 2452, 2506–2508, 2863, 2959; Pub. L. 100–647, title I, § 1011B(a)(27)(C), (31)(B), (32), Nov. 10, 1988, 102 Stat. 3487, 3488; Pub. L. 101–140, title II, §§ 203(a)(1), (2), 204(c), Nov. 8, 1989, 103 Stat. 830, 833; Pub. L. 103–66, title XIII, § 13212(c), Aug. 10, 1993, 107 Stat. 472; Pub. L. 107–16, title VI, § 611(c)(1), June 7, 2001, 115 Stat. 97.)

AMENDMENTS

2001—Subsec. (b)(7). Pub. L. 107–16 substituted ''$200,000'' for ''$150,000'' in two places.

1993—Subsec. (b)(7). Pub. L. 103–66 substituted ''Compensation limit'' for ''$200,000 compensation limit'' in heading and ''exceed $150,000. The Secretary shall adjust the $150,000 amount at the same time, and by the same amount, as any adjustment under section 401(a)(17)(B).'' for ''exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner as under section 415(d).'' in text.

1989—Subsec. (a)(1). Pub. L. 101–140, § 203(a)(2), amended par. (1) to read as if amendments by Pub. L. 100–647, § 1011B(a)(27)(C), had not been enacted, see 1988 Amendment note below.

Subsec. (b)(2). Pub. L. 101–140, § 203(a)(2), amended par. (2) to read as if amendments by Pub. L. 100–647, § 1011B(a)(31)(B), had not been enacted, see 1988 Amendment note below.

Pub. L. 101–140, § 203(a)(1), amended par. (2) to read as if amendments by Pub. L. 99–514, § 1151(g)(6), had not been enacted, see 1986 Amendment note below.

Subsec. (b)(7). Pub. L. 101–140, § 204(c), inserted at end ''This paragraph shall not apply in determining whether the requirements of section 79(d) are met.''

1988—Subsec. (a)(1). Pub. L. 100–647, § 1011B(a)(27)(C), inserted at end ''This paragraph shall not apply to any organization by reason of a failure to meet the requirements of subsection (b) with respect to a benefit to which section 89 applies.''

Subsec. (b)(2). Pub. L. 100–647, § 1011B(a)(31)(B), substituted ''there shall be'' for ''there may be'' and ''who are'' for ''who may be''.

Subsec. (b)(7). Pub. L. 100–647, § 1011B(a)(32), added par. (7).

1986—Subsec. (a)(1). Pub. L. 99–514, § 1851(c)(1), struck out ''of an employer'' before ''shall''.

Subsec. (a)(2). Pub. L. 99–514, § 1851(c)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to 1 or more collective bargaining agreements between 1 or more employee organizations and 1 or more employers.''

Subsec. (b)(1). Pub. L. 99–514, § 1851(c)(2), (3), substituted ''as otherwise provided in this subsection'' for ''as provided in paragraph (2)'' in introductory provision, and in subpar. (B) substituted ''highly compensated individuals'' for ''highly compensated employees''.

Subsec. (b)(2). Pub. L. 99–514, § 1151(g)(6), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For purposes of paragraph (1), there may be excluded from consideration—

''(A) employees who have not completed 3 years of service,

''(B) employees who have not attained age 21,

''(C) seasonal employees or less than half-time employees,

''(D) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and 1 or more employers which the Secretary finds to be a collective bargaining agreement if the class of benefits involved was the subject of good faith bargaining between such employee representatives and such employer or employers, and

''(E) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).''

Subsec. (b)(4). Pub. L. 99–514, § 1151(e)(2)(B), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''For purposes of this subsection—

''(A) AGGREGATION OF PLANS.—At the election of the employer, 2 or more plans of such employer may be treated as 1 plan.

''(B) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply. For purposes of the preceding sentence, section 414(n) shall be applied without regard to paragraph (5).''

Subsec. (b)(5). Pub. L. 99–514, § 1114(b)(16), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''For purposes of this subsection, the term 'highly compensated individual' has the meaning given such term by section 105(h)(5). For purposes of the preceding sentence, section 105(h)(5) shall be applied by substituting '10 percent' for '25 percent'.''

Subsec. (b)(6). Pub. L. 99–514, § 1151(j)(3), added par. (6).

Subsec. (c)(2). Pub. L. 99–514, § 1899A(16), substituted ''July 18, 1984'' for ''the date of the enactment of the Tax Reform Act of 1984''.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–16 applicable to years beginning after Dec. 31, 2001, see section 611(i)(1) of Pub. L. 107–16, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable, except as otherwise provided, to benefits accruing in plan years beginning after Dec. 31, 1993, see section 13212(d) of Pub. L. 103–66, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 203(a)(1), (2) of Pub. L. 101–140 effective as if included in section 1151 of Pub. L. 99–514, see section 203(c) of Pub. L. 101–140, set out as a note under section 79 of this title.

Pub. L. 101–140, title II, § 204(d)(4), Nov. 8, 1989, 103 Stat. 833, provided that: ''The amendment made by subsection (c) [amending this section] shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100–647].''

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 1114(b)(16) of Pub. L. 99–514 applicable to years beginning after Dec. 31, 1987, see section 1114(c)(2) of Pub. L. 99–514, set out as a note under section 414 of this title.

Amendment by section 1151(e)(2)(B), (g)(6), (j)(3) of Pub. L. 99–514 applicable, with certain qualifications and exceptions, to years beginning after Dec. 31, 1988, see section 1151(k) of Pub. L. 99–514, as amended, set out as a note under section 79 of this title.

Amendment by section 1851(c) 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

Pub. L. 98–369, div. A, title V, § 513(c), July 18, 1984, 98 Stat. 865, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this section] shall apply to years beginning after December 31, 1984.

''(2) TREATMENT OF CERTAIN BENEFITS IN PAY STATUS AS OF JANUARY 1, 1985.—For purposes of determining whether a plan meets the requirements of section 505(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)), there may (at the election of the employer) be excluded from consideration all disability or severance payments payable to individuals who are in pay status as of January 1, 1985. The preceding sentence shall not apply to any payment to the extent such payment is increased by any plan amendment adopted after June 22, 1984.''

REGULATIONS

Secretary of the Treasury or his delegate to issue before Feb. 1, 1988, final regulations to carry out amendments made by section 1114 of Pub. L. 99–514, see section 1141 of Pub. L. 99–514, set out as a note under section 401 of this title.

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99–514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101–136 to be used to implement or enforce section 1151 of Pub. L. 99–514 or the amendments made by such section, see section 528 of Pub. L. 101–136, set out as a note under section 89 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.

PART II—PRIVATE FOUNDATIONS

AMENDMENTS

1969—Pub. L. 91–172, title I, § 101(a), Dec. 30, 1969, 83 Stat. 492, added part heading and analysis for part II.

§ 507. Termination of private foundation status

(a) General rule

Except as provided in subsection (b), the status of any organization as a private foundation shall be terminated only if—

(1) such organization notifies the Secretary (at such time and in such manner as the Secretary may by regulations prescribe) of its intent to accomplish such termination, or

(2)(A) with respect to such organization, there have been either willful repeated acts (or failures to act), or a willful and flagrant act (or failure to act), giving rise to liability for tax under chapter 42, and

(B) the Secretary notifies such organization that, by reason of subparagraph (A), such organization is liable for the tax imposed by subsection (c),

and either such organization pays the tax imposed by subsection (c) (or any portion not abated under subsection (g)) or the entire amount of such tax is abated under subsection (g).

(b) Special rules

(1) Transfer to, or operation as, public charity

The status as a private foundation of any organization, with respect to which there have not been either willful repeated acts (or failures to act) or a willful and flagrant act (or failure to act) giving rise to liability for tax under chapter 42, shall be terminated if—

(A) such organization distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months immediately preceding such distribution, or

(B)(i) such organization meets the requirements of paragraph (1), (2), or (3) of section 509(a) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969, or for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969,

(ii) such organization notifies the Secretary (in such manner as the Secretary may by regulations prescribe) before the commencement of such 12-month or 60-month period (or before the 90th day after the day on which regulations first prescribed under this subsection become final) that it is terminating its private foundation status, and

(iii) such organization establishes to the satisfaction of the Secretary (in such manner as the Secretary may by regulations prescribe) immediately after the expiration of such 12-month or 60-month period that such organization has complied with clause (i).

If an organization gives notice under subparagraph (B)(ii) of the commencement of a 60-month period and such organization fails to meet the requirements of paragraph (1), (2), or (3) of section 509(a) for the entire 60-month period, this part and chapter 42 shall not apply to such organization for any taxable year within such 60-month period for which it does meet such requirements.

(2) Transferee foundations

For purposes of this part, in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee foundation shall not be treated as a newly created organization.

(c) Imposition of tax

There is hereby imposed on each organization which is referred to in subsection (a) a tax equal to the lower of—

(1) the amount which the private foundation substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from the section 501(c)(3) status of such foundation, or

(2) the value of the net assets of such foundation.

(d) Aggregate tax benefit

(1) In general

For purposes of subsection (c), the aggregate tax benefit resulting from the section 501(c)(3) status of any private foundation is the sum of—

(A) the aggregate increases in tax under chapters 1, 11, and 12 (or the corresponding provisions of prior law) which would have been imposed with respect to all substantial contributors to the foundation if deductions for all contributions made by such contributors to the foundation after February 28, 1913, had been disallowed, and

(B) the aggregate increases in tax under chapter 1 (or the corresponding provisions of prior law) which would have been imposed with respect to the income of the private foundation for taxable years beginning after December 31, 1912, if (i) it had not been exempt from tax under section 501(a) (or the corresponding provisions of prior law), and (ii) in the case of a trust, deductions under section 642(c) (or the corresponding provisions of prior law) had been limited to 20 percent of the taxable income of the trust (computed without the benefit of section 642(c) but with the benefit of section 170(b)(1)(A)), and

(C) interest on the increases in tax determined under subparagraphs (A) and (B) from the first date on which each such increase would have been due and payable to the date on which the organization ceases to be a private foundation.

(2) Substantial contributor

(A) Definition

For purposes of paragraph (1), the term ''substantial contributor'' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the private foundation, if such amount is more than 2 percent of the total contributions and bequests received by the foundation before the close of the taxable year of the foundation in which the contribution or bequest is received by the foundation from such person. In the case of a trust, the term ''substantial contributor'' also means the creator of the trust.

(B) Special rules

For purposes of subparagraph (A)—

(i) each contribution or bequest shall be valued at fair market value on the date it was received,

(ii) in the case of a foundation which is in existence on October 9, 1969, all contributions and bequests received on or before such date shall be treated (except for purposes of clause (i)) as if received on such date,

(iii) an individual shall be treated as making all contributions and bequests made by his spouse, and

(iv) any person who is a substantial contributor on any date shall remain a substantial contributor for all subsequent periods.

(C) Person ceases to be substantial contributor in certain cases

(i) In general

A person shall cease to be treated as a substantial contributor with respect to any private foundation as of the close of any taxable year of such foundation if—

(I) during the 10-year period ending at the close of such taxable year such person (and all related persons) have not made any contribution to such private foundation,

(II) at no time during such 10-year period was such person (or any related person) a foundation manager of such private foundation, and

(III) the aggregate contributions made by such person (and related persons) are determined by the Secretary to be insignificant when compared to the aggregate amount of contributions to such foundation by one other person.

For purposes of subclause (III), appreciation on contributions while held by the foundation shall be taken into account.

(ii) Related person

For purposes of clause (i), the term ''related person'' means, with respect to any person, any other person who would be a disqualified person (within the meaning of section 4946) by reason of his relationship to such person. In the case of a contributor which is a corporation, the term also includes any officer or director of such corporation.

(3) Regulations

For purposes of this section, the determination as to whether and to what extent there would have been any increase in tax shall be made in accordance with regulations prescribed by the Secretary.

(e) Value of assets

For purposes of subsection (c), the value of the net assets shall be determined at whichever time such value is higher: (1) the first day on which action is taken by the organization which culminates in its ceasing to be a private foundation, or (2) the date on which it ceases to be a private foundation.

(f) Liability in case of transfers of assets from private foundation

For purposes of determining liability for the tax imposed by subsection (c) in the case of assets transferred by the private foundation, such tax shall be deemed to have been imposed on the first day on which action is taken by the organization which culminates in its ceasing to be a private foundation.

(g) Abatement of taxes

The Secretary may abate the unpaid portion of the assessment of any tax imposed by subsection (c), or any liability in respect thereof, if—

(1) the private foundation distributes all of its net assets to one or more organizations de-

scribed in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months, or

(2) following the notification prescribed in section 6104(c) to the appropriate State officer, such State officer within one year notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that corrective action has been initiated pursuant to State law to insure that the assets of such private foundation are preserved for such charitable or other purposes specified in section 501(c)(3) as may be ordered or approved by a court of competent jurisdiction, and upon completion of the corrective action, the Secretary receives certification from the appropriate State officer that such action has resulted in such preservation of assets.

(Added Pub. L. 91–172, title I, § 101(a), Dec. 30, 1969, 83 Stat. 492; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title III, § 313(a), July 18, 1984, 98 Stat. 786.)

AMENDMENTS

1984—Subsec. (d)(2)(C). Pub. L. 98–369 added subpar. (C).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–369, div. A, title III, § 313(b), July 18, 1984, 98 Stat. 787, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1984.''

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as a note under section 4940 of this title.

APPLICABILITY TO DETERMINATION OF STATUS AS SUBSTANTIAL CONTRIBUTOR FOR PURPOSES OF TAXES ON SELF-DEALING OF CONTRIBUTIONS MADE PRIOR TO OCTOBER 9, 1969

Pub. L. 95–170, § 3, Nov. 12, 1977, 91 Stat. 1352, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''In determining whether a person is a substantial contributor within the meaning of section 507(d)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for purposes of applying section 4941 of such Code (relating to taxes on self-dealing), contributions made before October 9, 1969, which—

''(1) were made on account of or in lieu of payments required under a lease in effect before such date, and

''(2) were coincident with or by reason of the reduction in the required payments under such lease,

shall not be taken into account. For purposes of applying section 507(d)(2)(B)(iv) of such Code, the preceding sentence shall be treated as having taken effect on January 1, 1970.''

§ 508. Special rules with respect to section 501(c)(3) organizations

(a) New organizations must notify Secretary that they are applying for recognition of section 501(c)(3) status

Except as provided in subsection (c), an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3)—

(1) unless it has given notice to the Secretary in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of such status, or

(2) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary by regulations for giving notice under this subsection.

(b) Presumption that organizations are private foundations

Except as provided in subsection (c), any organization (including an organization in existence on October 9, 1969) which is described in section 501(c)(3) and which does not notify the Secretary, at such time and in such manner as the Secretary may by regulations prescribe, that it is not a private foundation shall be presumed to be a private foundation.

(c) Exceptions

(1) Mandatory exceptions

Subsections (a) and (b) shall not apply to—

(A) churches, their integrated auxiliaries, and conventions or associations of churches, or

(B) any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000.

(2) Exceptions by regulations

The Secretary may by regulations exempt (to the extent and subject to such conditions as may be prescribed in such regulations) from the provisions of subsection (a) or (b) or both—

(A) educational organizations described in section 170(b)(1)(A)(ii), and

(B) any other class of organizations with respect to which the Secretary determines that full compliance with the provisions of subsections (a) and (b) is not necessary to the efficient administration of the provisions of this title relating to private foundations.

(d) Disallowance of certain charitable, etc., deductions

(1) Gift or bequest to organizations subject to section 507(c) tax

No gift or bequest made to an organization upon which the tax provided by section 507(c) has been imposed shall be allowed as a deduction under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made—

(A) by any person after notification is made under section 507(a), or

(B) by a substantial contributor (as defined in section 507(d)(2)) in his taxable year which includes the first day on which action is taken by such organization which culminates in the imposition of tax under section 507(c) and any subsequent taxable year.

(2) Gift or bequest to taxable private foundation, section 4947 trust, etc.

No gift or bequest made to an organization shall be allowed as a deduction under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made—

(A) to a private foundation or a trust described in section 4947 in a taxable year for which it fails to meet the requirements of

subsection (e) (determined without regard to subsection (e)(2)), or

(B) to any organization in a period for which it is not treated as an organization described in section 501(c)(3) by reason of subsection (a).

(3) Exception

Paragraph (1) shall not apply if the entire amount of the unpaid portion of the tax imposed by section 507(c) is abated by the Secretary under section 507(g).

(e) Governing instruments

(1) General rule

A private foundation shall not be exempt from taxation under section 501(a) unless its governing instrument includes provisions the effects of which are—

(A) to require its income for each taxable year to be distributed at such time and in such manner as not to subject the foundation to tax under section 4942, and

(B) to prohibit the foundation from engaging in any act of self-dealing (as defined in section 4941(d)), from retaining any excess business holdings (as defined in section 4943(c)), from making any investments in such manner as to subject the foundation to tax under section 4944, and from making any taxable expenditures (as defined in section 4945(d)).

(2) Special rules for existing private foundations

In the case of any organization organized before January 1, 1970, paragraph (1) shall not apply—

(A) to any period after December 31, 1971, during the pendency of any judicial proceeding begun before January 1, 1972, by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of paragraph (1), and

(B) to any period after the termination of any judicial proceeding described in subparagraph (A) during which its governing instrument or any other instrument does not permit it to meet the requirements of paragraph (1).

(f) Additional provisions relating to sponsoring organizations

A sponsoring organization (as defined in section 4966(d)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section 4966(d)(2)) and the manner in which such organization plans to operate such funds.

(Added Pub. L. 91–172, title I, §101(a), Dec. 30, 1969, 83 Stat. 494; amended Pub. L. 94–455, title XIX, §§1901(a)(71), (b)(8)(E), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1776, 1794, 1834; Pub. L. 108–357, title IV, §413(c)(30), Oct. 22, 2004, 118 Stat. 1509; Pub. L. 109–280, title XII, §1235(b)(1), Aug. 17, 2006, 120 Stat. 1101.)

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–280, which directed the addition of subsec. (f) to section 508, without specifying the act to be amended, was executed by making the addition to this section, which is section 508 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2004—Subsec. (d)(1), (2). Pub. L. 108–357 struck out ''556(b)(2),'' after ''545(b)(2),''.

1976—Subsec. (a). Pub. L. 94–455, §1901(a)(71)(A), struck out last sentence providing that for purposes of paragraph (2), the time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final.

Subsec. (a)(1), (2). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' in three places after ''Secretary''.

Subsec. (b). Pub. L. 94–455, §§1901(a)(71)(A), 1906(b)(13)(A), struck out ''or his delegate'' in two places after ''Secretary'' and ''The time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final'' after ''a private foundation''.

Subsec. (c)(2). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c)(2)(A). Pub. L. 94–455, §1901(b)(8)(E), substituted ''(A) educational organizations described in section 170(b)(1)(A)(ii), and'' for ''(A) educational organizations which normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where their educational activities are regularly carried on; and'' after ''(b) or both—''.

Subsec. (c)(2)(B). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (d)(2)(A). Pub. L. 94–455, §1901(a)(71)(C), substituted ''(e)(2)'' for ''(e)(2)(B) and (C)'' after ''regard to subsection''.

Subsec. (d)(3). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (e)(2)(A). Pub. L. 94–455, §1901(a)(71)(B), struck out subpar. (A) relating to taxable years beginning before 1972, and redesignated subpars. (B) and (C) as (A) and (B), respectively.

Subsec. (e)(2)(B). Pub. L. 94–455, §1901(a)(71)(B), redesignated subpar. (C) as (B) and substituted ''(A)'' for ''(B)'' after ''described in subparagraph''.

Subsec. (e)(2)(C). Pub. L. 94–455, §1901(a)(71)(B), redesignated subpar. (C) as (B).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title XII, §1235(b)(2), Aug. 17, 2006, 120 Stat. 1102, provided that: ''The amendment made by this subsection [amending this section] shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act [Aug. 17, 2006].''

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 1976 AMENDMENT

Amendment by section 1901(a)(71)(A)–(C), (b)(8)(E) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1970, except that subsecs. (a), (b), and (c) effective Oct. 9, 1969, see section 101(k)(1), (3) of Pub. L. 91–172, set out as a note under section 4940 of this title.

SAVINGS PROVISION

Limits on inclusion of provisions inconsistent with subsec. (e) of this section in governing instruments, see

section 101(*l*)(6) of Pub. L. 91–172, set out as a note under section 4940 of this title.

§ 509. Private foundation defined

(a) General rule

For purposes of this title, the term ''private foundation'' means a domestic or foreign organization described in section 501(c)(3) other than—

(1) an organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii));

(2) an organization which—

(A) normally receives more than one-third of its support in each taxable year from any combination of—

(i) gifts, grants, contributions, or membership fees, and

(ii) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), not including such receipts from any person, or from any bureau or similar agency of a governmental unit (as described in section 170(c)(1)), in any taxable year to the extent such receipts exceed the greater of $5,000 or 1 percent of the organization's support in such taxable year,

from persons other than disqualified persons (as defined in section 4946) with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), and

(B) normally receives not more than one-third of its support in each taxable year from the sum of—

(i) gross investment income (as defined in subsection (e)) and

(ii) the excess (if any) of the amount of the unrelated business taxable income (as defined in section 512) over the amount of the tax imposed by section 511;

(3) an organization which—

(A) is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in paragraph (1) or (2),

(B) is—

(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

(ii) supervised or controlled in connection with one or more such organizations, or

(iii) operated in connection with one or more such organizations, and

(C) is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in paragraph (1) or (2); and

(4) an organization which is organized and operated exclusively for testing for public safety.

For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an organization described in section 501(c)(4), (5), or (6) which would be described in paragraph (2) if it were an organization described in section 501(c)(3).

(b) Continuation of private foundation status

For purposes of this title, if an organization is a private foundation (within the meaning of subsection (a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507.

(c) Status of organization after termination of private foundation status

For purposes of this part, an organization the status of which as a private foundation is terminated under section 507 shall (except as provided in section 507(b)(2)) be treated as an organization created on the day after the date of such termination.

(d) Definition of support

For purposes of this part and chapter 42, the term ''support'' includes (but is not limited to)—

(1) gifts, grants, contributions, or membership fees,

(2) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business (within the meaning of section 513),

(3) net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business,

(4) gross investment income (as defined in subsection (e)),

(5) tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization, and

(6) the value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in section 170(c)(1) to an organization without charge.

Such term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset, or the value of exemption from any Federal, State, or local tax or any similar benefit.

(e) Definition of gross investment income

For purposes of subsection (d), the term ''gross investment income'' means the gross amount of income from interest, dividends, payments with respect to securities loans (as defined in section 512(a)(5)), rents, and royalties, but not including any such income to the extent included in computing the tax imposed by section 511. Such term shall also include income from sources similar to those in the preceding sentence.

(f) Requirements for supporting organizations

(1) Type III supporting organizations

For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

(A) Responsiveness

For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

(B) Foreign supported organizations

(i) In general

The organization is not operated in connection with any supported organization that is not organized in the United States.

(ii) Transition rule for existing organizations

If the organization is operated in connection with an organization that is not organized in the United States on the date of the enactment of this subsection, clause (i) shall not apply until the first day of the third taxable year of the organization beginning after the date of the enactment of this subsection.

(2) Organizations controlled by donors

(A) In general

For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

(B) Person described

A person is described in this subparagraph if, with respect to a supported organization of an organization described in subparagraph (A), such person is—

(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who directly or indirectly controls, either alone or together with persons described in clauses (ii) and (iii), the governing body of such supported organization,

(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting ''persons described in clause (i) or (ii) of section 509(f)(2)(B)'' for ''persons described in subparagraph (A) or (B) of paragraph (1)'' in subparagraph (A)(i) thereof).

(3) Supported organization

For purposes of this subsection, the term ''supported organization'' means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

(B) with respect to which the organization performs the functions of, or carries out the purposes of.

(Added Pub. L. 91–172, title I, §101(a), Dec. 30, 1969, 83 Stat. 496; amended Pub. L. 94–81, §3(a), Aug. 9, 1975, 89 Stat. 418; Pub. L. 95–345, §2(a)(1), Aug. 15, 1978, 92 Stat. 481; Pub. L. 109–280, title XII, §§1221(a)(2), 1241(a), (b), Aug. 17, 2006, 120 Stat. 1089, 1102.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (f)(1)(A), (B)(ii), is the date of enactment of Pub. L. 109–280, which was approved Aug. 17, 2006.

CODIFICATION

Sections 1221(a)(2) and 1241(a), (b) of Pub. L. 109–280, which directed the amendment of section 509 without specifying the act to be amended, were executed to this section, which is section 509 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2006—Subsec. (a)(3)(B). Pub. L. 109–280, §1241(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''is operated, supervised, or controlled by or in connection with one or more organizations described in paragraph (1) or (2), and''. See Codification note above.

Subsec. (e). Pub. L. 109–280, §1221(a)(2), inserted at end ''Such term shall also include income from sources similar to those in the preceding sentence.'' See Codification note above.

Subsec. (f). Pub. L. 109–280, §1241(b), added subsec. (f). See Codification note above.

1978—Subsec. (e). Pub. L. 95–345 inserted provision relating to payments with respect to securities loans.

1975—Subsec. (a)(2)(B). Pub. L. 94–81 designated existing provisions as cl. (i) and added cl. (ii).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title XII, §1221(c), Aug. 17, 2006, 120 Stat. 1089, provided that: ''The amendments made by this section [amending this section and section 4940 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 17, 2006].''

Pub. L. 109–280, title XII, §1241(e), Aug. 17, 2006, 120 Stat. 1103, provided that:

''(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 2006].

''(2) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—Subsection (c) [enacting provisions set out as a note below] shall take effect—

''(A) in the case of trusts operated in connection with an organization described in paragraph (1) or (2) of section 509(a) of the Internal Revenue Code of 1986 on the date of the enactment of this Act, on the date that is one year after the date of the enactment of this Act, and

''(B) in the case of any other trust, on the date of the enactment of this Act.''

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–345, §2(e), Aug. 15, 1978, 92 Stat. 483, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [enacting section 1058 of this title and amending sections 509, 512, 514, 851, and 4940 of this title] apply with respect to—

''(1) amounts received after December 31, 1976, as payments with respect to securities loans (as defined in section 512(a)(5) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]), and

''(2) transfers of securities, under agreements described in section 1058 of such Code, occurring after such date.''

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94–81, § 3(b), Aug. 9, 1975, 89 Stat. 418, provided that: ''The amendment made by this section [amending this section] shall apply to unrelated business taxable income derived from trades and businesses which are acquired by the organization after June 30, 1975.''

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as a note under section 4940 of this title.

SAVINGS PROVISION

Applicability of subsec. (a) of this section to testamentary trusts, see section 101(*l*)(7) of Pub. L. 91–172, set out as a note under section 4940 of this title.

CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS

Pub. L. 109–280, title XII, § 1241(c), Aug. 17, 2006, 120 Stat. 1103, provided that: ''For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

''(1) it is a charitable trust under State law,

''(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

''(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.''

PAYOUT REQUIREMENTS FOR TYPE III SUPPORTING ORGANIZATIONS

Pub. L. 109–280, title XII, § 1241(d), Aug. 17, 2006, 120 Stat. 1103, provided that:

''(1) IN GENERAL.—The Secretary of the Treasury shall promulgate new regulations under section 509 of the Internal Revenue Code of 1986 on payments required by type III supporting organizations which are not functionally integrated type III supporting organizations. Such regulations shall require such organizations to make distributions of a percentage of either income or assets to supported organizations (as defined in section 509(f)(3) of such Code) in order to ensure that a significant amount is paid to such organizations.

''(2) TYPE III SUPPORTING ORGANIZATION; FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—For purposes of paragraph (1), the terms 'type III supporting organization' and 'functionally integrated type III supporting organization' have the meanings given such terms under subparagraphs (A) and (B) section 4943(f)(5) of the Internal Revenue Code of 1986 (as added by this Act), respectively.''

PART III—TAXATION OF BUSINESS INCOME OF CERTAIN EXEMPT ORGANIZATIONS

Sec.

AMENDMENTS

1969—Pub. L. 91–172, title I, §§ 101(a), 121(d)(3)(C), Dec. 30, 1969, 83 Stat. 492, 548, substituted ''PART III'' for ''PART II'' as part designation and substituted ''Unrelated debt-financed income'' for ''Business leases'' in item 514.

[1] So in original. Does not conform to section catchline.

§ 511. Imposition of tax on unrelated business income of charitable, etc., organizations

(a) Charitable, etc., organizations taxable at corporation rates

(1) Imposition of tax

There is hereby imposed for each taxable year on the unrelated business taxable income (as defined in section 512) of every organization described in paragraph (2) a tax computed as provided in section 11. In making such computation for purposes of this section, the term ''taxable income'' as used in section 11 shall be read as ''unrelated business taxable income''.

(2) Organizations subject to tax

(A) Organizations described in sections 401(a) and 501(c)

The tax imposed by paragraph (1) shall apply in the case of any organization (other than a trust described in subsection (b) or an organization described in section 501(c)(1)) which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a).

(B) State colleges and universities

The tax imposed by paragraph (1) shall apply in the case of any college or university which is an agency or instrumentality of any government or any political subdivision thereof, or which is owned or operated by a government or any political subdivision thereof, or by any agency or instrumentality of one or more governments or political subdivisions. Such tax shall also apply in the case of any corporation wholly owned by one or more such colleges or universities.

(b) Tax on charitable, etc., trusts

(1) Imposition of tax

There is hereby imposed for each taxable year on the unrelated business taxable income of every trust described in paragraph (2) a tax computed as provided in section 1(e). In making such computation for purposes of this section, the term ''taxable income'' as used in section 1 shall be read as ''unrelated business taxable income'' as defined in section 512.

(2) Charitable, etc., trusts subject to tax

The tax imposed by paragraph (1) shall apply in the case of any trust which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a) and which, if it were not for such exemption, would be subject to subchapter J (sec. 641 and following, relating to estates, trusts, beneficiaries, and decedents).

(c) Special rule for section 501(c)(2) corporations

If a corporation described in section 501(c)(2)—

(1) pays any amount of its net income for a taxable year to an organization exempt from taxation under section 501(a) (or which would pay such an amount but for the fact that the expenses of collecting its income exceed its income), and

(2) such corporation and such organization file a consolidated return for the taxable year,

such corporation shall be treated, for purposes of the tax imposed by subsection (a), as being organized and operated for the same purposes as such organization, in addition to the purposes described in section 501(c)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 169; Pub. L. 86–667, § 3, July 14, 1960, 74 Stat. 535; Pub. L. 89–352, § 2, Feb. 2, 1966, 80 Stat. 4; Pub. L. 91–172, title I, § 121(a)(1)–(3), title III, § 301(b)(8), title VIII, § 803(d)(2), Dec. 30, 1969, 83 Stat. 536, 585, 684; Pub. L. 95–30, title I, § 101(d)(6), May 23, 1977, 91 Stat. 133; Pub. L. 95–600, title III, § 301(b)(5), title IV, § 421(e)(3), Nov. 6, 1978, 92 Stat. 2821, 2876; Pub. L. 97–248, title II, § 201(d)(5), formerly § 201(c)(5), Sept. 3, 1982, 96 Stat. 419, renumbered § 201(d)(5), Pub. L. 97–448, title III, § 306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 100–647, title I, § 1007(g)(6), Nov. 10, 1988, 102 Stat. 3435.)

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–647 struck out subsec. (d) which read as follows: ''TAX PREFERENCES.—

''(1) ORGANIZATIONS TAXABLE AT CORPORATE RATES.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (a), the tax imposed by section 56 shall apply to such organizations with respect to items of tax preference which enter into the computation of unrelated business taxable income in the same manner as section 56 applies to corporations.

''(2) ORGANIZATIONS TAXABLE AS TRUSTS.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (b), the taxes imposed by section 55 shall apply to such organization with respect to items of tax preference which enter into the computation of unrelated business taxable income.''

1982—Subsec. (d)(2). Pub. L. 97–248 substituted ''section 55'' for ''section 55 and section 56 (as the case may be)''.

1978—Subsec. (a)(1). Pub. L. 95–600, § 301(b)(5)(A), substituted ''a tax'' for ''a normal tax and a surtax''.

Subsec. (a)(2). Pub. L. 95–600, § 301(b)(5)(B), substituted ''tax'' for ''taxes'' wherever appearing.

Subsec. (d). Pub. L. 95–600, § 421(e)(3), substituted provisions relating to organizations taxable at corporate rates and organizations taxable as trusts, for provisions relating to imposition of the tax imposed by section 56 of this title to an organization subject to tax under this section for tax preferences computed in unrelated business taxable income.

1977—Subsec. (b)(1). Pub. L. 95–30 substituted ''section 1(e)'' for ''section 1(d)''.

1969—Subsec. (a)(2)(A). Pub. L. 91–172, § 121(a)(1), removed reference, in heading, to pars. (2), (3), (5), (6), (14)(B), (C), and (17) of section 501(c) of this title, and, in text, struck out exemptions to churches, conventions, or associations of churches, from the imposition of tax on their unrelated business income, made corporations organized under section 501(c)(1) of this title (i.e. organized under Acts of Congress), exempt from such tax, but made all such exemptions subservient to the exceptions in part II and section 501(a) of this title.

Subsec. (b)(1). Pub. L. 91–172, § 803(d)(2), substituted section 1(d) for section 1 in reference to section under which the computation of the tax dealing with the imposition of tax on the unrelated business taxable income of trusts, is computed.

Subsec. (b)(2). Pub. L. 91–172, § 121(a)(2), pluralized ''trust'' in heading and in text made the imposition of tax on the unrelated business income of exempt trusts subject to provisions of part II, and, for purposes of determining trusts exempt from taxation, substituted reference to section 501(a) for reference to ''section 501(c)(3) or (17) or section 401(a)''.

Subsec. (c). Pub. L. 91–172, § 121(a)(3), added subsec. (c). Former subsec. (c), covering the effective date, was struck out.

Subsec. (d). Pub. L. 91–172, § 301(b)(8), added subsec. (d).

1966—Subsec. (a)(2)(A). Pub. L. 89–352 inserted ''(14)(B) or (C),'' after ''(6),'' in heading and in text.

1960—Subsec. (a)(2). Pub. L. 86–667, § 3(a), included organizations described in section 501(c)(17) within subpar. (A).

Subsec. (b). Pub. L. 86–667, § 3(b), inserted a reference to section 501(c)(17).

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 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97–248, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(5)(A), (B) of 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.

Amendment by section 421(e)(3) of Pub. L. 95–600 applicable to taxable years beginning after Dec. 31, 1978, see section 421(g) of Pub. L. 95–600, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95–30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91–172, title I, § 121(g), Dec. 30, 1969, 83 Stat. 549, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section and sections 48, 501, 502, 503, 512 to 514, 681, 801, 810, 1443, 1504, and 7605 of this title] (other than by subsections (b)(3) and (e) [enacting sections 277 and 6050 of this title]) shall apply to taxable years beginning after December 31, 1969. The amendments made by subsection (b)(3) [enacting section 277 of this title] shall apply to taxable years beginning after December 31, 1970. The amendments made by subsection (e) [enacting section 6050 of this title] shall apply with respect to transfers of property after December 31, 1969. Where an organization makes a bargain purchase of property before October 9, 1969, which is subject to a mortgage which was placed on the property more than 5 years before the purchase, and the organization paid the seller a total amount no greater than the amount of the seller's cost (including attorneys' fees) directly related to the transfer of such property to the organization (but in any event no more than 10 percent of the value of the seller's equity in the property), the indebtedness secured by such mortgage shall not be treated, notwithstanding the amendments made by subsection (d)(1) [amending section 514 of this title], as acquisition indebtedness for purposes of section 514(c)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] during a period of 10 years following the date of the transaction.''

Amendment by section 301(b)(8) of Pub. L. 91–172 applicable to taxable years ending after Dec. 31, 1969, see section 301(c) of Pub. L. 91–172, set out as a note under section 5 of this title.

Amendment by section 803(d)(2) of Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1970, see section 803(f) of Pub. L. 91–172, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89–352, § 3, Feb. 2, 1966, 80 Stat. 4, provided in part that: ''The amendment made by section 2 [amend-

ing this section] shall apply to taxable years beginning after the date of the enactment of this Act [Feb. 2, 1966].''

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–667 applicable to taxable years beginning after Dec. 31, 1959, see section 6 of Pub. L. 86–667, set out as a note under section 501 of this title.

§ 512. Unrelated business taxable income

(a) Definition

For purposes of this title—

(1) General rule

Except as otherwise provided in this subsection, the term ''unrelated business taxable income'' means the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less the deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).

(2) Special rule for foreign organizations

In the case of an organization described in section 511 which is a foreign organization, the unrelated business taxable income shall be—

(A) its unrelated business taxable income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, plus

(B) its unrelated business taxable income which is effectively connected with the conduct of a trade or business within the United States.

(3) Special rules applicable to organizations described in paragraph (7), (9), (17), or (20) of section 501(c)

(A) General rule

In the case of an organization described in paragraph (7), (9), (17), or (20) of section 501(c), the term ''unrelated business taxable income'' means the gross income (excluding any exempt function income), less the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), both computed with the modifications provided in paragraphs (6), (10), (11), and (12) of subsection (b). For purposes of the preceding sentence, the deductions provided by sections 243, 244, and 245 (relating to dividends received by corporations) shall be treated as not directly connected with the production of gross income.

(B) Exempt function income

For purposes of subparagraph (A), the term ''exempt function income'' means the gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing such members or their dependents or guests goods, facilities, or services in furtherance of the purposes constituting the basis for the exemption of the organization to which such income is paid. Such term also means all income (other than an amount equal to the gross income derived from any unrelated trade or business regularly carried on by such organization computed as if the organization were subject to paragraph (1)), which is set aside—

(i) for a purpose specified in section 170(c)(4), or

(ii) in the case of an organization described in paragraph (9), (17), or (20) of section 501(c), to provide for the payment of life, sick, accident, or other benefits,

including reasonable costs of administration directly connected with a purpose described in clause (i) or (ii). If during the taxable year, an amount which is attributable to income so set aside is used for a purpose other than that described in clause (i) or (ii), such amount shall be included, under subparagraph (A), in unrelated business taxable income for the taxable year.

(C) Applicability to certain corporations described in section 501(c)(2)

In the case of a corporation described in section 501(c)(2), the income of which is payable to an organization described in paragraph (7), (9), (17), or (20) of section 501(c), subparagraph (A) shall apply as if such corporation were the organization to which the income is payable. For purposes of the preceding sentence, such corporation shall be treated as having exempt function income for a taxable year only if it files a consolidated return with such organization for such year.

(D) Nonrecognition of gain

If property used directly in the performance of the exempt function of an organization described in paragraph (7), (9), (17), or (20) of section 501(c) is sold by such organization, and within a period beginning 1 year before the date of such sale, and ending 3 years after such date, other property is purchased and used by such organization directly in the performance of its exempt function, gain (if any) from such sale shall be recognized only to the extent that such organization's sales price of the old property exceeds the organization's cost of purchasing the other property. For purposes of this subparagraph, the destruction in whole or in part, theft, seizure, requisition, or condemnation of property, shall be treated as the sale of such property, and rules similar to the rules provided by subsections (b), (c), (e), and (j) of section 1034 (as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997) shall apply.

(E) Limitation on amount of setaside in the case of organizations described in paragraph (9), (17), or (20) of section 501(c)

(i) In general

In the case of any organization described in paragraph (9), (17), or (20) of section 501(c), a set-aside for any purpose specified in clause (ii) of subparagraph (B) may be taken into account under subparagraph (B) only to the extent that such set-aside does

not result in an amount of assets set aside for such purpose in excess of the account limit determined under section 419A (without regard to subsection (f)(6) thereof) for the taxable year (not taking into account any reserve described in section 419A(c)(2)(A) for post-retirement medical benefits).

(ii) Treatment of existing reserves for post-retirement medical or life insurance benefits

(I) Clause (i) shall not apply to any income attributable to an existing reserve for post-retirement medical or life insurance benefits.

(II) For purposes of subclause (I), the term ''reserve for post-retirement medical or life insurance benefits'' means the greater of the amount of assets set aside for purposes of post-retirement medical or life insurance benefits to be provided to covered employees as of the close of the last plan year ending before the date of the enactment of the Tax Reform Act of 1984 or on July 18, 1984.

(III) All payments during plan years ending on or after the date of the enactment of the Tax Reform Act of 1984 of post-retirement medical benefits or life insurance benefits shall be charged against the reserve referred to in subclause (II). Except to the extent provided in regulations prescribed by the Secretary, all plans of an employer shall be treated as 1 plan for purposes of the preceding sentence.

(iii) Treatment of tax exempt organizations

This subparagraph shall not apply to any organization if substantially all of the contributions to such organization are made by employers who were exempt from tax under this chapter throughout the 5-taxable year period ending with the taxable year in which the contributions are made.

(4) Special rule applicable to organizations described in section 501(c)(19)

In the case of an organization described in section 501(c)(19), the term ''unrelated business taxable income'' does not include any amount attributable to payments for life, sick, accident, or health insurance with respect to members of such organizations or their dependents which is set aside for the purpose of providing for the payment of insurance benefits or for a purpose specified in section 170(c)(4). If an amount set aside under the preceding sentence is used during the taxable year for a purpose other than a purpose described in the preceding sentence, such amount shall be included, under paragraph (1), in unrelated business taxable income for the taxable year.

(5) Definition of payments with respect to securities loans

(A) The term ''payments with respect to securities loans'' includes all amounts received in respect of a security (as defined in section 1236(c)) transferred by the owner to another person in a transaction to which section 1058 applies (whether or not title to the security remains in the name of the lender) including—

(i) amounts in respect of dividends, interest, or other distributions,

(ii) fees computed by reference to the period beginning with the transfer of securities by the owner and ending with the transfer of identical securities back to the transferor by the transferee and the fair market value of the security during such period,

(iii) income from collateral security for such loan, and

(iv) income from the investment of collateral security.

(B) Subparagraph (A) shall apply only with respect to securities transferred pursuant to an agreement between the transferor and the transferee which provides for—

(i) reasonable procedures to implement the obligation of the transferee to furnish to the transferor, for each business day during such period, collateral with a fair market value not less than the fair market value of the security at the close of business on the preceding business day,

(ii) termination of the loan by the transferor upon notice of not more than 5 business days, and

(iii) return to the transferor of securities identical to the transferred securities upon termination of the loan.

(b) Modifications

The modifications referred to in subsection (a) are the following:

(1) There shall be excluded all dividends, interest, payments with respect to securities loans (as defined in subsection (a)(5)), amounts received or accrued as consideration for entering into agreements to make loans, and annuities, and all deductions directly connected with such income.

(2) There shall be excluded all royalties (including overriding royalties) whether measured by production or by gross or taxable income from the property, and all deductions directly connected with such income.

(3) In the case of rents—

(A) Except as provided in subparagraph (B), there shall be excluded—

(i) all rents from real property (including property described in section 1245(a)(3)(C)), and

(ii) all rents from personal property (including for purposes of this paragraph as personal property any property described in section 1245(a)(3)(B)) leased with such real property, if the rents attributable to such personal property are an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is placed in service.

(B) Subparagraph (A) shall not apply—

(i) if more than 50 percent of the total rent received or accrued under the lease is

attributable to personal property described in subparagraph (A)(ii), or

(ii) if the determination of the amount of such rent depends in whole or in part on the income or profits derived by any person from the property leased (other than an amount based on a fixed percentage or percentages of receipts or sales).

(C) There shall be excluded all deductions directly connected with rents excluded under subparagraph (A).

(4) Notwithstanding paragraph (1), (2), (3), or (5), in the case of debt-financed property (as defined in section 514) there shall be included, as an item of gross income derived from an unrelated trade or business, the amount ascertained under section 514(a)(1), and there shall be allowed, as a deduction, the amount ascertained under section 514(a)(2).

(5) There shall be excluded all gains or losses from the sale, exchange, or other disposition of property other than—

(A) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, or

(B) property held primarily for sale to customers in the ordinary course of the trade or business.

There shall also be excluded all gains or losses recognized, in connection with the organization's investment activities, from the lapse or termination of options to buy or sell securities (as defined in section 1236(c)) or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities. This paragraph shall not apply with respect to the cutting of timber which is considered, on the application of section 631, as a sale or exchange of such timber.

(6) The net operating loss deduction provided in section 172 shall be allowed, except that—

(A) the net operating loss for any taxable year, the amount of the net operating loss carryback or carryover to any taxable year, and the net operating loss deduction for any taxable year shall be determined under section 172 without taking into account any amount of income or deduction which is excluded under this part in computing the unrelated business taxable income; and

(B) the terms ''preceding taxable year'' and ''preceding taxable years'' as used in section 172 shall not include any taxable year for which the organization was not subject to the provisions of this part.

(7) There shall be excluded all income derived from research for (A) the United States, or any of its agencies or instrumentalities, or (B) any State or political subdivision thereof; and there shall be excluded all deductions directly connected with such income.

(8) In the case of a college, university, or hospital, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(9) In the case of an organization operated primarily for purposes of carrying on fundamental research the results of which are freely available to the general public, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(10) In the case of any organization described in section 511(a), the deduction allowed by section 170 (relating to charitable etc. contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business), but shall not exceed 10 percent of the unrelated business taxable income computed without the benefit of this paragraph.

(11) In the case of any trust described in section 511(b), the deduction allowed by section 170 (relating to charitable etc. contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business), and for such purpose a distribution made by the trust to a beneficiary described in section 170 shall be considered as a gift or contribution. The deduction allowed by this paragraph shall be allowed with the limitations prescribed in section 170(b)(1)(A) and (B) determined with reference to the unrelated business taxable income computed without the benefit of this paragraph (in lieu of with reference to adjusted gross income).

(12) Except for purposes of computing the net operating loss under section 172 and paragraph (6), there shall be allowed a specific deduction of $1,000. In the case of a diocese, province of a religious order, or a convention or association of churches, there shall also be allowed, with respect to each parish, individual church, district, or other local unit, a specific deduction equal to the lower of—

(A) $1,000, or

(B) the gross income derived from any unrelated trade or business regularly carried on by such local unit.

(13) SPECIAL RULES FOR CERTAIN AMOUNTS RECEIVED FROM CONTROLLED ENTITIES.—

(A) IN GENERAL.—If an organization (in this paragraph referred to as the ''controlling organization'') receives or accrues (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the ''controlled entity''), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of the controlling organization directly connected with amounts treated as derived from an unrelated trade or business under the preceding sentence.

(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

(i) NET UNRELATED INCOME.—The term ''net unrelated income'' means—

(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity's

taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes as the controlling organization, or

(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

(ii) NET UNRELATED LOSS.—The term ''net unrelated loss'' means the net operating loss adjusted under rules similar to the rules of clause (i).

(C) SPECIFIED PAYMENT.—For purposes of this paragraph, the term ''specified payment'' means any interest, annuity, royalty, or rent.

(D) DEFINITION OF CONTROL.—For purposes of this paragraph—

(i) CONTROL.—The term ''control'' means—

(I) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock in such corporation,

(II) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership, or

(III) in any other case, ownership of more than 50 percent of the beneficial interests in the entity.

(ii) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply for purposes of determining ownership of stock in a corporation. Similar principles shall apply for purposes of determining ownership of interests in any other entity.

(E) PARAGRAPH TO APPLY ONLY TO CERTAIN EXCESS PAYMENTS.—

(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a qualifying specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

(I) such excess determined without regard to any amendment or supplement to a return of tax, or

(II) such excess determined with regard to all such amendments and supplements.

(iii) QUALIFYING SPECIFIED PAYMENT.—The term ''qualifying specified payment'' means a specified payment which is made pursuant to—

(I) a binding written contract in effect on the date of the enactment of this subparagraph, or

(II) a contract which is a renewal, under substantially similar terms, of a contract described in subclause (I).

(iv) TERMINATION.—This subparagraph shall not apply to payments received or accrued after December 31, 2013.

(F) RELATED PERSONS.—The Secretary shall prescribe such rules as may be necessary or appropriate to prevent avoidance of the purposes of this paragraph through the use of related persons.

[(14) Repealed. Pub. L. 101–508, title XI, § 11801(a)(23), Nov. 5, 1990, 104 Stat. 1388–521.]

(15) Except as provided in paragraph (4), in the case of a trade or business—

(A) which consists of providing services under license issued by a Federal regulatory agency,

(B) which is carried on by a religious order or by an educational organization described in section 170(b)(1)(A)(ii) maintained by such religious order, and which was so carried on before May 27, 1959, and

(C) less than 10 percent of the net income of which for each taxable year is used for activities which are not related to the purpose constituting the basis for the religious order's exemption,

there shall be excluded all gross income derived from such trade or business and all deductions directly connected with the carrying on of such trade or business, so long as it is established to the satisfaction of the Secretary that the rates or other charges for such services are competitive with rates or other charges charged for similar services by persons not exempt from taxation.

(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

(i) such property was acquired by the organization from—

(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

(iii) such sale, exchange, or disposition occurs before the later of—

(I) the date which is 30 months after the date of the acquisition of such property, or

(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were) not in excess of 20 percent of the net selling price of such property.

(B) Property is described in this subparagraph if it is real property which—

(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage.

(17) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

(B) EXCEPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

(I) such organization,

(II) an affiliate of such organization which is exempt from tax under section 501(a), or

(III) a director or officer of, or an individual who (directly or indirectly) performs services for, such organization or affiliate but only if the insurance covers primarily risks associated with the performance of services in connection with such organization or affiliate.

(ii) AFFILIATE.—For purposes of this subparagraph—

(I) IN GENERAL.—The determination as to whether an entity is an affiliate of an organization shall be made under rules similar to the rules of section 168(h)(4)(B).

(II) SPECIAL RULE.—Two or more organizations (and any affiliates of such organizations) shall be treated as affiliates if such organizations are colleges or universities described in section 170(b)(1)(A)(ii) or organizations described in section 170(b)(1)(A)(iii) and participate in an insurance arrangement that provides for any profits from such arrangement to be returned to the policyholders in their capacity as such.

(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities.

(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.

(19) TREATMENT OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES.—

(A) IN GENERAL.—Notwithstanding paragraph (5)(B), there shall be excluded any gain or loss from the qualified sale, exchange, or other disposition of any qualifying brownfield property by an eligible taxpayer.

(B) ELIGIBLE TAXPAYER.—For purposes of this paragraph—

(i) IN GENERAL.—The term ''eligible taxpayer'' means, with respect to a property, any organization exempt from tax under section 501(a) which—

(I) acquires from an unrelated person a qualifying brownfield property, and

(II) pays or incurs eligible remediation expenditures with respect to such property in an amount which exceeds the greater of $550,000 or 12 percent of the fair market value of the property at the time such property was acquired by the eligible taxpayer, determined as if there was not a presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property.

(ii) EXCEPTION.—Such term shall not include any organization which is—

(I) potentially liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to the qualifying brownfield property,

(II) affiliated with any other person which is so potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship which is created by the instruments by which title to any qualifying brownfield property is conveyed or financed or by a contract of sale of goods or services), or

(III) the result of a reorganization of a business entity which was so potentially liable.

(C) QUALIFYING BROWNFIELD PROPERTY.—For purposes of this paragraph—

(i) IN GENERAL.—The term ''qualifying brownfield property'' means any real property which is certified, before the taxpayer incurs any eligible remediation expenditures (other than to obtain a Phase I environmental site assessment), by an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located as a brownfield site within the meaning of section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certifi-

cation described in clause (i) shall include a sworn statement by the eligible taxpayer and supporting documentation of the presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property (including a Phase I environmental site assessment and, if applicable, evidence of the property's presence on a local, State, or Federal list of brownfields or contaminated property) and other environmental assessments prepared or obtained by the taxpayer.

(D) QUALIFIED SALE, EXCHANGE, OR OTHER DISPOSITION.—For purposes of this paragraph—

(i) IN GENERAL.—A sale, exchange, or other disposition of property shall be considered as qualified if—

(I) such property is transferred by the eligible taxpayer to an unrelated person, and

(II) within 1 year of such transfer the eligible taxpayer has received a certification from the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located that, as a result of the eligible taxpayer's remediation actions, such property would not be treated as a qualifying brownfield property in the hands of the transferee.

For purposes of subclause (II), before issuing such certification, the Environmental Protection Agency or appropriate State agency shall respond to comments received pursuant to clause (ii)(V) in the same form and manner as required under section 117(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall be made not later than the date of the transfer and shall include a sworn statement by the eligible taxpayer certifying the following:

(I) Remedial actions which comply with all applicable or relevant and appropriate requirements (consistent with section 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980) have been substantially completed, such that there are no hazardous substances, pollutants, or contaminants which complicate the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property.

(II) The reasonably anticipated future land uses or capacity for uses of the property are more economically productive or environmentally beneficial than the uses of the property in existence on the date of the certification described in subparagraph (C)(i). For purposes of the preceding sentence, use of property as a landfill or other hazardous waste facility shall not be considered more economically productive or environmentally beneficial.

(III) A remediation plan has been implemented to bring the property into compliance with all applicable local, State, and Federal environmental laws, regulations, and standards and to ensure that the remediation protects human health and the environment.

(IV) The remediation plan described in subclause (III), including any physical improvements required to remediate the property, is either complete or substantially complete, and, if substantially complete, sufficient monitoring, funding, institutional controls, and financial assurances have been put in place to ensure the complete remediation of the property in accordance with the remediation plan as soon as is reasonably practicable after the sale, exchange, or other disposition of such property.

(V) Public notice and the opportunity for comment on the request for certification was completed before the date of such request. Such notice and opportunity for comment shall be in the same form and manner as required for public participation required under section 117(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph). For purposes of this subclause, public notice shall include, at a minimum, publication in a major local newspaper of general circulation.

(iii) ATTACHMENT TO TAX RETURNS.—A copy of each of the requests for certification described in clause (ii) of subparagraph (C) and this subparagraph shall be included in the tax return of the eligible taxpayer (and, where applicable, of the qualifying partnership) for the taxable year during which the transfer occurs.

(iv) SUBSTANTIAL COMPLETION.—For purposes of this subparagraph, a remedial action is substantially complete when any necessary physical construction is complete, all immediate threats have been eliminated, and all long-term threats are under control.

(E) ELIGIBLE REMEDIATION EXPENDITURES.—For purposes of this paragraph—

(i) IN GENERAL.—The term ''eligible remediation expenditures'' means, with respect to any qualifying brownfield property, any amount paid or incurred by the eligible taxpayer to an unrelated third person to obtain a Phase I environmental site assessment of the property, and any amount so paid or incurred after the date of the certification described in subparagraph (C)(i) for goods and services necessary to obtain a certification described

in subparagraph (D)(i) with respect to such property, including expenditures—

(I) to manage, remove, control, contain, abate, or otherwise remediate a hazardous substance, pollutant, or contaminant on the property,

(II) to obtain a Phase II environmental site assessment of the property, including any expenditure to monitor, sample, study, assess, or otherwise evaluate the release, threat of release, or presence of a hazardous substance, pollutant, or contaminant on the property,

(III) to obtain environmental regulatory certifications and approvals required to manage the remediation and monitoring of the hazardous substance, pollutant, or contaminant on the property, and

(IV) regardless of whether it is necessary to obtain a certification described in subparagraph (D)(i)(II), to obtain remediation cost-cap or stop-loss coverage, re-opener or regulatory action coverage, or similar coverage under environmental insurance policies, or financial guarantees required to manage such remediation and monitoring.

(ii) EXCEPTIONS.—Such term shall not include—

(I) any portion of the purchase price paid or incurred by the eligible taxpayer to acquire the qualifying brownfield property,

(II) environmental insurance costs paid or incurred to obtain legal defense coverage, owner/operator liability coverage, lender liability coverage, professional liability coverage, or similar types of coverage,

(III) any amount paid or incurred to the extent such amount is reimbursed, funded, or otherwise subsidized by grants provided by the United States, a State, or a political subdivision of a State for use in connection with the property, proceeds of an issue of State or local government obligations used to provide financing for the property the interest of which is exempt from tax under section 103, or subsidized financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the property, or

(IV) any expenditure paid or incurred before the date of the enactment of this paragraph.

For purposes of subclause (III), the Secretary may issue guidance regarding the treatment of government-provided funds for purposes of determining eligible remediation expenditures.

(F) DETERMINATION OF GAIN OR LOSS.—For purposes of this paragraph, the determination of gain or loss shall not include an amount treated as gain which is ordinary income with respect to section 1245 or section 1250 property, including amounts deducted as section 198 expenses which are subject to the recapture rules of section 198(e), if the taxpayer had deducted such amounts in the computation of its unrelated business taxable income.

(G) SPECIAL RULES FOR PARTNERSHIPS.—

(i) IN GENERAL.—In the case of an eligible taxpayer which is a partner of a qualifying partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property, this paragraph shall apply to the eligible taxpayer's distributive share of the qualifying partnership's gain or loss from the sale, exchange, or other disposition of such property.

(ii) QUALIFYING PARTNERSHIP.—The term ''qualifying partnership'' means a partnership which—

(I) has a partnership agreement which satisfies the requirements of section 514(c)(9)(B)(vi) at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i),

(II) satisfies the requirements of subparagraphs (B)(i), (C), (D), and (E), if ''qualified partnership'' is substituted for ''eligible taxpayer'' each place it appears therein (except subparagraph (D)(iii)), and

(III) is not an organization which would be prevented from constituting an eligible taxpayer by reason of subparagraph (B)(ii).

(iii) REQUIREMENT THAT TAX-EXEMPT PARTNER BE A PARTNER SINCE FIRST CERTIFICATION.—This paragraph shall apply with respect to any eligible taxpayer which is a partner of a partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property only if such eligible taxpayer was a partner of the qualifying partnership at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i) and ending on the date of the sale, exchange, or other disposition of the property by the partnership.

(iv) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to prevent abuse of the requirements of this subparagraph, including abuse through—

(I) the use of special allocations of gains or losses, or

(II) changes in ownership of partnership interests held by eligible taxpayers.

(H) SPECIAL RULES FOR MULTIPLE PROPERTIES.—

(i) IN GENERAL.—An eligible taxpayer or a qualifying partnership of which the eligible taxpayer is a partner may make a 1-time election to apply this paragraph to more than 1 qualifying brownfield property by averaging the eligible remediation expenditures for all such properties acquired during the election period. If the eligible taxpayer or qualifying partnership makes such an election, the election shall apply to all qualified sales, exchanges, or

other dispositions of qualifying brownfield properties the acquisition and transfer of which occur during the period for which the election remains in effect.

(ii) ELECTION.—An election under clause (i) shall be made with the eligible taxpayer's or qualifying partnership's timely filed tax return (including extensions) for the first taxable year for which the taxpayer or qualifying partnership intends to have the election apply. An election under clause (i) is effective for the period—

(I) beginning on the date which is the first day of the taxable year of the return in which the election is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership, and

(II) ending on the date which is the earliest of a date of revocation selected by the eligible taxpayer or qualifying partnership, the date which is 8 years after the date described in subclause (I), or, in the case of an election by a qualifying partnership of which the eligible taxpayer is a partner, the date of the termination of the qualifying partnership.

(iii) REVOCATION.—An eligible taxpayer or qualifying partnership may revoke an election under clause (i)(II)[1] by filing a statement of revocation with a timely filed tax return (including extensions). A revocation is effective as of the first day of the taxable year of the return in which the revocation is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership. Once an eligible taxpayer or qualifying partnership revokes the election, the eligible taxpayer or qualifying partnership is ineligible to make another election under clause (i) with respect to any qualifying brownfield property subject to the revoked election.

(I) RECAPTURE.—If an eligible taxpayer excludes gain or loss from a sale, exchange, or other disposition of property to which an election under subparagraph (H) applies, and such property fails to satisfy the requirements of this paragraph, the unrelated business taxable income of the eligible taxpayer for the taxable year in which such failure occurs shall be determined by including any previously excluded gain or loss from such sale, exchange, or other disposition allocable to such taxpayer, and interest shall be determined at the overpayment rate established under section 6621 on any resulting tax for the period beginning with the due date of the return for the taxable year during which such sale, exchange, or other disposition occurred, and ending on the date of payment of the tax.

(J) RELATED PERSONS.—For purposes of this paragraph, a person shall be treated as related to another person if—

(i) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or section 707(b)(1), determined by substituting ''25 percent'' for ''50 percent'' each place it appears therein, and

(ii) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

(K) TERMINATION.—Except for purposes of determining the average eligible remediation expenditures for properties acquired during the election period under subparagraph (H), this paragraph shall not apply to any property acquired by the eligible taxpayer or qualifying partnership after December 31, 2009.

(c) Special rules for partnerships

(1) In general

If a trade or business regularly carried on by a partnership of which an organization is a member is an unrelated trade or business with respect to such organization, such organization in computing its unrelated business taxable income shall, subject to the exceptions, additions, and limitations contained in subsection (b), include its share (whether or not distributed) of the gross income of the partnership from such unrelated trade or business and its share of the partnership deductions directly connected with such gross income.

(2) Special rule where partnership year is different from organization's year

If the taxable year of the organization is different from that of the partnership, the amounts to be included or deducted in computing the unrelated business taxable income under paragraph (1) shall be based upon the income and deductions of the partnership for any taxable year of the partnership ending within or with the taxable year of the organization.

(d) Treatment of dues of agricultural or horticultural organizations

(1) In general

If—

(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

(2) Indexation of $100 amount

In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

(A) $100, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by

[1] So in original.

substituting ''calendar year 1994'' for ''calendar year 1992'' in subparagraph (B) thereof.

(3) Dues

For purposes of this subsection, the term ''dues'' means any payment (whether or not designated as dues) which is required to be made in order to be recognized by the organization as a member of the organization.

(e) Special rules applicable to S corporations

(1) In general

If an organization described in section 1361(c)(2)(A)(vi) or 1361(c)(6) holds stock in an S corporation—

(A) such interest shall be treated as an interest in an unrelated trade or business, and

(B) notwithstanding any other provision of this part—

(i) all items of income, loss, or deduction taken into account under section 1366(a), and

(ii) any gain or loss on the disposition of the stock in the S corporation,

shall be taken into account in computing the unrelated business taxable income of such organization.

(2) Basis reduction

Except as provided in regulations, for purposes of paragraph (1), the basis of any stock acquired by purchase (as defined in section 1361(e)(1)(C)) shall be reduced by the amount of any dividends received by the organization with respect to the stock.

(3) Exception for ESOPs

This subsection shall not apply to employer securities (within the meaning of section 409(*l*)) held by an employee stock ownership plan described in section 4975(e)(7).

(Aug. 16, 1954, ch. 736, 68A Stat. 170; Pub. L. 85–367, §1(a), Apr. 7, 1958, 72 Stat. 80; Pub. L. 88–380, §1, July 17, 1964, 78 Stat. 333; Pub. L. 89–809, title I, §104(g), Nov. 13, 1966, 80 Stat. 1559; Pub. L. 91–172, title I, §121(b)(1), (2), Dec. 30, 1969, 83 Stat. 537, 538; Pub. L. 92–418, §1(b), Aug. 29, 1972, 86 Stat. 656; Pub. L. 94–396, §1(a), Sept. 3, 1976, 90 Stat. 1201; Pub. L. 94–455, title XIX, §§1901(b)(8)(F), 1906(b)(13)(A), 1951(b)(8)(A), Oct. 4, 1976, 90 Stat. 1794, 1834, 1839; Pub. L. 94–568, §1(b), Oct. 20, 1976, 90 Stat. 2697; Pub. L. 95–345, §2(a)(2), (b), Aug. 15, 1978, 92 Stat. 481; Pub. L. 97–448, title I, §102(m)(3), Jan. 12, 1983, 96 Stat. 2374; Pub. L. 98–369, div. A, title V, §511(b), July 18, 1984, 98 Stat. 860; Pub. L. 99–514, title XVIII, §1851(a)(10), Oct. 22, 1986, 100 Stat. 2861; Pub. L. 100–203, title X, §10213(a), Dec. 22, 1987, 101 Stat. 1330–406; Pub. L. 100–647, title I, §1018(t)(2)(B), Nov. 10, 1988, 102 Stat. 3587; Pub. L. 101–508, title XI, §11801(a)(23), Nov. 5, 1990, 104 Stat. 1388–521; Pub. L. 103–66, title XIII, §§13145(a), 13147(a), 13148(a), (b), Aug. 10, 1993, 107 Stat. 443, 444; Pub. L. 104–188, title I, §§1115(a), 1316(c), 1603(a), Aug. 20, 1996, 110 Stat. 1761, 1786, 1835; Pub. L. 105–34, title III, §312(d)(5), title X, §1041(a), title XV, §1523(a), title XVI, §1601(c)(4)(A), (D), Aug. 5, 1997, 111 Stat. 840, 938, 1070, 1087; Pub. L. 105–206, title VI, §§6010(j)(1), (2), 6023(8), July 22, 1998, 112 Stat. 815, 825; Pub. L. 108–357, title II, §233(d), title III, §319(c), title VII, §702(a), Oct. 22, 2004, 118 Stat. 1434, 1472, 1540; Pub. L. 109–135, title IV, §412(dd), (ee)(1), Dec. 21, 2005, 119 Stat. 2639; Pub. L. 109–280, title XII, §1205(a), Aug. 17, 2006, 120 Stat. 1066; Pub. L. 110–343, div. C, title III, §306(a), Oct. 3, 2008, 122 Stat. 3868; Pub. L. 111–312, title VII, §747(a), Dec. 17, 2010, 124 Stat. 3320; Pub. L. 112–240, title III, §319(a), Jan. 2, 2013, 126 Stat. 2331.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

REFERENCES IN TEXT

The date of the enactment of the Taxpayer Relief Act of 1997, referred to in subsec. (a)(3)(D), is the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997.

The date of the enactment of the Tax Reform Act of 1984, referred to in subsec. (a)(3)(E)(ii)(II), (III), is the date of enactment of division A of Pub. L. 98–369, which was approved July 18, 1984.

The date of the enactment of this subparagraph, referred to in subsec. (b)(13)(E)(iii)(I), is the date of enactment of Pub. L. 109–280, which was approved Aug. 17, 2006.

Sections 101(39), 107, 117(a), (b), and 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (b)(19)(B)(ii)(I), (C)(i), (D)(i), (ii)(I), (V), are classified to sections 9601(39), 9607, 9617(a), (b), and 9621(d), respectively, of Title 42, The Public Health and Welfare.

The date of the enactment of this paragraph, referred to in subsec. (b)(19)(C)(i), (D)(i), (ii)(V), (E)(ii)(IV), is the date of enactment of Pub. L. 108–357, which was approved Oct. 22, 2004.

AMENDMENTS

2013—Subsec. (b)(13)(E)(iv). Pub. L. 112–240 substituted ''December 31, 2013'' for ''December 31, 2011''.

2010—Subsec. (b)(13)(E)(iv). Pub. L. 111–312 substituted ''December 31, 2011'' for ''December 31, 2009''.

2008—Subsec. (b)(13)(E)(iv). Pub. L. 110–343 substituted ''December 31, 2009'' for ''December 31, 2007''.

2006—Subsec. (b)(13)(E), (F). Pub. L. 109–280, which directed the amendment of section 512(b)(13) by adding subpar. (E) and redesignating former subpar. (E) as (F), without specifying the act to be amended, was executed by making the amendments to this section, which is section 512 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2005—Subsec. (b)(1). Pub. L. 109–135, §412(dd), substituted ''subsection (a)(5)'' for ''section 512(a)(5)''.

Subsec. (b)(18), (19). Pub. L. 109–135, §412(ee)(1), redesignated par. (18), relating to treatment of gain or loss on sale or exchange of certain brownfield sites, as (19).

2004—Subsec. (b)(18). Pub. L. 108–357, §702(a), added par. (18) relating to treatment of gain or loss on sale or exchange of certain brownfield sites.

Pub. L. 108–357, §319(c), added par. (18) relating to treatment of mutual or cooperative electric companies.

Subsec. (e)(1). Pub. L. 108–357, §233(d), inserted ''1361(c)(2)(A)(vi) or'' before ''1361(c)(6)'' in introductory provisions.

1998—Subsec. (b)(13)(A). Pub. L. 105–206, §6010(j)(1), inserted ''or accrues'' after ''receives'' in first sentence.

Subsec. (b)(13)(B)(i)(I). Pub. L. 105–206, §6010(j)(2), struck out ''(as defined in section 513A(a)(5)(A))'' after ''exempt purposes''.

Subsec. (b)(17)(B)(ii)(II). Pub. L. 105–206, §6023(8), substituted ''rule'' for ''Rule'' in subcl. heading.

1997—Subsec. (a)(3)(D). Pub. L. 105–34, §312(d)(5), inserted ''(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)'' after ''1034''.

Subsec. (b)(13). Pub. L. 105–34, §1041(a), amended par. (13) generally. Prior to amendment, par. (13) related to inclusion in gross income of controlling organization of

amounts of interest, annuities, royalties, and rents derived from a controlled organization.

Subsec. (e)(1). Pub. L. 105–34, §1601(c)(4)(D), substituted ''section 1361(c)(6)'' for ''section 1361(c)(7)''.

Subsec. (e)(2). Pub. L. 105–34, §1601(c)(4)(A), substituted ''as defined in section 1361(e)(1)(C)'' for ''within the meaning of section 1012''.

Subsec. (e)(3). Pub. L. 105–34, §1523(a), added par. (3).

1996—Subsec. (b)(17). Pub. L. 104–188, §1603(a), added par. (17).

Subsec. (d). Pub. L. 104–188, §1115(a), added subsec. (d).

Subsec. (e). Pub. L. 104–188, §1316(c), added subsec. (e).

1993—Subsec. (b)(1). Pub. L. 103–66, §13148(a), inserted ''amounts received or accrued as consideration for entering into agreements to make loans,'' before ''and annuities''.

Subsec. (b)(5). Pub. L. 103–66, §13148(b), in second sentence, substituted ''all gains or losses recognized, in connection with the organization's investment activities, from'' for ''all gains on'', struck out '', written by the organization in connection with its investment activities,'' after ''termination of options'', and inserted before period at end ''or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities''.

Subsec. (b)(16). Pub. L. 103–66, §13147(a), added par. (16).

Subsec. (c)(2), (3). Pub. L. 103–66, §13145(a), redesignated par. (3) as (2), substituted ''paragraph (1)'' for ''paragraph (1) or (2)'', and struck out heading and text of former par. (2). Text read as follows: ''Notwithstanding any other provision of this section—

''(A) any organization's share (whether or not distributed) of the gross income of a publicly traded partnership (as defined in section 469(k)(2)) shall be treated as gross income derived from an unrelated trade or business, and

''(B) such organization's share of the partnership deductions shall be allowed in computing unrelated business taxable income.''

1990—Subsec. (b)(14). Pub. L. 101–508 struck out par. (14) which read as follows: ''Except as provided in paragraph (4), in the case of a church, or convention or association of churches, for taxable years beginning before January 1, 1976, there shall be excluded all gross income derived from a trade or business and all deductions directly connected with the carrying on of such trade or business if such trade or business was carried on by such organization or its predecessor before May 27, 1969.''

1988—Subsec. (a)(3)(E)(ii)(II). Pub. L. 100–647 substituted ''subclause (I)'' for ''subclause (II)'' and a period for comma at end.

1987—Subsec. (c). Pub. L. 100–203 substituted ''for partnerships'' for ''applicable to partnerships'' in heading and amended text generally. Prior to amendment, text read as follows: ''If a trade or business regularly carried on by a partnership of which an organization is a member is an unrelated trade or business with respect to such organization, such organization in computing its unrelated business taxable income shall, subject to the exceptions, additions, and limitations contained in subsection (b), include its share (whether or not distributed) of the gross income of the partnership from such unrelated trade or business and its share of the partnership deductions directly connected with such gross income. If the taxable year of the organization is different from that of the partnership, the amounts to be so included or deducted in computing the unrelated business taxable income shall be based upon the income and deductions of the partnership for any taxable year of the partnership ending within or with the taxable year of the organization.''

1986—Subsec. (a)(3)(E)(i). Pub. L. 99–514, §1851(a)(10)(A), substituted ''determined under section 419A (without regard to subsection (f)(6) thereof)'' for ''determined under section 419A(c)''.

Subsec. (a)(3)(E)(ii). Pub. L. 99–514, §1851(a)(10)(B), (C), redesignated cl. (iii) as (ii), in subcl. I substituted ''an existing reserve'' for ''a existing reserve'', and substituted new subcl. (II) for former subcl. (II) which read as follows: ''For purposes of subclause (I), the term 'existing reserve or post-retirement medical or life insurance benefit' means the amount of assets set aside as of the close of the last plan year ending before the date of the enactment of the Tax Reform Act of 1984 for purposes of post-retirement medical benefits or life insurance benefits to be provided to covered employees.'' Former cl. (ii), which provided that no set aside for assets used in the provision of benefits described in cl. (ii) of subpar. (B), could be taken into account, was struck out.

Subsec. (a)(3)(E)(iii), (iv). Pub. L. 99–514, §1851(a)(10)(B), (D), redesignated former cl. (iv) as (iii) and substituted ''subparagraph shall not'' for ''paragraph shall not''. Former cl. (iii) redesignated (ii).

1984—Subsec. (a)(3). Pub. L. 98–369, §511(b)(1)(A), substituted ''paragraph (7), (9), (17), or (20) of section 501(c)'' for ''section 501(c)(7) or (9)'' wherever appearing in heading and in text.

Subsec. (a)(3)(B)(ii). Pub. L. 98–369, §511(b)(1)(B), substituted ''paragraph (9), (17), or (20) of section 501(c)'' for ''section 501(c)(9)''.

Subsec. (a)(3)(C), (D). Pub. L. 98–369, §511(b)(1)(A), substituted in subpars. (C) and (D) ''paragraph (7), (9), (17), or (20) of section 501(c)'' for ''section 501(c)(7) or (9)'' wherever appearing.

Subsec. (a)(3)(E). Pub. L. 98–369, §511(b)(2), added subpar. (E).

1983—Subsec. (b)(10). Pub. L. 97–448 substituted ''10 percent'' for ''5 percent''.

1978—Subsec. (a)(5). Pub. L. 95–345, §2(b), added par. (5).

Subsec. (b)(1). Pub. L. 95–345, §2(a)(2), inserted provision relating to payments with respect to securities loans.

1976—Subsec. (a)(3)(A). Pub. L. 94–568 provided that for purposes of the general rule, the deductions provided by sections 243, 244, and 245 (relating to dividends received by corporations) shall be treated as not directly connected with the production of gross income.

Subsec. (b). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(5). Pub. L. 94–396 inserted provision relating to exclusion of gains on the lapse or termination of options to buy or sell securities.

Subsec. (b)(13), (14). Pub. L. 94–455, §1951(b)(8)(A), redesignated pars. (15) and (16) as (13) and (14), respectively. Former pars. (13) and (14), relating to exceptions, additions, and limitations applicable in determining unrelated business taxable income, were struck out.

Subsec. (b)(15). Pub. L. 94–455, §§1901(b)(8)(F), 1906(b)(13)(A), 1951(b)(8)(A), redesignated par. (17) as (15) and substituted in subpar. (B) ''educational organization described in section 170(b)(1)(A)(ii)'' for ''educational institution (as defined in section 151(e)(4))'' after ''order or by an'', and struck out ''or his delegate'' after ''Secretary''. Former par. (15) redesignated (13).

Subsec. (b)(16), (17). Pub. L. 94–455, §1951(b)(8)(A), redesignated pars. (16) and (17) as (14) and (15), respectively.

1972—Subsec. (a)(4). Pub. L. 92–418 added par. (4).

1969—Subsec. (a). Pub. L. 91–172, §121(b)(1), designated existing provisions as pars. (1) and (2)(B) and added pars. (2)(A) and (3).

Subsec. (b). Pub. L. 91–172, §121(b)(2)(D), substituted ''Modifications'' for ''Exceptions, additions, and limitations'', in heading, and, in text preceding par. (1) substituted ''The modifications referred to in subsection (a)'' for ''The exceptions, additions, and limitations applicable in determining unrelated business taxable income''.

Subsec. (b)(3)(A). Pub. L. 91–172, §121(b)(2)(A), inserted reference to exceptions set out in subsec. (b)(3)(B) in text preceding cl. (i), substituted ''property described in section 1245(a)(3)(C)'' for ''personal property leased with the real property'' in parenthetical of cl. (i), and added cl. (ii).

Subsec. (b)(3)(B). Pub. L. 91–172, § 121(b)(2)(A), added subpar. (B).

Subsec. (b)(3)(C). Pub. L. 91–172, § 121(b)(2)(A), substituted ''rents excluded under subparagraph (A)'' for ''such rents''.

Subsec. (b)(4). Pub. L. 91–172, § 121(b)(2)(A), inserted reference to pars. (1), (3) and (5) of this subsec., and substituted ''debt financed property'' for ''a business lease''.

Subsec. (b)(12). Pub. L. 91–172, § 121(b)(2)(B), made the allowance of the specific $1,000 deduction inapplicable for the purposes of computing the net operating loss under section 172 of this title and par. (6) of this subsec., and provided for the allowance of specific deductions equal to the lower of $1,000 or the gross income derived from any unrelated trade or business carried on by a parish, individual church, district, or other local unit.

Subsec. (b)(15) to (17). Pub. L. 91–172, § 121(b)(2)(C), added pars. (15) to (17).

1966—Subsec. (a). Pub. L. 89–809 substituted '', the unrelated business taxable income shall be its unrelated business taxable income which is effectively connected with the conduct of a trade or business within the United States'' for '', the unrelated business taxable income shall be its unrelated business taxable income derived from sources within the United States determined under subchapter N (sec. 861 and following), relating to tax based on income from sources within or without the United States''.

1964—Subsec. (b)(14). Pub. L. 88–380 added par. (14).

1958—Subsec. (b)(13). Pub. L. 85–367 added par. (13).

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–240, title III, § 319(b), Jan. 2, 2013, 126 Stat. 2332, provided that: ''The amendment made by this section [amending this section] shall apply to payments received or accrued after December 31, 2011.''

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–312, title VII, § 747(b), Dec. 17, 2010, 124 Stat. 3320, provided that: ''The amendment made by this section [amending this section] shall apply to payments received or accrued after December 31, 2009.''

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–343, div. C, title III, § 306(b), Oct. 3, 2008, 122 Stat. 3868, provided that: ''The amendment made by this section [amending this section] shall apply to payments received or accrued after December 31, 2007.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title XII, § 1205(c)(1), Aug. 17, 2006, 120 Stat. 1067, provided that: ''The amendments made by subsection (a) [amending this section] shall apply to payments received or accrued after December 31, 2005.''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title II, § 233(e), Oct. 22, 2004, 118 Stat. 1435, provided that: ''The amendments made by this section [amending this section and sections 1361 and 4975 of this title] shall take effect on the date of the enactment of this Act [Oct. 22, 2004].''

Amendment by section 319(c) of Pub. L. 108–357 applicable to taxable years beginning after Oct. 22, 2004, see section 319(e) of Pub. L. 108–357, set out as a note under section 501 of this title.

Pub. L. 108–357, title VII, § 702(d), Oct. 22, 2004, 118 Stat. 1546, provided that: ''The amendments made by this section [amending this section and section 514 of this title] shall apply to any gain or loss on the sale, exchange, or other disposition of any property acquired by the taxpayer after December 31, 2004.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 6023(8) of Pub. L. 105–206 effective July 22, 1998, see section 6023(32) of Pub. L. 105–206, set out as a note under section 34 of this title.

Amendment by section 6010(j)(1), (2) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(d)(5) of Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d)[(e)] of Pub. L. 105–34, set out as a note under section 121 of this title.

Pub. L. 105–34, title X, § 1041(b), Aug. 5, 1997, 111 Stat. 939, as amended by Pub. L. 105–206, title VI, § 6010(j)(3), July 22, 1998, 112 Stat. 815, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].

''(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any amount received or accrued during the first 2 taxable years beginning on or after the date of the enactment of this Act if such amount is received or accrued pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before such amount is received or accrued. The preceding sentence shall not apply to any amount which would (but for the exercise of an option to accelerate payment of such amount) be received or accrued after such 2 taxable years.''

Pub. L. 105–34, title XV, § 1523(b), Aug. 5, 1997, 111 Stat. 1071, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.''

Amendment by section 1601(c)(4)(A), (D) of Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–188, title I, § 1115(b), Aug. 20, 1996, 110 Stat. 1761, provided that:

''(1) IN GENERAL.—The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1986.

''(2) TRANSITIONAL RULE.—If—

''(A) for purposes of applying part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 to any taxable year beginning before January 1, 1987, an agricultural or horticultural organization did not treat any portion of membership dues received by it as income derived in an unrelated trade or business, and

''(B) such organization had a reasonable basis for not treating such dues as income derived in an unrelated trade or business,

then, for purposes of applying such part III to any such taxable year, in no event shall any portion of such dues be treated as derived in an unrelated trade or business.

''(3) REASONABLE BASIS.—For purposes of paragraph (2), an organization shall be treated as having a reasonable basis for not treating membership dues as income derived in an unrelated trade or business if the taxpayer's treatment of such dues was in reasonable reliance on any of the following:

''(A) Judicial precedent, published rulings, technical advice with respect to the organization, or a letter ruling to the organization.

''(B) A past Internal Revenue Service audit of the organization in which there was no assessment attributable to the reclassification of membership dues for purposes of the tax on unrelated business income.

''(C) Long-standing recognized practice of agricultural or horticultural organizations.''

Amendment by section 1316(c) of Pub. L. 104–188 applicable to taxable years beginning after Dec. 31, 1997, see section 1316(f) of Pub. L. 104–188, set out as a note under section 170 of this title.

Pub. L. 104–188, title I, §1603(b), Aug. 20, 1996, 110 Stat. 1836, provided that: ''The amendment made by this section [amending this section] shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.''

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–66, title XIII, §13145(b), Aug. 10, 1993, 107 Stat. 443, provided that: ''The amendments made by subsection (a) [amending this section] shall apply to partnership years beginning on or after January 1, 1994.''

Pub. L. 103–66, title XIII, §13147(b), Aug. 10, 1993, 107 Stat. 444, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to property acquired on or after January 1, 1994.''

Pub. L. 103–66, title XIII, §13148(c), Aug. 10, 1993, 107 Stat. 444, provided that: ''The amendments made by this section [amending this section] shall apply to amounts received on or after January 1, 1994.''

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 1987 AMENDMENT

Pub. L. 100–203, title X, §10213(b), Dec. 22, 1987, 101 Stat. 1330–407, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to partnership interests acquired after December 17, 1987.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by 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

Amendment by Pub. L. 98–369 applicable to taxable years ending after Dec. 31, 1985, with such amendments treated as a change in the rate of tax imposed by chapter 1 of this title for purposes of section 15 of this title, see section 511(e)(6) of Pub. L. 98–369, set out as an Effective Date note under section 419 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–345 applicable with respect to amounts received after Dec. 31, 1976, as payments with respect to securities loans (as defined in subsec. (a)(5) of this section), and transfers of securities, under agreements described in section 1058 of this title, occurring after such date, see section 2(e) of Pub. L. 95–345, set out as a note under section 509 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–568 applicable to taxable years beginning after Oct. 20, 1976, see section 1(d) of Pub. L. 94–568, set out as a note under section 501 of this title.

Amendment by section 1901(b)(8)(F) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Amendment by section 1951(b)(8)(A) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1951(d) of Pub. L. 94–455, set out as a note under section 72 of this title.

Pub. L. 94–396, §1(b), Sept. 3, 1976, 90 Stat. 1201, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to gain from options which lapse or terminate on or after January 1, 1976, in taxable years ending on or after such date.''

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–418 applicable to taxable years beginning after Dec. 31, 1969, see section 1(c) of Pub. L. 92–418, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91–172, set out as a note under section 511 of this title.

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 1964 AMENDMENT

Pub. L. 88–380, §2, July 17, 1964, 78 Stat. 333, provided that: ''The amendment made by the first section of this Act [amending this section] shall apply with respect to taxable years beginning after December 31, 1963.''

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85–367, §1(b), Apr. 7, 1958, 72 Stat. 80, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years of trusts beginning after December 31, 1955.''

SAVINGS PROVISION

Pub. L. 108–357, title VII, §702(c), Oct. 22, 2004, 118 Stat. 1546, provided that: ''Nothing in the amendments made by this section [amending this section and section 514 of this title] shall affect any duty, liability, or other requirement imposed under any other Federal or State law. Notwithstanding section 128(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. 9628(b)], a certification provided by the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4) of the Internal Revenue Code of 1986) shall not affect the liability of any person under section 107(a) of such Act [42 U.S.C. 9607(a)].''

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.

Pub. L. 94–455, title XIX, §1951(b)(8)(B), Oct. 4, 1976, 90 Stat. 1839, provided that: ''Notwithstanding subparagraph (A) [amending this section], income received in a taxable year beginning after December 31, 1975, shall be excluded from gross income in determining unrelated business taxable income, if such income would have been excluded by paragraph (13) or (14) of section 512(b) if received in a taxable year beginning before such date. Any deductions directly connected with income excluded under the preceding sentence in determining unrelated business taxable income shall also be excluded for such purpose.''

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.

§ 513. Unrelated trade or business

(a) General rule

The term ''unrelated trade or business'' means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), to the exercise or performance of any purpose or function described in section 501(c)(3)), except that such term does not include any trade or business—

(1) in which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or

(2) which is carried on, in the case of an organization described in section 501(c)(3) or in the case of a college or university described in section 511(a)(2)(B), by the organization primarily for the convenience of its members, students, patients, officers, or employees, or, in the case of a local association of employees described in section 501(c)(4) organized before May 27, 1969, which is the selling by the organization of items of work-related clothes and equipment and items normally sold through vending machines, through food dispensing facilities, or by snack bars, for the convenience of its members at their usual places of employment; or

(3) which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions.

(b) Special rule for trusts

The term ''unrelated trade or business'' means, in the case of—

(1) a trust computing its unrelated business taxable income under section 512 for purposes of section 681; or

(2) a trust described in section 401(a), or section 501(c)(17), which is exempt from tax under section 501(a);

any trade or business regularly carried on by such trust or by a partnership of which it is a member.

(c) Advertising, etc., activities

For purposes of this section, the term ''trade or business'' includes any activity which is carried on for the production of income from the sale of goods or the performance of services. For purposes of the preceding sentence, an activity does not lose identity as a trade or business merely because it is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization. Where an activity carried on for profit constitutes an unrelated trade or business, no part of such trade or business shall be excluded from such classification merely because it does not result in profit.

(d) Certain activities of trade shows, State fairs, etc.

(1) General rule

The term ''unrelated trade or business'' does not include qualified public entertainment activities of an organization described in paragraph (2)(C), or qualified convention and trade show activities of an organization described in paragraph (3)(C).

(2) Qualified public entertainment activities

For purposes of this subsection—

(A) Public entertainment activity

The term ''public entertainment activity'' means any entertainment or recreational activity of a kind traditionally conducted at fairs or expositions promoting agricultural and educational purposes, including, but not limited to, any activity one of the purposes of which is to attract the public to fairs or expositions or to promote the breeding of animals or the development of products or equipment.

(B) Qualified public entertainment activity

The term ''qualified public entertainment activity'' means a public entertainment activity which is conducted by a qualifying organization described in subparagraph (C) in—

(i) conjunction with an international, national, State, regional, or local fair or exposition,

(ii) accordance with the provisions of State law which permit the activity to be operated or conducted solely by such an organization, or by an agency, instrumentality, or political subdivision of such State, or

(iii) accordance with the provisions of State law which permit such an organization to be granted a license to conduct not more than 20 days of such activity on payment to the State of a lower percentage of the revenue from such licensed activity than the State requires from organizations not described in section 501(c)(3), (4), or (5).

(C) Qualifying organization

For purposes of this paragraph, the term ''qualifying organization'' means an organization which is described in section 501(c)(3), (4), or (5) which regularly conducts, as one of its substantial exempt purposes, an agricultural and educational fair or exposition.

(3) Qualified convention and trade show activities

(A) Convention and trade show activities

The term ''convention and trade show activity'' means any activity of a kind traditionally conducted at conventions, annual meetings, or trade shows, including, but not limited to, any activity one of the purposes of which is to attract persons in an industry generally (without regard to membership in the sponsoring organization) as well as

members of the public to the show for the purpose of displaying industry products or to stimulate interest in, and demand for, industry products or services, or to educate persons engaged in the industry in the development of new products and services or new rules and regulations affecting the industry.

(B) Qualified convention and trade show activity

The term ''qualified convention and trade show activity'' means a convention and trade show activity carried out by a qualifying organization described in subparagraph (C) in conjunction with an international, national, State, regional, or local convention, annual meeting, or show conducted by an organization described in subparagraph (C) if one of the purposes of such organization in sponsoring the activity is the promotion and stimulation of interest in, and demand for, the products and services of that industry in general or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization, and the show is designed to achieve such purpose through the character of the exhibits and the extent of the industry products displayed.

(C) Qualifying organization

For purposes of this paragraph, the term ''qualifying organization'' means an organization described in section 501(c)(3), (4), (5), or (6) which regularly conducts as one of its substantial exempt purposes a show which stimulates interest in, and demand for, the products of a particular industry or segment of such industry or which educates persons in attendance regarding new developments or products and services related to the exempt activities of the organization.

(4) Such activities not to affect exempt status

An organization described in section 501(c)(3), (4), or (5) shall not be considered as not entitled to the exemption allowed under section 501(a) solely because of qualified public entertainment activities conducted by it.

(e) Certain hospital services

In the case of a hospital described in section 170(b)(1)(A)(iii), the term ''unrelated trade or business'' does not include the furnishing of one or more of the services described in section 501(e)(1)(A) to one or more hospitals described in section 170(b)(1)(A)(iii) if—

(1) such services are furnished solely to such hospitals which have facilities to serve not more than 100 inpatients;

(2) such services, if performed on its own behalf by the recipient hospital, would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption; and

(3) such services are provided at a fee or cost which does not exceed the actual cost of providing such services, such cost including straight line depreciation and a reasonable amount for return on capital goods used to provide such services.

(f) Certain bingo games

(1) In general

The term ''unrelated trade or business'' does not include any trade or business which consists of conducting bingo games.

(2) Bingo game defined

For purposes of paragraph (1), the term ''bingo game'' means any game of bingo—

(A) of a type in which usually—

(i) the wagers are placed,

(ii) the winners are determined, and

(iii) the distribution of prizes or other property is made,

in the presence of all persons placing wagers in such game,

(B) the conducting of which is not an activity ordinarily carried out on a commercial basis, and

(C) the conducting of which does not violate any State or local law.

(g) Certain pole rentals

In the case of a mutual or cooperative telephone or electric company, the term ''unrelated trade or business'' does not include engaging in qualified pole rentals (as defined in section 501(c)(12)(D)).

(h) Certain distributions of low cost articles without obligation to purchase and exchanges and rentals of member lists

(1) In general

In the case of an organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), the term ''unrelated trade or business'' does not include—

(A) activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions, or

(B) any trade or business which consists of—

(i) exchanging with another such organization names and addresses of donors to (or members of) such organization, or

(ii) renting such names and addresses to another such organization.

(2) Low cost article defined

For purposes of this subsection—

(A) In general

The term ''low cost article'' means any article which has a cost not in excess of $5 to the organization which distributes such item (or on whose behalf such item is distributed).

(B) Aggregation rule

If more than 1 item is distributed by or on behalf of an organization to a single distributee in any calendar year, the aggregate of the items so distributed in such calendar year to such distributee shall be treated as 1 article for purposes of subparagraph (A).

(C) Indexation of $5 amount

In the case of any taxable year beginning in a calendar year after 1987, the $5 amount in subparagraph (A) shall be increased by an amount equal to—

(i) $5, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ''calendar year 1987'' for ''calendar year 1992'' in subparagraph (B) thereof.

(3) Distribution which is incidental to the solicitation of charitable contributions described

For purposes of this subsection, any distribution of low cost articles by an organization shall be treated as a distribution incidental to the solicitation of charitable contributions only if—

(A) such distribution is not made at the request of the distributee,

(B) such distribution is made without the express consent of the distributee, and

(C) the articles so distributed are accompanied by—

(i) a request for a charitable contribution (as defined in section 170(c)) by the distributee to such organization, and

(ii) a statement that the distributee may retain the low cost article regardless of whether such distributee makes a charitable contribution to such organization.

(i) Treatment of certain sponsorship payments

(1) In general

The term ''unrelated trade or business'' does not include the activity of soliciting and receiving qualified sponsorship payments.

(2) Qualified sponsorship payments

For purposes of this subsection—

(A) In general

The term ''qualified sponsorship payment'' means any payment made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information, or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

(B) Limitations

(i) Contingent payments

The term ''qualified sponsorship payment'' does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

(ii) Safe harbor does not apply to periodicals and qualified convention and trade show activities

The term ''qualified sponsorship payment'' does not include—

(I) any payment which entitles the payor to the use or acknowledgement of the name or logo (or product lines) of the payor's trade or business in regularly scheduled and printed material published by or on behalf of the payee organization that is not related to and primarily distributed in connection with a specific event conducted by the payee organization, or

(II) any payment made in connection with any qualified convention or trade show activity (as defined in subsection (d)(3)(B)).

(3) Allocation of portions of single payment

For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments.

(j) Debt management plan services

The term ''unrelated trade or business'' includes the provision of debt management plan services (as defined in section 501(q)(4)(B)) by any organization other than an organization which meets the requirements of section 501(q).

(Aug. 16, 1954, ch. 736, 68A Stat. 172; Pub. L. 86–667, § 4, July 14, 1960, 74 Stat. 536; Pub. L. 91–172, title I, § 121(b)(4), (c), Dec. 30, 1969, 83 Stat. 541, 542; Pub. L. 94–455, title XIII, §§ 1305(a), 1311(a), Oct. 4, 1976, 90 Stat. 1716, 1729; Pub. L. 95–502, title III, § 301(a), Oct. 21, 1978, 92 Stat. 1702; Pub. L. 96–605, title I, § 106(b), Dec. 28, 1980, 94 Stat. 3524; Pub. L. 99–514, title XVI, §§ 1601(a), 1602(a), (b), Oct. 22, 1986, 100 Stat. 2766, 2767; Pub. L. 101–508, title XI, § 11101(d)(1)(G), Nov. 5, 1990, 104 Stat. 1388–405; Pub. L. 103–66, title XIII, § 13201(b)(3)(H), Aug. 10, 1993, 107 Stat. 459; Pub. L. 105–34, title IX, § 965(a), Aug. 5, 1997, 111 Stat. 893; Pub. L. 109–280, title XII, § 1220(b), Aug. 17, 2006, 120 Stat. 1088.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

2006—Subsec. (j). Pub. L. 109–280, which directed the addition of subsec. (j) to section 513, without specifying the act to be amended, was executed by making the addition to this section, which is section 513 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

1997—Subsec. (i). Pub. L. 105–34 added subsec. (i).

1993—Subsec. (h)(2)(C)(ii). Pub. L. 103–66 substituted ''calendar year 1992'' for ''calendar year 1989''.

1990—Subsec. (h)(2)(C)(ii). Pub. L. 101–508 inserted before period at end '', by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof''.

1986—Subsec. (d)(3)(B). Pub. L. 99–514, § 1602(a), inserted ''or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization''.

Subsec. (d)(3)(C). Pub. L. 99–514, § 1602(b), substituted ''section 501(c)(3), (4), (5), or (6)'' for ''section 501(c)(5) or (6)'' and inserted ''or which educates persons in attendance regarding new developments or products and services related to the exempt activities of the organization''.

Subsec. (h). Pub. L. 99–514, §1601(a), added subsec. (h).

1980—Subsec. (g). Pub. L. 96–605 added subsec. (g).

1978—Subsec. (f). Pub. L. 95–502 added subsec. (f).

1976—Subsec. (d). Pub. L. 94–455, §1305(a), added subsec. (d).

Subsec. (e). Pub. L. 94–455, §1311(a), added subsec. (e).

1969—Subsec. (a)(2). Pub. L. 91–172, §121(b)(4), inserted reference to local associations of employees described in section 501(c)(4) of this title and organized before May 27, 1969.

Subsec. (c). Pub. L. 91–172, §121(c), substituted ''Advertising, etc., activities'' for ''Special rule for certain publishing businesses'', in heading, and, in text, substituted provisions extending definition of trade or business to include any activity carried on for the production of income from the sale of goods or the performance of services, for provisions referring to publishing businesses carried on by an organization during a taxable year beginning before Jan. 1, 1953.

1960—Subsec. (b)(2). Pub. L. 86–667 included trusts described in section 501(c)(17).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–280 applicable to taxable years beginning after Aug. 17, 2006, with transition rule for existing organizations, see section 1220(c) of Pub. L. 109–280, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title IX, §965(b), Aug. 5, 1997, 111 Stat. 894, provided that: ''The amendment made by this section [amending this section] shall apply to payments solicited or received after December 31, 1997.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable to taxable years beginning after Dec. 31, 1992, see section 13201(c) of Pub. L. 103–66, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub. L. 101–508, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–514, title XVI, §1601(b), Oct. 22, 1986, 100 Stat. 2767, provided that: ''The amendment made by this section [amending this section] shall apply to distributions of low cost articles and exchanges and rentals of member lists after the date of the enactment of this Act [Oct. 22, 1986].''

Pub. L. 99–514, title XVI, §1602(c), Oct. 22, 1986, 100 Stat. 2768, provided that: ''The amendments made by this section [amending this section] shall apply to activities in taxable years beginning after the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–605, title I, §106(c)(2), Dec. 29, 1980, 94 Stat. 3524, provided that: ''The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning after December 31, 1969.''

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–502, title III, §301(b), Oct. 21, 1978, 92 Stat. 1702, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1969.''

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–455, title XIII, §1305(b), Oct. 4, 1976, 90 Stat. 1717, provided that: ''The amendments made by subsection (a) [amending this section] apply to qualified public entertainment activities in taxable years beginning after December 31, 1962, and to qualified convention and trade show activities in taxable years beginning after the date of enactment of this Act [Oct. 4, 1976].''

Pub. L. 94–455, title XIII, §1311(b), Oct. 4, 1976, 90 Stat. 1730, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendment made by this section [amending this section] shall apply to all taxable years to which the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [this title] applies.''

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91–172, set out as a note under section 511 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–667 applicable to taxable years beginning after Dec. 31, 1959, see section 6 of Pub. L. 86–667, set out as a note under section 501 of this title.

CONDUCTING OF CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS

Pub. L. 98–369, div. A, title III, §311, July 18, 1984, 98 Stat. 786, as amended by Pub. L. 99–514, §2, title XVIII, §1834, Oct. 22, 1986, 100 Stat. 2095, 2852, provided that:

''(a) GENERAL RULE.—For purposes of section 513 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (defining unrelated trade or business), the term 'unrelated trade or business' does not include any trade or business which consists of conducting any game of chance if—

''(1) such game of chance is conducted by a nonprofit organization,

''(2) the conducting of such game by such organization does not violate any State or local law, and

''(3) as of October 5, 1983—

''(A) there was a State law (originally enacted on April 22, 1977) in effect which permitted the conducting of such game of chance by such nonprofit organization, but

''(B) the conducting of such game of chance by organizations which were not nonprofit organizations would have violated such law.

''(b) EFFECTIVE DATE.—Subsection (a) shall apply to games of chance conducted after June 30, 1981, in taxable years ending after such date.''

[Pub. L. 99–514, title XVIII, §1834, Oct. 22, 1986, 100 Stat. 2852, as amended by Pub. L. 100–647, title VI, §6201, Nov. 10, 1988, 102 Stat. 3730, provided in part that: ''The amendment made by this section [amending section 311 of Pub. L. 98–369, set out above] shall apply to games of chance conducted after October 22, 1986, in taxable years ending after such date''.]

§ 514. Unrelated debt-financed income

(a) Unrelated debt-financed income and deductions

In computing under section 512 the unrelated business taxable income for any taxable year—

(1) Percentage of income taken into account

There shall be included with respect to each debt-financed property as an item of gross income derived from an unrelated trade or business an amount which is the same percentage (but not in excess of 100 percent) of the total gross income derived during the taxable year from or on account of such property as (A) the average acquisition indebtedness (as defined in subsection (c)(7)) for the taxable year with respect to the property is of (B) the average amount (determined under regulations prescribed by the Secretary) of the adjusted basis of such property during the period it is held by the organization during such taxable year.

(2) Percentage of deductions taken into account

There shall be allowed as a deduction with respect to each debt-financed property an amount determined by applying (except as provided in the last sentence of this paragraph) the percentage derived under paragraph (1) to the sum determined under paragraph (3). The percentage derived under this paragraph shall not be applied with respect to the deduction of any capital loss resulting from the carryback or carryover of net capital losses under section 1212.

(3) Deductions allowable

The sum referred to in paragraph (2) is the sum of the deductions under this chapter which are directly connected with the debt-financed property or the income therefrom, except that if the debt-financed property is of a character which is subject to the allowance for depreciation provided in section 167, the allowance shall be computed only by use of the straight-line method.

(b) Definition of debt-financed property

(1) In general

For purposes of this section, the term ''debt-financed property'' means any property which is held to produce income and with respect to which there is an acquisition indebtedness (as defined in subsection (c)) at any time during the taxable year (or, if the property was disposed of during the taxable year, with respect to which there was an acquisition indebtedness at any time during the 12-month period ending with the date of such disposition), except that such term does not include—

(A)(i) any property substantially all the use of which is substantially related (aside from the need of the organization for income or funds) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), to the exercise or performance of any purpose or function designated in section 501(c)(3)), or (ii) any property to which clause (i) does not apply, to the extent that its use is so substantially related;

(B) except in the case of income excluded under section 512(b)(5), any property to the extent that the income from such property is taken into account in computing the gross income of any unrelated trade or business;

(C) any property to the extent that the income from such property is excluded by reason of the provisions of paragraph (7), (8), or (9) of section 512(b) in computing the gross income of any unrelated trade or business;

(D) any property to the extent that it is used in any trade or business described in paragraph (1), (2), or (3) of section 513(a); or

(E) any property the gain or loss from the sale, exchange, or other disposition of which would be excluded by reason of the provisions of section 512(b)(19) in computing the gross income of any unrelated trade or business.

For purposes of subparagraph (A), substantially all the use of a property shall be considered to be substantially related to the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 if such property is real property subject to a lease to a medical clinic entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

(2) Special rule for related uses

For purposes of applying paragraphs (1) (A), (C), and (D), the use of any property by an exempt organization which is related to an organization shall be treated as use by such organization.

(3) Special rules when land is acquired for exempt use within 10 years

(A) Neighborhood land

If an organization acquires real property for the principal purpose of using the land (commencing within 10 years of the time of acquisition) in the manner described in paragraph (1)(A) and at the time of acquisition the property is in the neighborhood of other property owned by the organization which is used in such manner, the real property acquired for such future use shall not be treated as debt-financed property so long as the organization does not abandon its intent to so use the land within the 10-year period. The preceding sentence shall not apply for any period after the expiration of the 10-year period, and shall apply after the first 5 years of the 10-year period only if the organization establishes to the satisfaction of the Secretary that it is reasonably certain that the land will be used in the described manner before the expiration of the 10-year period.

(B) Other cases

If the first sentence of subparagraph (A) is inapplicable only because—

(i) the acquired land is not in the neighborhood referred to in subparagraph (A), or

(ii) the organization (for the period after the first 5 years of the 10-year period) is unable to establish to the satisfaction of the Secretary that it is reasonably certain that the land will be used in the manner described in paragraph (1)(A) before the expiration of the 10-year period,

but the land is converted to such use by the organization within the 10-year period, the real property (subject to the provisions of subparagraph (D)) shall not be treated as debt-financed property for any period before such conversion. For purposes of this subparagraph, land shall not be treated as used in the manner described in paragraph (1)(A) by reason of the use made of any structure which was on the land when acquired by the organization.

(C) Limitations

Subparagraphs (A) and (B)—

(i) shall apply with respect to any structure on the land when acquired by the organization, or to the land occupied by the structure, only if (and so long as) the intended future use of the land in the manner described in paragraph (1)(A) requires that the structure be demolished or removed in order to use the land in such manner;

(ii) shall not apply to structures erected on the land after the acquisition of the land; and

(iii) shall not apply to property subject to a lease which is a business lease (as defined in this section immediately before the enactment of the Tax Reform Act of 1976).

(D) Refund of taxes when subparagraph (B) applies

If an organization for any taxable year has not used land in the manner to satisfy the actual use condition of subparagraph (B) before the time prescribed by law (including extensions thereof) for filing the return for such taxable year, the tax for such year shall be computed without regard to the application of subparagraph (B), but if and when such use condition is satisfied, the provisions of subparagraph (B) shall then be applied to such taxable year. If the actual use condition of subparagraph (B) is satisfied for any taxable year after such time for filing the return, and if credit or refund of any overpayment for the taxable year resulting from the satisfaction of such use condition is prevented at the close of the taxable year in which the use condition is satisfied, by the operation of any law or rule of law (other than chapter 74, relating to closing agreements and compromises), credit or refund of such overpayment may nevertheless be allowed or made if claim therefor is filed before the expiration of 1 year after the close of the taxable year in which the use condition is satisfied.

(E) Special rule for churches

In applying this paragraph to a church or convention or association of churches, in lieu of the 10-year period referred to in subparagraphs (A) and (B) a 15-year period shall be applied, and subparagraphs (A) and (B)(ii) shall apply whether or not the acquired land meets the neighborhood test.

(c) Acquisition indebtedness

(1) General rule

For purposes of this section, the term ''acquisition indebtedness'' means, with respect to any debt-financed property, the unpaid amount of—

(A) the indebtedness incurred by the organization in acquiring or improving such property;

(B) the indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(C) the indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement.

(2) Property acquired subject to mortgage, etc.

For purposes of this subsection—

(A) General rule

Where property (no matter how acquired) is acquired subject to a mortgage or other similar lien, the amount of the indebtedness secured by such mortgage or lien shall be considered as an indebtedness of the organization incurred in acquiring such property even though the organization did not assume or agree to pay such indebtedness.

(B) Exceptions

Where property subject to a mortgage is acquired by an organization by bequest or devise, the indebtedness secured by the mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of the acquisition. If an organization acquires property by gift subject to a mortgage which was placed on the property more than 5 years before the gift, which property was held by the donor more than 5 years before the gift, the indebtedness secured by such mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of such gift. This subparagraph shall not apply if the organization, in order to acquire the equity in the property by bequest, devise, or gift, assumes and agrees to pay the indebtedness secured by the mortgage, or if the organization makes any payment for the equity in the property owned by the decedent or the donor.

(C) Liens for taxes or assessments

Where State law provides that—

(i) a lien for taxes, or

(ii) a lien for assessments,

made by a State or a political subdivision thereof attaches to property prior to the time when such taxes or assessments become due and payable, then such lien shall be treated as similar to a mortgage (within the meaning of subparagraph (A)) but only after such taxes or assessments become due and payable and the organization has had an opportunity to pay such taxes or assessments in accordance with State law.

(3) Extension of obligations

For purposes of this section, an extension, renewal, or refinancing of an obligation evidencing a pre-existing indebtedness shall not be treated as the creation of a new indebtedness.

(4) Indebtedness incurred in performing exempt purpose

For purposes of this section, the term ''acquisition indebtedness'' does not include indebtedness the incurrence of which is inherent in the performance or exercise of the purpose

or function constituting the basis of the organization's exemption, such as the indebtedness incurred by a credit union described in section 501(c)(14) in accepting deposits from its members.

(5) Annuities

For purposes of this section, the term ''acquisition indebtedness'' does not include an obligation to pay an annuity which—

(A) is the sole consideration (other than a mortgage to which paragraph (2)(B) applies) issued in exchange for property if, at the time of the exchange, the value of the annuity is less than 90 percent of the value of the property received in the exchange,

(B) is payable over the life of one individual in being at the time the annuity is issued, or over the lives of two individuals in being at such time, and

(C) is payable under a contract which—

(i) does not guarantee a minimum amount of payments or specify a maximum amount of payments, and

(ii) does not provide for any adjustment of the amount of the annuity payments by reference to the income received from the transferred property or any other property.

(6) Certain Federal financing

(A) In general

For purposes of this section, the term ''acquisition indebtedness'' does not include—

(i) an obligation, to the extent that it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low and moderate income persons, or

(ii) indebtedness incurred by a small business investment company licensed after the date of the enactment of the American Jobs Creation Act of 2004 under the Small Business Investment Act of 1958 if such indebtedness is evidenced by a debenture—

(I) issued by such company under section 303(a) of such Act, and

(II) held or guaranteed by the Small Business Administration.

(B) Limitation

Subparagraph (A)(ii) shall not apply with respect to any small business investment company during any period that—

(i) any organization which is exempt from tax under this title (other than a governmental unit) owns more than 25 percent of the capital or profits interest in such company, or

(ii) organizations which are exempt from tax under this title (including governmental units other than any agency or instrumentality of the United States) own, in the aggregate, 50 percent or more of the capital or profits interest in such company.

(7) Average acquisition indebtedness

For purposes of this section, the term ''average acquisition indebtedness'' for any taxable year with respect to a debt-financed property means the average amount, determined under regulations prescribed by the Secretary of the acquisition indebtedness during the period the property is held by the organization during the taxable year, except that for the purpose of computing the percentage of any gain or loss to be taken into account on a sale or other disposition of debt-financed property, such term means the highest amount of the acquisition indebtedness with respect to such property during the 12-month period ending with the date of the sale or other disposition.

(8) Securities subject to loans

For purposes of this section—

(A) payments with respect to securities loans (as defined in section 512(a)(5)) shall be deemed to be derived from the securities loaned and not from collateral security or the investment of collateral security from such loans,

(B) any deductions which are directly connected with collateral security for such loan, or with the investment of collateral security, shall be deemed to be deductions which are directly connected with the securities loaned, and

(C) an obligation to return collateral security shall not be treated as acquisition indebtedness (as defined in paragraph (1)).

(9) Real property acquired by a qualified organization

(A) In general

Except as provided in subparagraph (B), the term ''acquisition indebtedness'' does not, for purposes of this section, include indebtedness incurred by a qualified organization in acquiring or improving any real property. For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.

(B) Exceptions

The provisions of subparagraph (A) shall not apply in any case in which—

(i) the price for the acquisition or improvement is not a fixed amount determined as of the date of the acquisition or the completion of the improvement;

(ii) the amount of any indebtedness or any other amount payable with respect to such indebtedness, or the time for making any payment of any such amount, is dependent, in whole or in part, upon any revenue, income, or profits derived from such real property;

(iii) the real property is at any time after the acquisition leased by the qualified organization to the person selling such property to such organization or to any person who bears a relationship described in section 267(b) or 707(b) to such person;

(iv) the real property is acquired by a qualified trust from, or is at any time after the acquisition leased by such trust to, any person who—

(I) bears a relationship which is described in subparagraph (C), (E), or (G) of section 4975(e)(2) to any plan with respect to which such trust was formed, or

(II) bears a relationship which is described in subparagraph (F) or (H) of section 4975(e)(2) to any person described in subclause (I);

(v) any person described in clause (iii) or (iv) provides the qualified organization with financing in connection with the acquisition or improvement; or

(vi) the real property is held by a partnership unless the partnership meets the requirements of clauses (i) through (v) and unless—

(I) all of the partners of the partnership are qualified organizations,

(II) each allocation to a partner of the partnership which is a qualified organization is a qualified allocation (within the meaning of section 168(h)(6)), or

(III) such partnership meets the requirements of subparagraph (E).

For purposes of subclause (I) of clause (vi), an organization shall not be treated as a qualified organization if any income of such organization is unrelated business taxable income.

(C) Qualified organization

For purposes of this paragraph, the term ''qualified organization'' means—

(i) an organization described in section 170(b)(1)(A)(ii) and its affiliated support organizations described in section 509(a)(3);

(ii) any trust which constitutes a qualified trust under section 401;

(iii) an organization described in section 501(c)(25); or

(iv) a retirement income account described in section 403(b)(9).

(D) Other pass-thru entities; tiered entities

Rules similar to the rules of subparagraph (B)(vi) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

(E) Certain allocations permitted

(i) In general

A partnership meets the requirements of this subparagraph if—

(I) the allocation of items to any partner which is a qualified organization cannot result in such partner having a share of the overall partnership income for any taxable year greater than such partner's share of the overall partnership loss for the taxable year for which such partner's loss share will be the smallest, and

(II) each allocation with respect to the partnership has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this clause, items allocated under section 704(c) shall not be taken into account.

(ii) Special rules

(I) Chargebacks

Except as provided in regulations, a partnership may without violating the requirements of this subparagraph provide for chargebacks with respect to disproportionate losses previously allocated to qualified organizations and disproportionate income previously allocated to other partners. Any chargeback referred to in the preceding sentence shall not be at a ratio in excess of the ratio under which the loss or income (as the case may be) was allocated.

(II) Preferred rates of return, etc.

To the extent provided in regulations, a partnership may without violating the requirements of this subparagraph provide for reasonable preferred returns or reasonable guaranteed payments.

(iii) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph, including regulations which may provide for exclusion or segregation of items.

(F) Special rules for organizations described in section 501(c)(25)

(i) In general

In computing under section 512 the unrelated business taxable income of a disqualified holder of an interest in an organization described in section 501(c)(25), there shall be taken into account—

(I) as gross income derived from an unrelated trade or business, such holder's pro rata share of the items of income described in clause (ii)(I) of such organization, and

(II) as deductions allowable in computing unrelated business taxable income, such holder's pro rata share of the items of deduction described in clause (ii)(II) of such organization.

Such amounts shall be taken into account for the taxable year of the holder in which (or with which) the taxable year of such organization ends.

(ii) Description of amounts

For purposes of clause (i)—

(I) gross income is described in this clause to the extent such income would (but for this paragraph) be treated under subsection (a) as derived from an unrelated trade or business, and

(II) any deduction is described in this clause to the extent it would (but for this paragraph) be allowable under subsection (a)(2) in computing unrelated business taxable income.

(iii) Disqualified holder

For purposes of this subparagraph, the term ''disqualified holder'' means any shareholder (or beneficiary) which is not described in clause (i) or (ii) of subparagraph (C).

(G) Special rules for purposes of the exceptions

Except as otherwise provided by regulations—

(i) Small leases disregarded

For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building (or complex of buildings) is covered by the lease and if the lease is on commercially reasonable terms.

(ii) Commercially reasonable financing

Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

(H) Qualifying sales by financial institutions

(i) In general

In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

(ii) Qualifying sale

For purposes of this clause, there is a qualifying sale by a financial institution if—

(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

(III) the present value (determined as of the time of the sale and by using the applicable Federal rate determined under section 1274(d)) of the maximum amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property cannot exceed 30 percent of the total purchase price of the property (including the contingent payments).

(iii) Property to which subparagraph applies

Property is described in this clause if such property is foreclosure property, or is real property which—

(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

(II) was held by the financial institution at the time it entered into conservatorship or receivership.

(iv) Financial institution

For purposes of this subparagraph, the term ''financial institution'' means—

(I) any financial institution described in section 581 or 591(a),

(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

(v) Foreclosure property

For purposes of this subparagraph, the term ''foreclosure property'' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured.

(d) Basis of debt-financed property acquired in corporate liquidation

For purposes of this subtitle, if the property was acquired in a complete or partial liquidation of a corporation in exchange for its stock, the basis of the property shall be the same as it would be in the hands of the transferor corporation, increased by the amount of gain recognized to the transferor corporation upon such distribution and by the amount of any gain to the organization which was included, on account of such distribution, in unrelated business taxable income under subsection (a).

(e) Allocation rules

Where debt-financed property is held for purposes described in subsection (b)(1)(A), (B), (C), or (D) as well as for other purposes, proper allocation shall be made with respect to basis, indebtedness, and income and deductions. The allocations required by this section shall be made in accordance with regulations prescribed by the Secretary to the extent proper to carry out the purposes of this section.

(f) Personal property leased with real property

For purposes of this section, the term ''real property'' includes personal property of the lessor leased by it to a lessee of its real estate if the lease of such personal property is made under, or in connection with, the lease of such real estate.

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent the circumvention of any provision of this section through the use of segregated asset accounts.

(Aug. 16, 1954, ch. 736, 68A Stat. 172; Pub. L. 86–667, § 5, July 14, 1960, 74 Stat. 536; Pub. L. 91–172, title I, § 121(d)(1), (3)(A), (B), Dec. 30, 1969, 83 Stat. 543, 548; Pub. L. 93–625, § 7(b)(2), Jan. 3,

1975, 88 Stat. 2115; Pub. L. 94–455, title XIII, §1308(a), title XIX, §§1901(a)(72), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1729, 1776, 1834; Pub. L. 95–345, §2(c), Aug. 15, 1978, 92 Stat. 482; Pub. L. 96–605, title I, §110(a), Dec. 28, 1980, 94 Stat. 3525; Pub. L. 98–369, div. A, title I, §174(b)(5)(B), title X, §1034(a), (b), July 18, 1984, 98 Stat. 707, 1039, 1040; Pub. L. 99–514, title II, §201(d)(9), title XVI, §1603(b), title XVIII, §1878(e), Oct. 22, 1986, 100 Stat. 2141, 2768, 2903; Pub. L. 100–203, title X, §10214(a), (b), Dec. 22, 1987, 101 Stat. 1330–407; Pub. L. 100–647, title I, §§1016(a)(5)(A), (6), 1018(u)(13), title II, §2004(h), Nov. 10, 1988, 102 Stat. 3574, 3575, 3590, 3603; Pub. L. 101–239, title VII, §7811(*l*), Dec. 19, 1989, 103 Stat. 2412; Pub. L. 103–66, title XIII, §13144(a), (b), Aug. 10, 1993, 107 Stat. 441, 442; Pub. L. 108–357, title II, §247(a), title VII, §702(b), Oct. 22, 2004, 118 Stat. 1449, 1546; Pub. L. 109–135, title IV, §412(ee)(2), Dec. 21, 2005, 119 Stat. 2639; Pub. L. 109–280, title VIII, §866(a), Aug. 17, 2006, 120 Stat. 1025.)

REFERENCES IN TEXT

The Tax Reform Act of 1976, referred to in subsec. (b)(3)(C)(iii), is Pub. L. 94–455, Oct. 4, 1976, 90 Stat. 1520, as amended, which was enacted Oct. 4, 1976. For complete classification of this Act to the Code, see Tables.

The date of the enactment of the American Jobs Creation Act of 2004, referred to in subsec. (c)(6)(A)(ii), is the date of enactment of Pub. L. 108–357, which was approved Oct. 22, 2004.

The Small Business Investment Act of 1958, referred to in subsec. (c)(6)(A)(ii), is Pub. L. 85–699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. Section 303(a) of the Act is classified to section 683(a) of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

AMENDMENTS

2006—Subsec. (c)(9)(C)(iv). Pub. L. 109–280 added cl. (iv).

2005—Subsec. (b)(1)(E). Pub. L. 109–135 substituted ''section 512(b)(19)'' for ''section 512(b)(18)''.

2004—Subsec. (b)(1)(E). Pub. L. 108–357, §702(b), added subpar. (E).

Subsec. (c)(6). Pub. L. 108–357, §247(a), reenacted heading without change and amended text of par. (6) generally. Prior to amendment, text read as follows: ''For purposes of this section, the term 'acquisition indebtedness' does not include an obligation, to the extent that it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low and moderate income persons.''

1993—Subsec. (c)(9)(A). Pub. L. 103–66, §13144(b)(1), inserted at end ''For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.''

Subsec. (c)(9)(B). Pub. L. 103–66, §13144(b)(2), struck out at end ''For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.''

Subsec. (c)(9)(G), (H). Pub. L. 103–66, §13144(a), added subpars. (G) and (H).

1989—Subsec. (c)(9)(E), (F). Pub. L. 101–239 redesignated the subpar. (E), relating to special rules for organizations described in section 501(c)(25), as (F).

1988—Subsec. (c)(9)(B). Pub. L. 100–647, §1016(a)(6), substituted ''this paragraph'' for ''clause (vi)'' in last sentence.

Pub. L. 100–647, §1018(u)(13)(A), amended directory language of Pub. L. 99–514, §1878(e)(1), (3), to clarify that general amendment by section 1878(e)(3) included concluding provision as well as cl. (vi) and that amendment by section 1878(e)(1) should have been to the concluding provisions as amended by section 1878(e)(3).

Subsec. (c)(9)(E). Pub. L. 100–647, §1016(a)(5)(A), added subpar. (E) relating to special rules for organizations described in section 501(c)(25).

Subsec. (c)(9)(E)(i). Pub. L. 100–647, §2004(h)(2), in subsec. (c)(9)(E), relating to certain allocations permitted, redesignated subcls. (II) and (III) as (I) and (II), respectively, and struck out former subcl. (I) which read as follows: ''the allocation of items to any partner other than a qualified organization cannot result in such partner having a share of the overall partnership loss for any taxable year greater than such partner's share of the overall partnership income for the taxable year for which such partner's income share will be the smallest,''.

Subsec. (c)(9)(E)(iii). Pub. L. 100–647, §2004(h)(1), in subsec. (c)(9)(E) relating to certain allocations permitted, added cl. (iii).

1987—Subsec. (c)(9)(B)(vi). Pub. L. 100–203, §10214(a), amended cl. (vi) generally. Prior to amendment, cl. (vi) read as follows: ''the real property is held by a partnership (which does not fail to meet the requirements of clauses (i) through (v)), and—

''(I) any partner of the partnership is not a qualified organization, and

''(II) the principal purpose of any allocation to any partner of the partnership which is a qualified organization which is not a qualified allocation (within the meaning of section 168(h)(6)) is the avoidance of income tax.''

Subsec. (c)(9)(E). Pub. L. 100–203, §10214(b), added subpar. (E).

1986—Subsec. (c)(9)(B). Pub. L. 99–514, §1878(e)(1), as amended by Pub. L. 100–647, §1018(u)(13)(A), which directed amendment of penultimate sentence by substituting ''is unrelated business taxable income'' for ''would be unrelated business taxable income (determined without regard to this paragraph)'', was executed by making the substitution for ''would be unrelated business taxable income (determined without regard to this paragraph'', as the probable intent of Congress.

Pub. L. 99–514, §1878(e)(3), as amended by Pub. L. 100–647, §1018(u)(13)(B), amended concluding provisions generally. Prior to amendment, concluding provisions read as follows: ''For purposes of clause (vi)(I), an organization shall not be treated as a qualified organization if any income of such organization would be unrelated business taxable income (determined without regard to this paragraph).''

Subsec. (c)(9)(B)(vi). Pub. L. 99–514, §1878(e)(3), as amended by Pub. L. 100–647, §1018(u)(13)(B), amended cl. (vi) generally. Prior to amendment, cl. (vi) read as follows: ''the real property is held by a partnership unless the partnership meets the requirements of clauses (i) through (v) and unless—

''(I) all of the partners of the partnership are qualified organizations, or

''(II) each allocation to a partner of the partnership which is a qualified organization is a qualified allocation (within the meaning of section 168(j)(9)).''

Subsec. (c)(9)(B)(vi)(II). Pub. L. 99–514, §201(d)(9), substituted ''section 168(h)(6)'' for ''section 168(j)(9)''.

Subsec. (c)(9)(C)(i). Pub. L. 99–514, §1878(e)(2), substituted ''section 509(a)(3)'' for ''section 509(a)''.

Subsec. (c)(9)(C)(iii). Pub. L. 99–514, §1603(b), added cl. (iii).

1984—Subsec. (c)(9). Pub. L. 98–369, §1034(a), amended par. (9) generally, substituting provisions relating to real property acquired by a qualified organization for provisions relating to real property acquired by a qualified trust, with ''qualified organization'' expanded to include trusts constituting qualified trusts under section 401 of this title as well as organizations described in section 170(b)(1)(A)(ii) of this title and their affiliated support organizations described in section 509(a) of this title.

Subsec. (c)(9)(B)(iii). Pub. L. 98–369, §174(b)(5)(B), inserted reference to section 707(b).

Subsec. (g). Pub. L. 98–369, §1034(b), added subsec. (g).

1980—Subsec. (c)(9). Pub. L. 96–605 added par. (9).

1978—Subsec. (c)(8). Pub. L. 95–345 added par. (8).

1976—Subsecs. (a)(1), (b)(3)(A), (B)(ii). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(3)(C)(iii). Pub. L. 94–455, § 1901(a)(72)(C), substituted ''(as defined in this section immediately before the enactment of the Tax Reform Act of 1976)'' for ''as (defined in subsection (f))'' after ''is a business lease''.

Subsec. (c)(1). Pub. L. 94–455, § 1901(a)(72)(A), struck out exception following subpar. (C) that in any taxable year beginning before January 1, 1972, any acquisition indebtedness incurred prior to June 28, 1966, would not be taken into account except for business lease indebtedness of certain organizations.

Subsec. (c)(2)(C). Pub. L. 94–455, § 1308(a), added subpar. (C).

Subsecs. (c)(7), (e). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (f). Pub. L. 94–455, § 1901(a)(72(B), struck out subsec. (f) relating to definition of business lease, special rules applicable to such leases, and exceptions to the definition and applicable rules, and redesignated subsec. (h) as (f).

Subsec. (g). Pub. L. 94–455, § 1901(a)(72)(B), struck out subsec. (g) relating to definition and special rules applicable to business lease indebtedness.

Subsec. (h). Pub. L. 94–455, § 1901(a)(72)(B), redesignated subsec. (h) as (f).

1975—Subsec. (b)(3)(D). Pub. L. 93–625 struck out last sentence providing for allowance and payment of interest on any overpayment for a taxable year resulting from application of subpar. (B) after actual use condition was satisfied at rate of 4 in lieu of 6 percent per annum.

1969—Subsec. (a). Pub. L. 91–172, § 121(d)(1), substituted ''Unrelated debt-financed income'' for ''Business leases'' in heading and substituted in text material covering unrelated debt-financed income and deductions for material covering business lease rents and deductions.

Subsecs. (b) to (e). Pub. L. 91–172, § 121(d)(1), (3)(A), added subsecs. (b), (c), (d) and (e). Former subsecs. (b), (c), and (d) redesignated (f), (g), and (h), respectively.

Subsec. (f). Pub. L. 91–172, § 121(d)(3)(A), (B), redesignated subsec. (b) as subsec. (f), and, in par. (1) of subsec. (f) as so redesignated, substituted reference to subsec. (g) for reference to subsec. (c).

Subsecs. (g), (h). Pub. L. 91–172, § 121(d)(3)(A), redesignated subsecs. (c) and (d) as (g) and (h), respectively.

1960—Subsec. (c)(8). Pub. L. 86–667 added par. (8).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title VIII, § 866(b), Aug. 17, 2006, 120 Stat. 1025, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning on or after the date of enactment of this Act [Aug. 17, 2006].''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title II, § 247(b), Oct. 22, 2004, 118 Stat. 1449, provided that: ''The amendment made by this section [amending this section] shall apply to indebtedness incurred after the date of the enactment of this Act [Oct. 22, 2004] by a small business investment company licensed after the date of the enactment of this Act.''

Amendment by section 702(b) of Pub. L. 108–357 applicable to any gain or loss on the sale, exchange, or other disposition of any property acquired by the taxpayer after Dec. 31, 2004, see section 702(d) of Pub. L. 108–357, set out as a note under section 512 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–66, title XIII, § 13144(c), Aug. 10, 1993, 107 Stat. 442, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to acquisitions on or after January 1, 1994.

''(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after January 1, 1994.''

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

Pub. L. 100–647, title I, § 1016(a)(5)(B), Nov. 10, 1988, 102 Stat. 3575, provided that: ''The amendment made by subparagraph (A) [amending this section] shall apply with respect to interests in the organization acquired after June 10, 1987, except that such amendment shall not apply to any such interest acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition.''

Amendment by sections 1016(a)(6) and 1018(u)(13) 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.

Amendment by section 2004(h) 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.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–203, title X, § 10214(c), Dec. 22, 1987, 101 Stat. 1330–408, provided that: ''The amendments made by this section [amending this section] shall apply to—

''(1) property acquired by the partnership after October 13, 1987, and

''(2) partnership interests acquired after October 13, 1987,

except that such amendments shall not apply in the case of any property (or partnership interest) acquired pursuant to a written binding contract in effect on October 13, 1987, and at all times thereafter before such property (or interest) is acquired.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(d)(9) of Pub. L. 99–514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99–514, set out as a note under section 168 of this title.

Amendment by section 201(d)(9) of Pub. L. 99–514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99–514, set out as a note under section 46 of this title.

Amendment by section 1603(b) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1603(c) of Pub. L. 99–514, set out as a note under section 501 of this title.

Amendment by section 1878(e) 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

Amendment by section 174(b)(5)(B) of Pub. L. 98–369 applicable to transactions after Dec. 31, 1983, in taxable years ending after that date, see section 174(c)(2)(A) of

Pub. L. 98–369, set out as a note under section 267 of this title.

Pub. L. 98–369, div. A, title X, §1034(c), July 18, 1984, 98 Stat. 1040, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to indebtedness incurred after the date of the enactment of this Act [July 18, 1984].

''(2) EXCEPTION FOR INDEBTEDNESS ON CERTAIN PROPERTY ACQUIRED BEFORE JANUARY 1, 1985.—

''(A) The amendment made by subsection (a) [amending this section] shall not apply to any indebtedness incurred before January 1, 1985, by a partnership described in subparagraph (B) if such indebtedness is incurred with respect to property acquired (directly or indirectly) by such partnership before such date.

''(B) A partnership is described in this subparagraph if—

''(i) before October 21, 1983, the partnership was organized, a request for exemption with respect to such partnership was filed with the Department of Labor, and a private placement memorandum stating the maximum number of units in the partnership that would be offered had been circulated,

''(ii) the interest in the property to be acquired, directly or indirectly (including through acquiring an interest in another partnership) by such partnership was described in such private placement memorandum, and

''(iii) the marketing of partnership interests in such partnership is completed not later than 2 years after the later of the date of enactment of this Act [July 18, 1984] or the date of publication in the Federal Register of such exemption by the Department of Labor and the aggregate number of units in such partnership sold does not exceed the amount described in clause (i).

''(3) EXCEPTION FOR INDEBTEDNESS ON CERTAIN PROPERTY ACQUIRED BEFORE JANUARY 1, 1986.—

''(A) The amendment made by subsection (a) [amending this section] shall not apply to any indebtedness incurred before January 1, 1986, by a partnership described in subparagraph (B) if such indebtedness is incurred with respect to property acquired (directly or indirectly) by such partnership before such date.

''(B) A partnership is described in this paragraph if—

''(i) before March 6, 1984, the partnership was organized and publicly announced, the maximum amount of interests which would be sold in such partnership, and

''(ii) the marketing of partnership interests in such partnership is completed not later than the 90th day after the date of the enactment of this Act [July 18, 1984] and the aggregate amount of interests in such partnership sold does not exceed the maximum amount described in clause (i).

For purposes of clause (i), the maximum amount taken into account shall be the greatest of the amounts shown in the registration statement, prospectus, or partnership agreement.

''(C) BINDING CONTRACTS.—For purposes of this paragraph, property shall be deemed to have been acquired before January 1, 1986, if such property is acquired pursuant to a written contract which, on January 1, 1986, and at all times thereafter, required the acquisition of such property and such property is placed in service not later than 6 months after the date such contract was entered into.''

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–605, title I, §110(c), Dec. 28, 1980, 94 Stat. 3526, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1980.''

EXTENSION OF 1980 AMENDMENT OF THIS SECTION TO OTHER PERSONS

Pub. L. 96–605, title I, §110(b), Dec. 28, 1980, 94 Stat. 3526, provided that: ''The amendment made by subsection (a) [amending this section] shall not be considered a precedent with respect to extending such amendment (or similar rules) to any other person.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–345 applicable with respect to amounts received after Dec. 31, 1976, as payments with respect to securities loans (as defined in section 512(a)(5) of this title), and transfers of securities, under agreements described in section 1058 of this title, occurring after such date, see section 2(e) of Pub. L. 95–345, set out as a note under section 509 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–455, title XIII, §1308(b), Oct. 4, 1976, 90 Stat. 1729, provided that: ''The amendment made by this section [amending this section] shall apply to taxable years ending after December 31, 1969.''

Amendment by section 1901(a)(72) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, and to the manner of treatment to be accorded indebtednesses secured by certain mortgages on properties bargain-purchased before Oct. 9, 1969, see section 121(g) of Pub. L. 91–172, set out as a note under section 511 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–667 applicable to taxable years beginning after Dec. 31, 1959, see section 6 of Pub. L. 86–667, set out as a note under section 501 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.

TRANSITION RULE FOR ACQUISITION INDEBTEDNESS WITH RESPECT TO CERTAIN LAND

Pub. L. 99–514, title XVI, §1607, Oct. 22, 1986, 100 Stat. 2771, provided that: ''For purposes of applying section 514(c) of the Internal Revenue Code of 1986, with respect to a disposition during calendar year 1986 or calendar year 1987 of land acquired during calendar year 1984, the term 'acquisition indebtedness' does not include indebtedness incurred in connection with bonds issued after January 1, 1984, and before July 19, 1984, on behalf of an organization which is a community college and which is described in section 511(a)(2)(B) of such Code.''

§ 515. Taxes of foreign countries and possessions of the United States

The amount of taxes imposed by foreign countries and possessions of the United States shall be allowed as a credit against the tax of an organization subject to the tax imposed by section 511 to the extent provided in section 901; and in the case of the tax imposed by section 511, the term ''taxable income'' as used in section 901

shall be read as ''unrelated business taxable income''.

(Aug. 16, 1954, ch. 736, 68A Stat. 176.)

PART IV—FARMERS' COOPERATIVES

AMENDMENTS

1969—Pub. L. 91–172, title I, §101(a), Dec. 30, 1969, 83 Stat. 492, substituted ''PART IV'' for ''PART III'' as part designation.

1962—Pub. L. 87–834, §17(b)(5), Oct. 16, 1962, 76 Stat. 1051, struck out item 522 ''Tax on farmers' cooperatives''.

§ 521. Exemption of farmers' cooperatives from tax

(a) Exemption from tax

A farmers' cooperative organization described in subsection (b)(1) shall be exempt from taxation under this subtitle except as otherwise provided in part I of subchapter T (sec. 1381 and following). Notwithstanding part I of subchapter T (sec. 1381 and following), such an organization shall be considered an organization exempt from income taxes for purposes of any law which refers to organizations exempt from income taxes.

(b) Applicable rules

(1) Exempt farmers' cooperatives

The farmers' cooperatives exempt from taxation to the extent provided in subsection (a) are farmers', fruit growers', or like associations organized and operated on a cooperative basis (A) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (B) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses.

(2) Organizations having capital stock

Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association.

(3) Organizations maintaining reserve

Exemption shall not be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(4) Transactions with nonmembers

Exemption shall not be denied any such association which markets the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, or which purchases supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 percent of the value of all its purchases.

(5) Business for the United States

Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this section.

(6) Netting of losses

Exemption shall not be denied any such association because such association computes its net earnings for purposes of determining any amount available for distribution to patrons in the manner described in paragraph (1) of section 1388(j).

(7) Cross reference

For treatment of value-added processing involving animals, see section 1388(k).

(Aug. 16, 1954, ch. 736, 68A Stat. 176; Pub. L. 87–834, §17(b)(1), Oct. 16, 1962, 76 Stat. 1051; Pub. L. 99–272, title XIII, §13210(b), Apr. 7, 1986, 100 Stat. 324; Pub. L. 108–357, title III, §316(b), Oct. 22, 2004, 118 Stat. 1469.)

AMENDMENTS

2004—Subsec. (b)(7). Pub. L. 108–357 added par. (7).

1986—Subsec. (b)(6). Pub. L. 99–272 added par. (6).

1962—Subsec. (a). Pub. L. 87–834 substituted ''part I of subchapter T (sec. 1381 and following)'' for ''section 522'' in two places.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title III, §316(c), Oct. 22, 2004, 118 Stat. 1469, provided that: ''The amendments made by this section [amending this section and section 1388 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–272 applicable to taxable years beginning after Dec. 31, 1962, see section 13210(c) of Pub. L. 99–272, set out as a note under section 1388 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–834 applicable, except as otherwise provided, to taxable years of organizations described in section 1381(a) of this title beginning after Dec. 31, 1962, see section 17(c) of Pub. L. 87–834, set out as an Effective Date note under section 1381 of this title.

[§ 522. Repealed. Pub. L. 87–834, §17(b)(2), Oct. 16, 1962, 76 Stat. 1051]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 177, related to tax on farmers' cooperatives.

EFFECTIVE DATE OF REPEAL

Repeal applicable, except as otherwise provided, to taxable years of organizations described in section 1381(a) of this title beginning after Dec. 31, 1962, see sec-

tion 17(c) of Pub. L. 87–834, set out as an Effective Date note under section 1381 of this title.

PART V—SHIPOWNERS' PROTECTION AND INDEMNITY ASSOCIATIONS

AMENDMENTS

1969—Pub. L. 91–172, title I, § 101(a), Dec. 30, 1969, 83 Stat. 492, substituted ''PART V'' for ''PART IV'' as part designation.

§ 526. Shipowners' protection and indemnity associations

There shall not be included in gross income the receipts of shipowners' mutual protection and indemnity associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax on their taxable income from interest, dividends, and rents.

(Aug. 16, 1954, ch. 736, 68A Stat. 178.)

PART VI—POLITICAL ORGANIZATIONS

§ 527. Political organizations

(a) General rule

A political organization shall be subject to taxation under this subtitle only to the extent provided in this section. A political organization shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(b) Tax imposed

(1) In general

A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b).

(2) Alternative tax in case of capital gains

If for any taxable year any political organization has a net capital gain, then, in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such a tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

(A) a partial tax, computed as provided by paragraph (1), on the political organization taxable income determined by reducing such income by the amount of such gain, and

(B) an amount determined as provided in section 1201(a) on such gain.

(c) Political organization taxable income defined

(1) Taxable income defined

For purposes of this section, the political organization taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

(A) the gross income for the taxable year (excluding any exempt function income), over

(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

(2) Modifications

For purposes of this subsection—

(A) there shall be allowed a specific deduction of $100,

(B) no net operating loss deduction shall be allowed under section 172, and

(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

(3) Exempt function income

For purposes of this subsection, the term ''exempt function income'' means any amount received as—

(A) a contribution of money or other property,

(B) membership dues, a membership fee or assessment from a member of the political organization,

(C) proceeds from a political fundraising or entertainment event, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business, or

(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),

to the extent such amount is segregated for use only for the exempt function of the political organization.

(d) Certain uses not treated as income to candidate

For purposes of this title, if any political organization—

(1) contributes any amount to or for the use of any political organization which is treated as exempt from tax under subsection (a) of this section,

(2) contributes any amount to or for the use of any organization described in paragraph (1) or (2) of section 509(a) which is exempt from tax under section 501(a), or

(3) deposits any amount in the general fund of the Treasury or in the general fund of any State or local government,

such amount shall be treated as an amount not diverted for the personal use of the candidate or any other person. No deduction shall be allowed under this title for the contribution or deposit of any amount described in the preceding sentence.

(e) Other definitions

For purposes of this section—

(1) Political organization

The term ''political organization'' means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

(2) Exempt function

The term ''exempt function'' means the function of influencing or attempting to influ-

ence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed. Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a).

(3) Contributions

The term ''contributions'' has the meaning given to such term by section 271(b)(2).

(4) Expenditures

The term ''expenditures'' has the meaning given to such term by section 271(b)(3).

(5) Qualified State or local political organization

(A) In general

The term ''qualified State or local political organization'' means a political organization—

(i) all the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization,

(ii) which is subject to State law that requires the organization to report (and it so reports)—

(I) information regarding each separate expenditure from and contribution to such organization, and

(II) information regarding the person who makes such contribution or receives such expenditure,

which would otherwise be required to be reported under this section, and

(iii) with respect to which the reports referred to in clause (ii) are (I) made public by the agency with which such reports are filed, and (II) made publicly available for inspection by the organization in the manner described in section 6104(d).

(B) Certain State law differences disregarded

An organization shall not be treated as failing to meet the requirements of subparagraph (A)(ii) solely by reason of 1 or more of the following:

(i) The minimum amount of any expenditure or contribution required to be reported under State law is not more than $300 greater than the minimum amount required to be reported under subsection (j).

(ii) The State law does not require the organization to identify 1 or more of the following:

(I) The employer of any person who makes contributions to the organization.

(II) The occupation of any person who makes contributions to the organization.

(III) The employer of any person who receives expenditures from the organization.

(IV) The occupation of any person who receives expenditures from the organization.

(V) The purpose of any expenditure of the organization.

(VI) The date any contribution was made to the organization.

(VII) The date of any expenditure of the organization.

(C) De minimis errors

An organization shall not fail to be treated as a qualified State or local political organization solely because such organization makes de minimis errors in complying with the State reporting requirements and the public inspection requirements described in subparagraph (A) as long as the organization corrects such errors within a reasonable period after the organization becomes aware of such errors.

(D) Participation of Federal candidate or office holder

The term ''qualified State or local political organization'' shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective public office or an individual who holds such office—

(i) controls or materially participates in the direction of the organization,

(ii) solicits contributions to the organization (unless the Secretary determines that such solicitations resulted in de minimis contributions and were made without the prior knowledge and consent, whether explicit or implicit, of the organization or its officers, directors, agents, or employees), or

(iii) directs, in whole or in part, disbursements by the organization.

(f) Exempt organization, which is not political organization, must include certain amounts in gross income

(1) In general

If an organization described in section 501(c) which is exempt from tax under section 501(a) expends any amount during the taxable year directly (or through another organization) for an exempt function (within the meaning of subsection (e)(2)), then, notwithstanding any other provision of law, there shall be included in the gross income of such organization for the taxable year, and shall be subject to tax under subsection (b) as if it constituted political organization taxable income, an amount equal to the lesser of—

(A) the net investment income of such organization for the taxable year, or

(B) the aggregate amount so expended during the taxable year for such an exempt function.

(2) Net investment income

For purposes of this subsection, the term ''net investment income'' means the excess of—

(A) the gross amount of income from interest, dividends, rents, and royalties, plus the excess (if any) of gains from the sale or ex-

change of assets over the losses from the sale or exchange of assets, over

(B) the deductions allowed by this chapter which are directly connected with the production of the income referred to in subparagraph (A).

For purposes of the preceding sentence, there shall not be taken into account items taken into account for purposes of the tax imposed by section 511 (relating to tax on unrelated business income).

(3) Certain separate segregated funds

For purposes of this subsection and subsection (e)(1), a separate segregated fund (within the meaning of section 610 of title 18) or of any similar State statute, or within the meaning of any State statute which permits the segregation of dues moneys for exempt functions (within the meaning of subsection (e)(2)) which is maintained by an organization described in section 501(c) which is exempt from tax under section 501(a) shall be treated as a separate organization.

(g) Treatment of newsletter funds

(1) In general

For purposes of this section, a fund established and maintained by an individual who holds, has been elected to, or is a candidate (within the meaning of paragraph (3)) for nomination or election to, any Federal, State, or local elective public office, for use by such individual exclusively for the preparation and circulation of such individual's newsletter shall, except as provided in paragraph (2), be treated as if such fund constituted a political organization.

(2) Additional modifications

In the case of any fund described in paragraph (1)—

(A) the exempt function shall be only the preparation and circulation of the newsletter, and

(B) the specific deduction provided by subsection (c)(2)(A) shall not be allowed.

(3) Candidate

For purposes of paragraph (1), the term ''candidate'' means, with respect to any Federal, State, or local elective public office, an individual who—

(A) publicly announces that he is a candidate for nomination or election to such office, and

(B) meets the qualifications prescribed by law to hold such office.

(h) Special rule for principal campaign committees

(1) In general

In the case of a political organization, which is a principal campaign committee, paragraph (1) of subsection (b) shall be applied by substituting ''the appropriate rates'' for ''the highest rate''.

(2) Principal campaign committee defined

(A) In general

For purposes of this subsection, the term ''principal campaign committee'' means the political committee designated by a candidate for Congress as his principal campaign committee for purposes of—

(i) section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)), and

(ii) this subsection.

(B) Designation

A candidate may have only 1 designation in effect under subparagraph (A)(ii) at any time and such designation—

(i) shall be made at such time and in such manner as the Secretary may prescribed by regulations, and

(ii) once made, may be revoked only with the consent of the Secretary.

Nothing in this subsection shall be construed to require any designation where there is only one political committee with respect to a candidate.

(i) Organizations must notify Secretary that they are section 527 organizations

(1) In general

Except as provided in paragraph (5), an organization shall not be treated as an organization described in this section—

(A) unless it has given notice to the Secretary electronically that it is to be so treated, or

(B) if the notice is given after the time required under paragraph (2), the organization shall not be so treated for any period before such notice is given or, in the case of any material change in the information required under paragraph (3), for the period beginning on the date on which the material change occurs and ending on the date on which such notice is given.

(2) Time to give notice

The notice required under paragraph (1) shall be transmitted not later than 24 hours after the date on which the organization is established or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change.

(3) Contents of notice

The notice required under paragraph (1) shall include information regarding—

(A) the name and address of the organization (including any business address, if different) and its electronic mailing address,

(B) the purpose of the organization,

(C) the names and addresses of its officers, highly compensated employees, contact person, custodian of records, and members of its Board of Directors,

(D) the name and address of, and relationship to, any related entities (within the meaning of section 168(h)(4)),

(E) whether the organization intends to claim an exemption from the requirements of subsection (j) or section 6033, and

(F) such other information as the Secretary may require to carry out the internal revenue laws.

(4) Effect of failure

In the case of an organization failing to meet the requirements of paragraph (1) for any

period, the taxable income of such organization shall be computed by taking into account any exempt function income (and any deductions directly connected with the production of such income) or, in the case of a failure relating to a material change, by taking into account such income and deductions only during the period beginning on the date on which the material change occurs and ending on the date on which notice is given under this subsection. For purposes of the preceding sentence, the term ''exempt function income'' means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.

(5) Exceptions

This subsection shall not apply to any organization—

(A) to which this section applies solely by reason of subsection (f)(1),

(B) which reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year, or

(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.

(6) Coordination with other requirements

This subsection shall not apply to any person required (without regard to this subsection) to report under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) as a political committee.

(j) Required disclosure of expenditures and contributions

(1) Penalty for failure

In the case of—

(A) a failure to make the required disclosures under paragraph (2) at the time and in the manner prescribed therefor, or

(B) a failure to include any of the information required to be shown by such disclosures or to show the correct information,

there shall be paid by the organization an amount equal to the rate of tax specified in subsection (b)(1) multiplied by the amount to which the failure relates. For purposes of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).

(2) Required disclosure

A political organization which accepts a contribution, or makes an expenditure, for an exempt function during any calendar year shall file with the Secretary either—

(A)(i) in the case of a calendar year in which a regularly scheduled election is held—

(I) quarterly reports, beginning with the first quarter of the calendar year in which a contribution is accepted or expenditure is made, which shall be filed not later than the fifteenth day after the last day of each calendar quarter, except that the report for the quarter ending on December 31 of such calendar year shall be filed not later than January 31 of the following calendar year,

(II) a pre-election report, which shall be filed not later than the twelfth day before (or posted by registered or certified mail not later than the fifteenth day before) any election with respect to which the organization makes a contribution or expenditure, and which shall be complete as of the twentieth day before the election, and

(III) a post-general election report, which shall be filed not later than the thirtieth day after the general election and which shall be complete as of the twentieth day after such general election, and

(ii) in the case of any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year, or

(B) monthly reports for the calendar year, beginning with the first month of the calendar year in which a contribution is accepted or expenditure is made, which shall be filed not later than the twentieth day after the last day of the month and shall be complete as if the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with subparagraph (A)(i)(II), a post-general election report shall be filed in accordance with subparagraph (A)(i)(III), and a year end report shall be filed not later than January 31 of the following calendar year.

(3) Contents of report

A report required under paragraph (2) shall contain the following information:

(A) The amount, date, and purpose of each expenditure made to a person if the aggregate amount of expenditures to such person during the calendar year equals or exceeds $500 and the name and address of the person (in the case of an individual, including the occupation and name of employer of such individual).

(B) The name and address (in the case of an individual, including the occupation and name of employer of such individual) of all contributors which contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount and date of the contribution.

Any expenditure or contribution disclosed in a previous reporting period is not required to be included in the current reporting period.

(4) Contracts to spend or contribute

For purposes of this subsection, a person shall be treated as having made an expenditure or contribution if the person has contracted or is otherwise obligated to make the expenditure or contribution.

(5) Coordination with other requirements

This subsection shall not apply—

(A) to any person required (without regard to this subsection) to report under the Fed-

eral Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) as a political committee,

(B) to any State or local committee of a political party or political committee of a State or local candidate,

(C) to any organization which is a qualified State or local political organization,

(D) to any organization which reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year,

(E) to any organization to which this section applies solely by reason of subsection (f)(1), or

(F) with respect to any expenditure which is an independent expenditure (as defined in section 301 of such Act).

(6) Election

For purposes of this subsection, the term ''election'' means—

(A) a general, special, primary, or runoff election for a Federal office,

(B) a convention or caucus of a political party which has authority to nominate a candidate for Federal office,

(C) a primary election held for the selection of delegates to a national nominating convention of a political party, or

(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

(7) Electronic filing

Any report required under paragraph (2) with respect to any calendar year shall be filed in electronic form if the organization has, or has reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in such calendar year.

(k) Public availability of notices and reports

(1) In general

The Secretary shall make any notice described in subsection (i)(1) or report described in subsection (j)(7) available for public inspection on the Internet not later than 48 hours after such notice or report has been filed (in addition to such public availability as may be made under section 6104(d)(7)).

(2) Access

The Secretary shall make the entire database of notices and reports which are made available to the public under paragraph (1) searchable by the following items (to the extent the items are required to be included in the notices and reports):

(A) Names, States, zip codes, custodians of records, directors, and general purposes of the organizations.

(B) Entities related to the organizations.

(C) Contributors to the organizations.

(D) Employers of such contributors.

(E) Recipients of expenditures by the organizations.

(F) Ranges of contributions and expenditures.

(G) Time periods of the notices and reports.

Such database shall be downloadable.

***(l)* Authority to waive**

The Secretary may waive all or any portion of the—

(1) tax assessed on an organization by reason of the failure of the organization to comply with the requirements of subsection (i), or

(2) amount imposed under subsection (j) for a failure to comply with the requirements thereof,

on a showing that such failure was due to reasonable cause and not due to willful neglect.

(Added Pub. L. 93–625, §10(a), Jan. 3, 1975, 88 Stat. 2116; amended Pub. L. 94–455, title XIX, §1901(b)(33)(C), Oct. 4, 1976, 90 Stat. 1801; Pub. L. 95–502, title III, §302(a), Oct. 21, 1978, 92 Stat. 1702; Pub. L. 95–600, title III, §301(b)(6), Nov. 6, 1978, 92 Stat. 2821; Pub. L. 97–34, title I, §128(a), Aug. 13, 1981, 95 Stat. 203; Pub. L. 98–369, div. A, title IV, §474(r)(16), title VII, §722(c), July 18, 1984, 98 Stat. 843, 973; Pub. L. 99–514, title I, §112(b)(1), Oct. 22, 1986, 100 Stat. 2108; Pub. L. 100–647, title I, §1001(b)(3)(B), Nov. 10, 1988, 102 Stat. 3349; Pub. L. 106–230, §§1(a), 2(a), July 1, 2000, 114 Stat. 477, 479; Pub. L. 107–276, §§1(a), 2(a), (b), 5(a), 6(a)–(c), (e)–(g), Nov. 2, 2002, 116 Stat. 1929, 1932–1934.)

REFERENCES IN TEXT

Section 610 of title 18, referred to in subsec. (f)(3), was repealed by Pub. L. 94–283, title II, §201(a), May 11, 1976, 90 Stat. 496. See section 441b of Title 2, The Congress.

The Federal Election Campaign Act of 1971, referred to in subsecs. (i)(6) and (j)(5)(A), is Pub. L. 92–225, Feb. 7, 1972, 86 Stat. 3, as amended, which is classified principally to chapter 14 (§431 et seq.) of Title 2, The Congress. Section 301 of the Act is classified to section 431 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 431 of Title 2 and Tables.

AMENDMENTS

2002—Subsec. (e)(5). Pub. L. 107–276, §2(b), added par. (5).

Subsec. (i)(1)(A). Pub. L. 107–276, §6(c), substituted ''electronically'' for '', electronically and in writing,''.

Subsec. (i)(1)(B). Pub. L. 107–276, §6(g)(1), which directed the insertion of ''or, in the case of any material change in the information required under paragraph (3), for the period beginning on the date on which the material change occurs and ending on the date on which such notice is given'' after ''given'', was executed by making the insertion after ''given'' the second time appearing, to reflect the probable intent of Congress.

Subsec. (i)(2). Pub. L. 107–276, §6(g)(2), inserted ''or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change'' after ''established''.

Subsec. (i)(3)(E), (F). Pub. L. 107–276, §6(f), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (i)(4). Pub. L. 107–276, §6(g)(3), which directed the insertion of ''or, in the case of a failure relating to a material change, by taking into account such income and deductions only during the period beginning on the date on which the material change occurs and ending on the date on which notice is given under this subsection'' before period at end, was executed by making the insertion before period at end of first sentence, to reflect the probable intent of Congress.

Pub. L. 107–276, §6(a), inserted at end ''For purposes of the preceding sentence, the term 'exempt function income' means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.''

Subsec. (i)(5)(C). Pub. L. 107–276, §1(a), added subpar. (C).

Subsec. (j)(1). Pub. L. 107–276, § 6(b), inserted ''For purposes of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).''

Subsec. (j)(3)(A). Pub. L. 107–276, § 6(e)(1)(A), inserted '', date, and purpose'' after ''The amount''.

Subsec. (j)(3)(B). Pub. L. 107–276, § 6(e)(1)(B), inserted ''and date'' after ''the amount''.

Subsec. (j)(5)(C) to (F). Pub. L. 107–276, § 2(a), added subpar. (C) and redesignated former subpars. (C) to (E) as (D) to (F), respectively.

Subsec. (j)(7). Pub. L. 107–276, § 6(e)(2), added par. (7).

Subsec. (k). Pub. L. 107–276, § 6(e)(3), added subsec. (k). Former subsec. (k) redesignated (*l*).

Pub. L. 107–276, § 5(a), added subsec. (k).

Subsec. (*l*). Pub. L. 107–276, § 6(e)(3), redesignated subsec. (k) as (*l*).

2000—Subsec. (i). Pub. L. 106–230, § 1(a), added subsec. (i).

Subsec. (j). Pub. L. 106–230, § 2(a), added subsec. (j).

1988—Subsec. (e)(2). Pub. L. 100–647 inserted at end ''Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a).''

1986—Subsec. (g)(1). Pub. L. 99–514, § 112(b)(1)(A), substituted ''paragraph (3)'' for ''section 24(c)(2)''.

Subsec. (g)(3). Pub. L. 99–514, § 112(b)(1)(B), added par. (3).

1984—Subsec. (g)(1). Pub. L. 98–369, § 474(r)(16), substituted ''section 24(c)(2)'' for ''section 41(c)(2)''.

Subsec. (h)(2)(B). Pub. L. 98–369, § 722(c), inserted ''Nothing in this subsection shall be construed to require any designation where there is only one political committee with respect to a candidate.''

1981—Subsec. (h). Pub. L. 97–34 added subsec. (h).

1978—Subsec. (b)(1). Pub. L. 95–600 substituted ''Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b)'' for ''Such tax shall consist of a normal tax and a surtax computed as provided in section 11 as though the political organization were a corporation and as though the political organization taxable income were the taxable income referred to in section 11'' and struck out provision that for purposes of this subsection, the surtax exemption provided by section 11(d) not be allowed.

Subsec. (c)(3)(D). Pub. L. 95–502 added subpar. (D).

1976—Subsec. (b)(2). Pub. L. 94–455 substituted ''net capital gain'' for ''net section 1201 gain'' after ''organization has a''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–276, § 1(b), Nov. 2, 2002, 116 Stat. 1929, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as if included in the amendments made by Public Law 106–230.''

Pub. L. 107–276, § 2(c), Nov. 2, 2002, 116 Stat. 1931, provided that: ''The amendments made by this section [amending this section] shall take effect as if included in the amendments made by Public Law 106–230.''

Pub. L. 107–276, § 5(b), Nov. 2, 2002, 116 Stat. 1932, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to any tax assessed or amount imposed after June 30, 2000.''

Pub. L. 107–276, § 6(h)(1), (2), Nov. 2, 2002, 116 Stat. 1934, provided that:

''(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) [amending this section] shall apply to failures occurring on or after the date of the enactment of this Act [Nov. 2, 2002].

''(2) SUBSECTION (c).—The amendments made by subsection (c) [amending this section] shall take effect as if included in the amendments made by Public Law 106–230.''

Pub. L. 107–276, § 6(h)(4)–(6), Nov. 2, 2002, 116 Stat. 1934, provided that:

''(4) SUBSECTIONS (e)(1) AND (f).—The amendments made by subsections (e)(1) and (f) [amending this section] shall apply to reports and notices required to be filed more than 30 days after the date of the enactment of this Act [Nov. 2, 2002].

''(5) SUBSECTIONS (e)(2) AND (e)(3).—The amendments made by subsections (e)(2) and (e)(3) [amending this section] shall apply to reports required to be filed on or after June 30, 2003.

''(6) SUBSECTION (g).—

''(A) IN GENERAL.—The amendments made by subsection (g) [amending this section] shall apply to material changes on or after the date of the enactment of this Act.

''(B) TRANSITION RULE.—In the case of a material change occurring during the 30-day period beginning on the date of the enactment of this Act, a notice under section 527(i) of the Internal Revenue Code of 1986 (as amended by this Act) shall not be required to be filed under such section before the later of—

''(i) 30 days after the date of such material change, or

''(ii) 45 days after the date of the enactment of this Act [Nov. 2, 2002].''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–230, § 1(d), July 1, 2000, 114 Stat. 479, provided that:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section [amending this section and sections 6104 and 6652 of this title] shall take effect on the date of the enactment of this section [July 1, 2000].

''(2) ORGANIZATIONS ALREADY IN EXISTENCE.—In the case of an organization established before the date of the enactment of this section, the time to file the notice under section 527(i)(2) of the Internal Revenue Code of 1986, as added by this section, shall be 30 days after the date of the enactment of this section.

''(3) INFORMATION AVAILABILITY.—The amendment made by subsection (b)(2) [amending section 6104 of this title] shall take effect on the date that is 45 days after the date of the enactment of this section.''

Pub. L. 106–230, § 2(d), July 1, 2000, 114 Stat. 482, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to expenditures made and contributions received after the date of the enactment of this Act [July 1, 2000], except that such amendment shall not apply to expenditures made, or contributions received, after such date pursuant to a contract entered into on or before such date.''

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 Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99–514, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(16) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Pub. L. 98–369, div. A, title VII, § 722(c), July 18, 1984, 98 Stat. 973, provided that the amendment made by that section is effective for taxable years beginning after Dec. 31, 1981.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–34, title I, § 128(b), Aug. 13, 1981, 95 Stat. 203, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1981.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(6) of 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 1978 AMENDMENT; ELECTION CAMPAIGN CONTRIBUTIONS; COLLATERAL

Pub. L. 95–502, title III, §302(b), Oct. 21, 1978, 92 Stat. 1703, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1974, except that notwithstanding any other provision of law to the contrary, no amounts held at the date of enactment of this bill [Oct. 21, 1978] by an organization described in section 527(e)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] in escrow, in separate accounts for the payment of Federal taxes, or in any other fund which are proceeds described in section 527(c)(3)(D) of such Code may be used, directly or indirectly, to make a contribution or expenditure (as defined in section 301(e) and (f) of the Federal Election Campaign Act of 1971; 2 U.S.C. 431(f)) in connection with any election held before January 1, 1979.

''(2) Such amounts as described in (1) above shall not be considered as security or collateral for any loan by any State or national bank or any other person or organization.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE

Pub. L. 93–625, §10(e), Jan. 3, 1975, 88 Stat. 2119, provided that: ''The amendments made by subsections (a), (b), (c), and (d) [enacting this section and amending sections 501 and 6012 of this title] shall apply to taxable years beginning after December 31, 1974.''

NOTIFICATION OF INTERACTION OF REPORTING REQUIREMENTS

Pub. L. 107–276, §4, Nov. 2, 2002, 116 Stat. 1932, provided that:

''(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Federal Election Commission, shall publicize—

''(1) the effect of the amendments made by this Act [amending this section and sections 6012, 6033, 6104, and 7207 of this title], and

''(2) the interaction of requirements to file a notification or report under section 527 of the Internal Revenue Code of 1986 and reports under the Federal Election Campaign Act of 1971 [2 U.S.C. 431 et seq.].

''(b) INFORMATION.—Information provided under subsection (a) shall be included in any appropriate form, instruction, notice, or other guidance issued to the public by the Secretary of the Treasury or the Federal Election Commission regarding reporting requirements of political organizations (as defined in section 527 of the Internal Revenue Code of 1986) or reporting requirements under the Federal Election Campaign Act of 1971 [2 U.S.C. 431 et seq.].''

PART VII—CERTAIN HOMEOWNERS ASSOCIATIONS

AMENDMENTS

1976—Pub. L. 94–455, title XXI, §2101(a), Oct. 4, 1976, 90 Stat. 1897, added part heading and analysis for part VII.

§ 528. Certain homeowners associations

(a) General rule

A homeowners association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(b) Tax imposed

A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall be equal to 30 percent of the homeowners association taxable income (32 percent of such income in the case of a timeshare association).

(c) Homeowners association defined

For purposes of this section—

(1) Homeowners association

The term ''homeowners association'' means an organization which is a condominium management association, a residential real estate management association, or a timeshare association if—

(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from—

(i) owners of residential units in the case of a condominium management association,

(ii) owners of residences or residential lots in the case of a residential real estate management association, or

(iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,

(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property and, in the case of a timeshare association, for activities provided to or on behalf of members of the association,

(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

(2) Condominium management association

The term ''condominium management association'' means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project substantially all of the units of which are used by individuals for residences.

(3) Residential real estate management association

The term ''residential real estate management association'' means any organization

meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

(4) Timeshare association

The term ''timeshare association'' means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership interest in, real property constituting association property.

(5) Association property

The term ''association property'' means—

(A) property held by the organization,

(B) property commonly held by the members of the organization,

(C) property within the organization privately held by the members of the organization, and

(D) property owned by a governmental unit and used for the benefit of residents of such unit.

In the case of a timeshare association, such term includes property in which the timeshare association, or members of the association, have rights arising out of recorded easements, covenants, or other recorded instruments to use property related to the timeshare project.

(d) Homeowners association taxable income defined

(1) Taxable income defined

For purposes of this section, the homeowners association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

(A) the gross income for the taxable year (excluding any exempt function income), over

(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

(2) Modifications

For purposes of this subsection—

(A) there shall be allowed a specific deduction of $100,

(B) no net operating loss deduction shall be allowed under section 172, and

(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

(3) Exempt function income

For purposes of this subsection, the term ''exempt function income'' means any amount received as membership dues, fees, or assessments from—

(A) owners of condominium housing units in the case of a condominium management association,

(B) owners of real property in the case of a residential real estate management association, or

(C) owners of timeshare rights to use, or timeshare ownership interests in, real property in the case of a timeshare association.

(Added Pub. L. 94–455, title XXI, § 2101(a), Oct. 4, 1976, 90 Stat. 1897; amended Pub. L. 95–600, title III, § 301(b)(7), title IV, § 403(c)(2), title VII, § 701(n)(1), Nov. 6, 1978, 92 Stat. 2821, 2868, 2907; Pub. L. 96–605, title I, § 105(a), Dec. 28, 1980, 94 Stat. 3523; Pub. L. 105–34, title IX, § 966(a)–(d), Aug. 5, 1997, 111 Stat. 894, 895.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–34, § 966(d), which directed amendment of subsec. (b) by inserting before the period ''(32 percent of such income in the case of a timeshare association)'', was executed by making the insertion before the period at end to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 105–34, § 966(a)(1)(A), substituted '', a residential real estate management association, or a timeshare association'' for ''or a residential real estate management association'' in introductory provisions.

Subsec. (c)(1)(B)(iii). Pub. L. 105–34, § 966(a)(1)(B), added cl. (iii).

Subsec. (c)(1)(C). Pub. L. 105–34, § 966(a)(1)(C), inserted before comma at end ''and, in the case of a timeshare association, for activities provided to or on behalf of members of the association''.

Subsec. (c)(4). Pub. L. 105–34, § 966(a)(2), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 105–34, § 966(c), inserted concluding provisions ''In the case of a timeshare association, such term includes property in which the timeshare association, or members of the association, have rights arising out of recorded easements, covenants, or other recorded instruments to use property related to the timeshare project.''

Pub. L. 105–34, § 966(a)(2), redesignated par. (4) as (5).

Subsec. (d)(3)(C). Pub. L. 105–34, § 966(b), added subpar. (C).

1980—Subsec. (b). Pub. L. 96–605 substituted provision that all income of a homeowners association be taxed at a rate of 30 per cent for provision that all income of a homeowners association be taxed a sum computed by multiplying the homeowners association taxable income by the highest rate of tax specified in section 11(b) of this title and struck out provision providing for alternative tax in case of capital gains.

1978—Subsec. (b)(1). Pub. L. 95–600, § 301(b)(7), substituted ''Such tax shall be computed by multiplying the homeowners association taxable income by the highest rate of tax specified in section 11(b)'' for ''Such tax shall consist of a normal tax and a surtax computed as provided in section 11 as though the homeowners association were a corporation and as though the homeowners association taxable income were the taxable income referred to in section 11'' and struck out provision that for purposes of this subsection, the surtax exemption provided by section 11(d) not be allowed.

Subsec. (b)(2)(B). Pub. L. 95–600, § 403(c)(2), substituted provision related to amount being determined according to section 1201(a) for provision requiring an amount of 30 percent.

Subsec. (c)(2). Pub. L. 95–600, § 701(n)(1), substituted ''by individuals for residences'' for ''as residences''.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title IX, § 966(e), Aug. 5, 1997, 111 Stat. 895, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1996.''

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–605, title I, § 105(b), Dec. 28, 1980, 94 Stat. 3523, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1980.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(7) of 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.

Pub. L. 95–600, title IV, § 403(d)(3), Nov. 6, 1978, 92 Stat. 2869, provided that: ''The amendments made by paragraphs (2), (3), and (4) of subsection (c) [amending this section and sections 857 and 904 of this title] shall take effect on the date of the enactment of this Act [Nov. 6, 1978].''

Pub. L. 95–600, title VII, § 701(n)(2), Nov. 6, 1978, 92 Stat. 2907, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to taxable years beginning after December 31, 1973.''

EFFECTIVE DATE

Pub. L. 94–455, title XXI, § 2101(e), Oct. 4, 1976, 90 Stat. 1899, provided that: ''Except as provided in subsection (f)(2) [set out as a note under section 216 of this title], the amendments made by this section [enacting this section and amending sections 216 and 6012 of this title] shall apply to taxable years beginning after December 31, 1973.''

PART VIII—HIGHER EDUCATION SAVINGS ENTITIES

Sec.
529. Qualified tuition programs.
530. Coverdell education savings accounts.

AMENDMENTS

2004—Pub. L. 108–311, title IV, § 408(b)(2), Oct. 4, 2004, 118 Stat. 1192, amended directory language of Pub. L. 107–22, § 1(a)(6). See 2001 Amendment note below.

2001—Pub. L. 107–22, § 1(a)(6), July 26, 2001, 115 Stat. 196, as amended by Pub. L. 108–311, title IV, § 408(b)(2), Oct. 4, 2004, 118 Stat. 1192, substituted ''Coverdell education savings accounts'' for ''Education individual retirement accounts'' in item 530.

Pub. L. 107–16, title IV, § 402(a)(4)(E), June 7, 2001, 115 Stat. 61, struck out ''State'' before ''tuition'' in item 529.

1997—Pub. L. 105–34, title II, §§ 211(e)(1)(A), 213(e)(3), Aug. 5, 1997, 111 Stat. 812, 817, substituted ''HIGHER EDUCATION SAVINGS ENTITIES'' for ''QUALIFIED STATE TUITION PROGRAMS'' in heading and added item 530.

§ 529. Qualified tuition programs

(a) General rule

A qualified tuition program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

(b) Qualified tuition program

For purposes of this section—

(1) In general

The term ''qualified tuition program'' means a program established and maintained by a State or agency or instrumentality thereof or by 1 or more eligible educational institutions—

(A) under which a person—

(i) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or

(ii) in the case of a program established and maintained by a State or agency or instrumentality thereof, may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, and

(B) which meets the other requirements of this subsection.

Except to the extent provided in regulations, a program established and maintained by 1 or more eligible educational institutions shall not be treated as a qualified tuition program unless such program provides that amounts are held in a qualified trust and such program has received a ruling or determination that such program meets the applicable requirements for a qualified tuition program. For purposes of the preceding sentence, the term ''qualified trust'' means a trust which is created or organized in the United States for the exclusive benefit of designated beneficiaries and with respect to which the requirements of paragraphs (2) and (5) of section 408(a) are met.

(2) Cash contributions

A program shall not be treated as a qualified tuition program unless it provides that purchases or contributions may only be made in cash.

(3) Separate accounting

A program shall not be treated as a qualified tuition program unless it provides separate accounting for each designated beneficiary.

(4) No investment direction

A program shall not be treated as a qualified tuition program unless it provides that any contributor to, or designated beneficiary under, such program may not directly or indirectly direct the investment of any contributions to the program (or any earnings thereon).

(5) No pledging of interest as security

A program shall not be treated as a qualified tuition program if it allows any interest in the program or any portion thereof to be used as security for a loan.

(6) Prohibition on excess contributions

A program shall not be treated as a qualified tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

(c) Tax treatment of designated beneficiaries and contributors

(1) In general

Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

(A) a designated beneficiary under a qualified tuition program, or

(B) a contributor to such program on behalf of a designated beneficiary,

with respect to any distribution or earnings under such program.

(2) Gift tax treatment of contributions

For purposes of chapters 12 and 13—

(A) In general

Any contribution to a qualified tuition program on behalf of any designated beneficiary—

(i) shall be treated as a completed gift to such beneficiary which is not a future interest in property, and

(ii) shall not be treated as a qualified transfer under section 2503(e).

(B) Treatment of excess contributions

If the aggregate amount of contributions described in subparagraph (A) during the calendar year by a donor exceeds the limitation for such year under section 2503(b), such aggregate amount shall, at the election of the donor, be taken into account for purposes of such section ratably over the 5-year period beginning with such calendar year.

(3) Distributions

(A) In general

Any distribution under a qualified tuition program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

(B) Distributions for qualified higher education expenses

For purposes of this paragraph—

(i) In-kind distributions

No amount shall be includible in gross income under subparagraph (A) by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense.

(ii) Cash distributions

In the case of distributions not described in clause (i), if—

(I) such distributions do not exceed the qualified higher education expenses (reduced by expenses described in clause (i)), no amount shall be includible in gross income, and

(II) in any other case, the amount otherwise includible in gross income shall be reduced by an amount which bears the same ratio to such amount as such expenses bear to such distributions.

(iii) Exception for institutional programs

In the case of any taxable year beginning before January 1, 2004, clauses (i) and (ii) shall not apply with respect to any distribution during such taxable year under a qualified tuition program established and maintained by 1 or more eligible educational institutions.

(iv) Treatment as distributions

Any benefit furnished to a designated beneficiary under a qualified tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

(v) Coordination with Hope and Lifetime Learning credits

The total amount of qualified higher education expenses with respect to an individual for the taxable year shall be reduced—

(I) as provided in section 25A(g)(2), and

(II) by the amount of such expenses which were taken into account in determining the credit allowed to the taxpayer or any other person under section 25A.

(vi) Coordination with Coverdell education savings accounts

If, with respect to an individual for any taxable year—

(I) the aggregate distributions to which clauses (i) and (ii) and section 530(d)(2)(A) apply, exceed

(II) the total amount of qualified higher education expenses otherwise taken into account under clauses (i) and (ii) (after the application of clause (v)) for such year,

the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under clauses (i) and (ii) and section 530(d)(2)(A).

(C) Change in beneficiaries or programs

(i) Rollovers

Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred—

(I) to another qualified tuition program for the benefit of the designated beneficiary, or

(II) to the credit of another designated beneficiary under a qualified tuition program who is a member of the family of the designated beneficiary with respect to which the distribution was made.

(ii) Change in designated beneficiaries

Any change in the designated beneficiary of an interest in a qualified tuition program shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is a member of the family of the old beneficiary.

(iii) Limitation on certain rollovers

Clause (i)(I) shall not apply to any transfer if such transfer occurs within 12 months from the date of a previous transfer to any qualified tuition program for the benefit of the designated beneficiary.

(D) Operating rules

For purposes of applying section 72—

(i) to the extent provided by the Secretary, all qualified tuition programs of which an individual is a designated beneficiary shall be treated as one program,

(ii) except to the extent provided by the Secretary, all distributions during a taxable year shall be treated as one distribution, and

(iii) except to the extent provided by the Secretary, the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

(4) Estate tax treatment

(A) In general

No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified tuition program.

(B) Amounts includible in estate of designated beneficiary in certain cases

Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary.

(C) Amounts includible in estate of donor making excess contributions

In the case of a donor who makes the election described in paragraph (2)(B) and who dies before the close of the 5-year period referred to in such paragraph, notwithstanding subparagraph (A), the gross estate of the donor shall include the portion of such contributions properly allocable to periods after the date of death of the donor.

(5) Other gift tax rules

For purposes of chapters 12 and 13—

(A) Treatment of distributions

Except as provided in subparagraph (B), in no event shall a distribution from a qualified tuition program be treated as a taxable gift.

(B) Treatment of designation of new beneficiary

The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) unless the new beneficiary is—

(i) assigned to the same generation as (or a higher generation than) the old beneficiary (determined in accordance with section 2651), and

(ii) a member of the family of the old beneficiary.

(6) Additional tax

The tax imposed by section 530(d)(4) shall apply to any payment or distribution from a qualified tuition program in the same manner as such tax applies to a payment or distribution from an[1] Coverdell education savings account. This paragraph shall not apply to any payment or distribution in any taxable year beginning before January 1, 2004, which is includible in gross income but used for qualified higher education expenses of the designated beneficiary.

(d) Reports

Each officer or employee having control of the qualified tuition program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distributions, and such other matters as the Secretary may require. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.

(e) Other definitions and special rules

For purposes of this section—

(1) Designated beneficiary

The term ''designated beneficiary'' means—

(A) the individual designated at the commencement of participation in the qualified tuition program as the beneficiary of amounts paid (or to be paid) to the program,

(B) in the case of a change in beneficiaries described in subsection (c)(3)(C), the individual who is the new beneficiary, and

(C) in the case of an interest in a qualified tuition program purchased by a State or local government (or agency or instrumentality thereof) or an organization described in section 501(c)(3) and exempt from taxation under section 501(a) as part of a scholarship program operated by such government or organization, the individual receiving such interest as a scholarship.

(2) Member of family

The term ''member of the family'' means, with respect to any designated beneficiary—

(A) the spouse of such beneficiary;

(B) an individual who bears a relationship to such beneficiary which is described in subparagraphs (A) through (G) of section 152(d)(2);

(C) the spouse of any individual described in subparagraph (B); and

(D) any first cousin of such beneficiary.

(3) Qualified higher education expenses

(A) In general

The term ''qualified higher education expenses'' means—

(i) tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution;

(ii) expenses for special needs services in the case of a special needs beneficiary which are incurred in connection with such enrollment or attendance[2]

(iii) expenses paid or incurred in 2009 or 2010 for the purchase of any computer technology or equipment (as defined in section 170(e)(6)(F)(i)) or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution.

Clause (iii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.

(B) Room and board included for students who are at least half-time

(i) In general

In the case of an individual who is an eligible student (as defined in section 25A(b)(3)) for any academic period, such term shall also include reasonable costs for such period (as determined under the

[1] So in original. Probably should be ''a''.

[2] So in original. Probably should be followed by ''; and''.

qualified tuition program) incurred by the designated beneficiary for room and board while attending such institution. For purposes of subsection (b)(6), a designated beneficiary shall be treated as meeting the requirements of this clause.

(ii) Limitation

The amount treated as qualified higher education expenses by reason of clause (i) shall not exceed—

(I) the allowance (applicable to the student) for room and board included in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*), as in effect on the date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001) as determined by the eligible educational institution for such period, or

(II) if greater, the actual invoice amount the student residing in housing owned or operated by the eligible educational institution is charged by such institution for room and board costs for such period.

(4) Application of section 514

An interest in a qualified tuition program shall not be treated as debt for purposes of section 514.

(5) Eligible educational institution

The term ''eligible educational institution'' means an institution—

(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this paragraph, and

(B) which is eligible to participate in a program under title IV of such Act.

(f) Regulations

Notwithstanding any other provision of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and to prevent abuse of such purposes, including regulations under chapters 11, 12, and 13 of this title.

(Added Pub. L. 104–188, title I, § 1806(a), Aug. 20, 1996, 110 Stat. 1895; amended Pub. L. 105–34, title II, § 211(a), (b), (d), (e)(2)(A), title XVI, § 1601(h)(1)(A), (B), Aug. 5, 1997, 111 Stat. 810, 812, 1092; Pub. L. 105–206, title VI, § 6004(c)(2), (3), July 22, 1998, 112 Stat. 793; Pub. L. 106–554, § 1(a)(7) [title III, § 319(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A–646; Pub. L. 107–16, title IV, § 402(a)(1)–(3), (4)(A), (C), (D), (b)(1), (c)–(g), June 7, 2001, 115 Stat. 60–63; Pub. L. 107–22, § 1(b)(3)(C), July 26, 2001, 115 Stat. 197; Pub. L. 107–147, title IV, § 417(11), Mar. 9, 2002, 116 Stat. 56; Pub. L. 108–311, title II, § 207(21), title IV, § 406(a), Oct. 4, 2004, 118 Stat. 1178, 1189; Pub. L. 109–135, title IV, § 412(ee)(3), Dec. 21, 2005, 119 Stat. 2639; Pub. L. 109–280, title XIII, § 1304(b), Aug. 17, 2006, 120 Stat. 1110; Pub. L. 111–5, div. B, title I, § 1005(a), Feb. 17, 2009, 123 Stat. 316.)

REFERENCES IN TEXT

The date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001, referred to in subsec. (e)(3)(B)(ii)(I), is the date of enactment of Pub. L. 107–16, which was approved June 7, 2001.

The date of the enactment of this paragraph, referred to in subsec. (e)(5)(A), probably means the date of enactment of Pub. L. 105–34, which enacted subsec. (e)(5) and which was approved Aug. 5, 1997.

The Higher Education Act of 1965, referred to in subsec. (e)(5), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of Title 20, Education, and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

2009—Subsec. (e)(3)(A). Pub. L. 111–5 added cl. (iii) and concluding provisions.

2006—Subsec. (f). Pub. L. 109–280, which directed the addition of subsec. (f) to section 529, without specifying the act to be amended, was executed by making the addition to this section, which is section 529 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2005—Subsec. (c)(6). Pub. L. 109–135 substituted ''Coverdell education savings account'' for ''education individual retirement account''.

2004—Subsec. (c)(5)(B). Pub. L. 108–311, § 406(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) only if the new beneficiary is a generation below the generation of the old beneficiary (determined in accordance with section 2651).''

Subsec. (e)(2)(B). Pub. L. 108–311, § 207(21), substituted ''subparagraphs (A) through (G) of section 152(d)(2)'' for ''paragraphs (1) through (8) of section 152(a)''.

2002—Subsec. (e)(3)(B)(i). Pub. L. 107–147 substituted ''subsection (b)(6)'' for ''subsection (b)(7)''.

2001—Pub. L. 107–16, § 402(a)(4)(D), struck out ''State'' before ''tuition'' in section catchline.

Subsec. (a). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (b). Pub. L. 107–16, § 402(a)(4)(C), substituted ''Qualified tuition'' for ''Qualified State tuition'' in heading.

Subsec. (b)(1). Pub. L. 107–16, § 402(a)(1), (4)(A), in introductory provisions, substituted ''qualified tuition'' for ''qualified State tuition'' and inserted ''or by 1 or more eligible educational institutions'' after ''thereof'', and added concluding provisions.

Subsec. (b)(1)(A)(ii). Pub. L. 107–16, § 402(a)(2), inserted ''in the case of a program established and maintained by a State or agency or instrumentality thereof,'' before ''may make''.

Subsec. (b)(2). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (b)(3) to (7). Pub. L. 107–16, § 402(a)(3)(A), (4)(A), redesignated pars. (4) to (7) as (3) to (6), respectively, substituted ''qualified tuition'' for ''qualified State tuition'' wherever appearing, and struck out heading and text of former par. (3). Text read as follows: ''A program shall not be treated as a qualified State tuition program unless it imposes a more than de minimis penalty on any refund of earnings from the account which are not—

''(A) used for qualified higher education expenses of the designated beneficiary,

''(B) made on account of the death or disability of the designated beneficiary, or

''(C) made on account of a scholarship (or allowance or payment described in section 135(d)(1)(B) or (C)) received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment.''

Subsec. (c)(1)(A), (3)(A). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(B). Pub. L. 107–16, § 402(b)(1), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''Any benefit furnished to a designated beneficiary under a qualified tuition program shall be treated as a distribution to the beneficiary.''

Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(B)(vi). Pub. L. 107–22 substituted ''Coverdell education savings'' for ''education individual retirement'' in heading.

Subsec. (c)(3)(C). Pub. L. 107–16, § 402(c)(3), inserted ''or programs'' after ''beneficiaries'' in heading.

Subsec. (c)(3)(C)(i). Pub. L. 107–16, § 402(c)(1), substituted ''transferred—'' for ''transferred'', added subcl. (I), and designated existing provisions ''to the credit'' as subcl. (II).

Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(C)(ii). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(C)(iii). Pub. L. 107–16, § 402(c)(2), added cl. (iii).

Subsec. (c)(3)(D)(i). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (c)(3)(D)(ii). Pub. L. 107–16, § 402(g)(1), inserted ''except to the extent provided by the Secretary,'' before ''all distributions''.

Subsec. (c)(3)(D)(iii). Pub. L. 107–16, § 402(g)(2), inserted ''except to the extent provided by the Secretary,'' before ''the value''.

Subsec. (c)(6). Pub. L. 107–16, § 402(a)(3)(B), added par. (6).

Subsecs. (d), (e)(1)(A), (C). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (e)(2)(D). Pub. L. 107–16, § 402(d), added subpar. (D).

Subsec. (e)(3)(A). Pub. L. 107–16, § 402(f), reenacted heading without change and amended text of subpar. (A) generally. Prior to amendment, text read as follows: ''The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution.''

Subsec. (e)(3)(B)(i). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (e)(3)(B)(ii). Pub. L. 107–16, § 402(e), reenacted heading without change and amended text of cl. (ii) generally. Prior to amendment, text read as follows: ''The amount treated as qualified higher education expenses by reason of the preceding sentence shall not exceed the minimum amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087*ll*, as in effect on the date of the enactment of this paragraph) for the eligible educational institution for such period.''

Subsec. (e)(4). Pub. L. 107–16, § 402(a)(4)(A), substituted ''qualified tuition'' for ''qualified State tuition''.

2000—Subsec. (e)(3)(B). Pub. L. 106–554 struck out ''under guaranteed plans'' after ''students'' in heading.

1998—Subsec. (c)(3)(A). Pub. L. 105–206, § 6004(c)(2), substituted ''section 72'' for ''section 72(b)''.

Subsec. (e)(2). Pub. L. 105–206, § 6004(c)(3), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: ''The term 'member of the family' means—

''(A) an individual who bears a relationship to another individual which is a relationship described in paragraphs (1) through (8) of section 152(a), and

''(B) the spouse of any individual described in subparagraph (A).''

1997—Subsec. (b)(5). Pub. L. 105–34, § 211(b)(4), inserted ''directly or indirectly'' after ''may not''.

Subsec. (c)(2). Pub. L. 105–34, § 211(b)(3)(A)(i), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''In no event shall a contribution to a qualified State tuition program on behalf of a designated beneficiary be treated as a taxable gift for purposes of chapter 12.''

Subsec. (c)(3)(A). Pub. L. 105–34, § 211(d), substituted ''section 72(b)'' for ''section 72''.

Subsec. (c)(4). Pub. L. 105–34, § 211(b)(3)(B), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: ''The value of any interest in any qualified State tuition program which is attributable to contributions made by an individual to such program on behalf of any designated beneficiary shall be includible in the gross estate of the contributor for purposes of chapter 11.''

Subsec. (c)(5). Pub. L. 105–34, § 211(b)(3)(A)(ii), amended heading and text of par. (5) generally. Prior to amendment, text read as follows: ''For purposes of section 2503(e), the waiver (or payment to an educational institution) of qualified higher education expenses of a designated beneficiary under a qualified State tuition program shall be treated as a qualified transfer.''

Subsec. (d). Pub. L. 105–34, § 211(e)(2)(A), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

''(d) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—If there is a distribution to any individual with respect to an interest in a qualified State tuition program during any calendar year, each officer or employee having control of the qualified State tuition program or their designee shall make such reports as the Secretary may require regarding such distribution to the Secretary and to the designated beneficiary or the individual to whom the distribution was made. Any such report shall include such information as the Secretary may prescribe.

''(2) Timing of reports.—Any report required by this subsection—

''(A) shall be filed at such time and in such matter as the Secretary prescribes, and

''(B) shall be furnished to individuals not later than January 31 of the calendar year following the calendar year to which such report relates.''

Subsec. (e)(1)(B). Pub. L. 105–34, § 1601(h)(1)(A), substituted ''subsection (c)(3)(C)'' for ''subsection (c)(2)(C)''.

Subsec. (e)(1)(C). Pub. L. 105–34, § 1601(h)(1)(B), inserted ''(or agency or instrumentality thereof)'' after ''local government''.

Subsec. (e)(2). Pub. L. 105–34, § 211(b)(1), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''The term 'member of the family' has the same meaning given such term as section 2032A(e)(2).''

Subsec. (e)(3). Pub. L. 105–34, § 211(a), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution (as defined in section 135(c)(3)).''

Subsec. (e)(5). Pub. L. 105–34, § 211(b)(2), added par. (5).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–5, div. B, title I, § 1005(b), Feb. 17, 2009, 123 Stat. 316, provided that: ''The amendments made by this section [amending this section] shall apply to expenses paid or incurred after December 31, 2008.''

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 207(21) of Pub. L. 108–311 applicable to taxable years beginning after Dec. 31, 2004, see section 208 of Pub. L. 108–311, set out as a note under section 2 of this title.

Amendment by section 406(a) of Pub. L. 108–311 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 406(h) of Pub. L. 108–311, set out as a note under section 55 of this title.

EFFECTIVE DATE OF 2001 AMENDMENTS

Amendment by Pub. L. 107–22 effective July 26, 2001, see section 1(c) of Pub. L. 107–22, set out as a note under section 26 of this title.

Amendment by Pub. L. 107–16 applicable to taxable years beginning after Dec. 31, 2001, see section 402(h) of Pub. L. 107–16, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title II, § 211(f), Aug. 5, 1997, 111 Stat. 812, provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 135 and 6693 of this title] shall take effect on January 1, 1998.

''(2) EXPENSES TO INCLUDE ROOM AND BOARD.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1806 of the Small Business Job Protection Act of 1996 [Pub. L. 104–188].

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The amendment made by subsection (b)(2) [amending this section] shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

''(4) COORDINATION WITH EDUCATION SAVINGS BONDS.—The amendment made by subsection (c) [amending section 135 of this title] shall apply to taxable years beginning after December 31, 1997.

''(5) ESTATE AND GIFT TAX CHANGES.—

''(A) GIFT TAX CHANGES.—Paragraphs (2) and (5) of section 529(c) of the Internal Revenue Code of 1986, as amended by this section, shall apply to transfers (including designations of new beneficiaries) made after the date of the enactment of this Act [Aug. 5, 1997].

''(B) ESTATE TAX CHANGES.—Paragraph (4) of such section 529(c) shall apply to estates of decedents dying after June 8, 1997.

''(6) TRANSITION RULE FOR PRE-AUGUST 20, 1996 CONTRACTS.—In the case of any contract issued prior to August 20, 1996, section 529(c)(3)(C) of the Internal Revenue Code of 1986 shall be applied for taxable years ending after August 20, 1996, without regard to the requirement that a distribution be transferred to a member of the family or the requirement that a change in beneficiaries may be made only to a member of the family.''

Amendment by section 1601(h)(1)(A), (B) of Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

EFFECTIVE DATE

Pub. L. 104–188, title I, § 1806(c), Aug. 20, 1996, 110 Stat. 1898, as amended by Pub. L. 105–34, title XVI, § 1601(h)(1)(C), Aug. 5, 1997, 111 Stat. 1092, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 135 of this title] shall apply to taxable years ending after the date of the enactment of this Act [Aug. 20, 1996].

''(2) TRANSITION RULE.—If—

''(A) a State or agency or instrumentality thereof maintains, on the date of the enactment of this Act, a program under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, a designated beneficiary, and

''(B) such program meets the requirements of a qualified State tuition program before the later of—

''(i) the date which is 1 year after such date of enactment, or

''(ii) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after such date of enactment,

then such program (as in effect on August 20, 1996) shall be treated as a qualified State tuition program with respect to contributions (and earnings allocable thereto) pursuant to contracts entered into under such program before the first date on which such program meets such requirements (determined without regard to this paragraph) and the provisions of such program (as so in effect) shall apply in lieu of section 529(b) of the Internal Revenue Code of 1986 with respect to such contributions and earnings.

For purposes of subparagraph (B)(ii), if a State has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.''

§ 530. Coverdell education savings accounts

(a) General rule

A Coverdell education savings account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the Coverdell education savings account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

(b) Definitions and special rules

For purposes of this section—

(1) Coverdell education savings account

The term ''Coverdell education savings account'' means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of an individual who is the designated beneficiary of the trust (and designated as a Coverdell education savings account at the time created or organized), but only if the written governing instrument creating the trust meets the following requirements:

(A) No contribution will be accepted—

(i) unless it is in cash,

(ii) after the date on which such beneficiary attains age 18, or

(iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding $2,000.

(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section or who has so demonstrated with respect to any individual retirement plan.

(C) No part of the trust assets will be invested in life insurance contracts.

(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

(E) Except as provided in subsection (d)(7), any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death of such beneficiary.

The age limitations in subparagraphs (A)(ii) and (E), and paragraphs (5) and (6) of subsection (d), shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).

(2) Qualified education expenses

(A) In general

The term ''qualified education expenses'' means—

(i) qualified higher education expenses (as defined in section 529(e)(3)), and

(ii) qualified elementary and secondary education expenses (as defined in paragraph (3)).

(B) Qualified tuition programs

Such term shall include any contribution to a qualified tuition program (as defined in section 529(b)) on behalf of the designated beneficiary (as defined in section 529(e)(1)); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of any portion of such contribution which is not includible in gross income by reason of subsection (d)(2).

(3) Qualified elementary and secondary education expenses

(A) In general

The term ''qualified elementary and secondary education expenses'' means—

(i) expenses for tuition, fees, academic tutoring, special needs services in the case of a special needs beneficiary, books, supplies, and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary school student at a public, private, or religious school,

(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public, private, or religious school in connection with such enrollment or attendance, and

(iii) expenses for the purchase of any computer technology or equipment (as defined in section 170(e)(6)(F)(i)) or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is in school.

Clause (iii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.

(B) School

The term ''school'' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

(4) Time when contributions deemed made

An individual shall be deemed to have made a contribution to an education individual retirement account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(c) Reduction in permitted contributions based on adjusted gross income

(1) In general

In the case of a contributor who is an individual, the maximum amount the contributor could otherwise make to an account under this section shall be reduced by an amount which bears the same ratio to such maximum amount as—

(A) the excess of—

(i) the contributor's modified adjusted gross income for such taxable year, over

(ii) $95,000 ($190,000 in the case of a joint return), bears to

(B) $15,000 ($30,000 in the case of a joint return).

(2) Modified adjusted gross income

For purposes of paragraph (1), the term ''modified adjusted gross income'' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

(d) Tax treatment of distributions

(1) In general

Any distribution shall be includible in the gross income of the distributee in the manner as provided in section 72.

(2) Distributions for qualified education expenses

(A) In general

No amount shall be includible in gross income under paragraph (1) if the qualified education expenses of the designated beneficiary during the taxable year are not less than the aggregate distributions during the taxable year.

(B) Distributions in excess of expenses

If such aggregate distributions exceed such expenses during the taxable year, the amount otherwise includible in gross income under paragraph (1) shall be reduced by the amount which bears the same ratio to the amount which would be includible in gross income under paragraph (1) (without regard to this subparagraph) as the qualified education expenses bear to such aggregate distributions.

(C) Coordination with Hope and Lifetime Learning credits and qualified tuition programs

For purposes of subparagraph (A)—

(i) Credit coordination

The total amount of qualified education expenses with respect to an individual for the taxable year shall be reduced—

(I) as provided in section 25A(g)(2), and

(II) by the amount of such expenses which were taken into account in determining the credit allowed to the tax-

payer or any other person under section 25A.

(ii) Coordination with qualified tuition programs

If, with respect to an individual for any taxable year—

(I) the aggregate distributions during such year to which subparagraph (A) and section 529(c)(3)(B) apply, exceed

(II) the total amount of qualified education expenses (after the application of clause (i)) for such year,

the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under subparagraph (A) and section 529(c)(3)(B).

(D) Disallowance of excluded amounts as deduction, credit, or exclusion

No deduction, credit, or exclusion shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.

(3) Special rules for applying estate and gift taxes with respect to account

Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

(4) Additional tax for distributions not used for educational expenses

(A) In general

The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from a Coverdell education savings account which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

(B) Exceptions

Subparagraph (A) shall not apply if the payment or distribution is—

(i) made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary,

(ii) attributable to the designated beneficiary's being disabled (within the meaning of section 72(m)(7)),

(iii) made on account of a scholarship, allowance, or payment described in section 25A(g)(2) received by the designated beneficiary to the extent the amount of the payment or distribution does not exceed the amount of the scholarship, allowance, or payment,

(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or

(v) an amount which is includible in gross income solely by application of paragraph (2)(C)(i)(II) for the taxable year.

(C) Contributions returned before certain date

Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

(i) such distribution is made before the first day of the sixth month of the taxable year following the taxable year, and

(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in gross income for the taxable year in which such excess contribution was made.

(5) Rollover contributions

Paragraph (1) shall not apply to any amount paid or distributed from a Coverdell education savings account to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into another Coverdell education savings account for the benefit of the same beneficiary or a member of the family (within the meaning of section 529(e)(2)) of such beneficiary who has not attained age 30 as of such date. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

(6) Change in beneficiary

Any change in the beneficiary of a Coverdell education savings account shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a member of the family (as so defined) of the old beneficiary and has not attained age 30 as of the date of such change.

(7) Special rules for death and divorce

Rules similar to the rules of paragraphs (7) and (8) of section 220(f) shall apply. In applying the preceding sentence, members of the family (as so defined) of the designated beneficiary shall be treated in the same manner as the spouse under such paragraph (8).

(8) Deemed distribution on required distribution date

In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.

(9) Military death gratuity

(A) In general

For purposes of this section, the term ''rollover contribution'' includes a contribu-

tion to a Coverdell education savings account made before the end of the 1-year period beginning on the date on which the contributor receives an amount under section 1477 of title 10, United States Code, or section 1967 of title 38 of such Code, with respect to a person, to the extent that such contribution does not exceed—

(i) the sum of the amounts received during such period by such contributor under such sections with respect to such person, reduced by

(ii) the amounts so received which were contributed to a Roth IRA under section 408A(e)(2) or to another Coverdell education savings account.

(B) Annual limit on number of rollovers not to apply

The last sentence of paragraph (5) shall not apply with respect to amounts treated as a rollover by the[1] subparagraph (A).

(C) Application of section 72

For purposes of applying section 72 in the case of a distribution which is includible in gross income under paragraph (1), the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.

(e) Tax treatment of accounts

Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any Coverdell education savings account.

(f) Community property laws

This section shall be applied without regard to any community property laws.

(g) Custodial accounts

For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

(h) Reports

The trustee of a Coverdell education savings account shall make such reports regarding such account to the Secretary and to the beneficiary of the account with respect to contributions, distributions, and such other matters as the Secretary may require. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required.

(Added Pub. L. 105–34, title II, §213(a), Aug. 5, 1997, 111 Stat. 813; amended Pub. L. 105–206, title VI, §6004(d)(1)–(3)(A), (5)–(8), July 22, 1998, 112 Stat. 793, 794; Pub. L. 106–554, §1(a)(7) [title III, §319(6)], Dec. 21, 2000, 114 Stat. 2763, 2763A–646; Pub. L. 107–16, title IV, §§401(a)(1), (b)–(g)(1), (2)(C), 402(a)(4)(A), (C), June 7, 2001, 115 Stat. 57–61; Pub. L. 107–22, §1(a)(1)–(5), July 26, 2001, 115 Stat. 196; Pub. L. 107–147, title IV, §411(f), Mar. 9, 2002, 116 Stat. 46; Pub. L. 108–121, title I, §107(a), Nov. 11, 2003, 117 Stat. 1339; Pub. L. 108–311, title IV, §§404(a), 406(b), Oct. 4, 2004, 118 Stat. 1188, 1189; Pub. L. 109–135, title IV, §412(ff), Dec. 21, 2005, 119 Stat. 2639; Pub. L. 110–245, title I, §109(c), June 17, 2008, 122 Stat. 1632.)

[1] So in original. The word ''the'' probably should not appear.

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (d)(4)(B)(iv), is the date of enactment of Pub. L. 105–34, which enacted this section and was approved Aug. 5, 1997.

AMENDMENTS

2008—Subsec. (d)(9). Pub. L. 110–245 added par. (9).

2005—Subsec. (b)(2)(A)(ii). Pub. L. 109–135, §412(ff)(2), substituted ''paragraph (3)'' for ''paragraph (4)''.

Subsec. (b)(3) to (5). Pub. L. 109–135, §412(ff)(1), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: ''The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).''

2004—Subsec. (d)(2)(C)(i). Pub. L. 108–311, §404(a), struck out ''higher'' after ''qualified'' in introductory provisions.

Subsec. (d)(4)(B)(iii). Pub. L. 108–311, §406(b), substituted ''designated beneficiary'' for ''account holder''.

2003—Subsec. (d)(4)(B)(iv), (v). Pub. L. 108–121 added cl. (iv) and redesignated former cl. (iv) as (v).

2002—Subsec. (d)(4)(B)(iv). Pub. L. 107–147 substituted ''by application of paragraph (2)(C)(i)(II)'' for ''because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2)''.

2001—Pub. L. 107–22, §1(a)(5), amended section catchline generally, substituting ''Coverdell education savings'' for ''Education individual retirement''.

Subsec. (a). Pub. L. 107–22, §1(a)(2), substituted ''A Coverdell education savings account'' for ''An education individual retirement account'' and ''the Coverdell education savings account'' for ''the education individual retirement account''.

Subsec. (b)(1). Pub. L. 107–22, §1(a)(1), (3), in heading, substituted ''Coverdell education savings account'' for ''Education individual retirement account'' and, in introductory provisions, substituted '' 'Coverdell education savings account' '' for '' 'education individual retirement account' '' and ''designated as a Coverdell education savings account'' for ''designated as an education individual retirement account''.

Pub. L. 107–16, §401(d), inserted concluding provisions.

Pub. L. 107–16, §401(c)(3)(A), struck out ''higher'' before ''education expenses'' in introductory provisions.

Subsec. (b)(1)(A)(iii). Pub. L. 107–16, §401(a)(1), substituted ''$2,000'' for ''$500''.

Subsec. (b)(2). Pub. L. 107–16, §401(c)(1), amended heading and text of par. (2) generally, substituting present provisions for provisions which defined ''qualified higher education expenses'' as having the meaning given such term by section 529(e)(3), reduced as provided in section 25A(g)(2), and including amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program for the benefit of the beneficiary of the account.

Subsec. (b)(2)(B). Pub. L. 107–16, §402(a)(4)(A), (C), in heading, substituted ''Qualified tuition'' for ''Qualified State tuition'' and in text, substituted ''qualified tuition'' for ''qualified State tuition''.

Subsec. (b)(4). Pub. L. 107–16, §401(c)(2), added par. (4).

Subsec. (b)(5). Pub. L. 107–16, §401(f)(1), added par. (5).

Subsec. (c)(1). Pub. L. 107–16, §401(e), substituted ''In the case of a contributor who is an individual, the max-

imum amount the contributor'' for ''The maximum amount which a contributor'' in introductory provisions.

Subsec. (c)(1)(A)(ii). Pub. L. 107–16, § 401(b)(1), substituted ''$190,000'' for ''$150,000''.

Subsec. (c)(1)(B). Pub. L. 107–16, § 401(b)(2), substituted ''$30,000'' for ''$10,000''.

Subsec. (d)(2). Pub. L. 107–16, § 401(c)(3)(B), struck out ''higher'' before ''education'' in heading.

Subsec. (d)(2)(A), (B). Pub. L. 107–16, § 401(c)(3)(A), struck out ''higher'' before ''education''.

Subsec. (d)(2)(C). Pub. L. 107–16, § 401(g)(1), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: ''A taxpayer may elect to waive the application of this paragraph for any taxable year.''

Subsec. (d)(2)(D). Pub. L. 107–16, § 401(g)(2)(C), in heading, substituted ''deduction, credit, or exclusion'' for ''credit or deduction'' and in text, substituted '', credit, or exclusion'' for ''or credit''.

Subsec. (d)(4)(A). Pub. L. 107–22, § 1(a)(1), substituted ''a Coverdell education savings account'' for ''an education individual retirement account''.

Subsec. (d)(4)(C). Pub. L. 107–16, § 401(f)(2)(B), substituted ''certain date'' for ''due date of return'' in heading.

Subsec. (d)(4)(C)(i). Pub. L. 107–16, § 401(f)(2)(A), added cl. (i) and struck out former cl. (i) which read as follows: ''such distribution is made on or before the day prescribed by law (including extensions of time) for filing the beneficiary's return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year; and''.

Subsec. (d)(5). Pub. L. 107–22, § 1(a)(1), (4), substituted ''distributed from a Coverdell education savings account'' for ''distributed from an education individual retirement account'' and ''another Coverdell education savings account'' for ''another education individual retirement account''.

Subsec. (d)(6). Pub. L. 107–22, § 1(a)(1), substituted ''a Coverdell education savings account'' for ''an education individual retirement account''.

Subsec. (e). Pub. L. 107–22, § 1(a)(4), substituted ''Coverdell education savings account'' for ''education individual retirement account''.

Subsec. (h). Pub. L. 107–22, § 1(a)(1), substituted ''a Coverdell education savings account'' for ''an education individual retirement account''.

2000—Subsec. (d)(4)(B)(iii). Pub. L. 106–554 substituted a comma for a semicolon before ''or'' at end.

1998—Subsec. (b)(1). Pub. L. 105–206, § 6004(d)(1), inserted ''an individual who is'' before ''the designated beneficiary'' in introductory provisions.

Subsec. (b)(1)(E). Pub. L. 105–206, § 6004(d)(2)(A), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''Upon the death of the designated beneficiary, any balance to the credit of the beneficiary shall be distributed within 30 days after the date of death to the estate of such beneficiary.''

Subsec. (d)(1). Pub. L. 105–206, § 6004(d)(3)(A), substituted ''section 72'' for ''section 72(b)''.

Subsec. (d)(2)(D). Pub. L. 105–206, § 6004(d)(5), added subpar. (D).

Subsec. (d)(4)(B)(iv). Pub. L. 105–206, § 6004(d)(6), added cl. (iv).

Subsec. (d)(4)(C). Pub. L. 105–206, § 6004(d)(7), substituted ''Contributions'' for ''Excess contributions'' in heading and amended text of introductory provisions and cl. (i) generally. Prior to amendment, text read as follows: ''Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of a designated beneficiary to the extent that such contribution exceeds $500 if—

''(i) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor's return for such taxable year, and''.

Subsec. (d)(5). Pub. L. 105–206, § 6004(d)(8)(A), added first sentence and struck out former first sentence which read as follows: ''Paragraph (1) shall not apply to any amount paid or distributed from an education individual retirement account to the extent that the amount received is paid into another education individual retirement account for the benefit of the same beneficiary or a member of the family (within the meaning of section 529(e)(2)) of such beneficiary not later than the 60th day after the date of such payment or distribution.''

Subsec. (d)(6). Pub. L. 105–206, § 6004(d)(8)(B), inserted before period at end ''and has not attained age 30 as of the date of such change''.

Subsec. (d)(7). Pub. L. 105–206, § 6004(d)(2)(B), inserted at end ''In applying the preceding sentence, members of the family (as so defined) of the designated beneficiary shall be treated in the same manner as the spouse under such paragraph (8).''

Subsec. (d)(8). Pub. L. 105–206, § 6004(d)(2)(C), added par. (8).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–245 applicable with respect to deaths from injuries occurring on or after June 17, 2008, with provision for application of amendment to deaths from injuries occurring on or after Oct. 7, 2001, and before June 17, 2008, see section 109(d)(1), (2) of Pub. L. 110–245, set out as a note under section 408A of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 404(a) of Pub. L. 108–311 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107–16, to which such amendment relates, see section 404(f) of Pub. L. 108–311, set out as a note under section 45A of this title.

Amendment by section 406(b) of Pub. L. 108–311 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 406(h) of Pub. L. 108–311, set out as a note under section 55 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–121, title I, § 107(b), Nov. 11, 2003, 117 Stat. 1339, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2002.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107–16, to which such amendment relates, see section 411(x) of Pub. L. 107–147, set out as a note under section 25B of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–22 effective July 26, 2001, see section 1(c) of Pub. L. 107–22, set out as a note under section 26 of this title.

Amendment by section 401(a)(1), (b)–(g)(1), (2)(C) of Pub. L. 107–16 applicable to taxable years beginning after Dec. 31, 2001, see section 401(h) of Pub. L. 107–16, set out as a note under section 25A of this title.

Amendment by section 402(a)(4)(A), (C) of Pub. L. 107–16 applicable to taxable years beginning after Dec. 31, 2001, see section 402(h) of Pub. L. 107–16, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1997, see section 213(f) of Pub. L. 105–34, set out

as an Effective Date of 1997 Amendment note under section 26 of this title.

Subchapter G—Corporations Used to Avoid Income Tax on Shareholders

AMENDMENTS

2004—Pub. L. 108–357, title IV, § 413(c)(31), Oct. 22, 2004, 118 Stat. 1509, struck out item for part III ''Foreign personal holding companies''.

PART I—CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS

§ 531. Imposition of accumulated earnings tax

In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the accumulated taxable income (as defined in section 535) of each corporation described in section 532, an accumulated earnings tax equal to 20 percent of the accumulated taxable income.

(Aug. 16, 1954, ch. 736, 68A Stat. 179; Pub. L. 100–647, title I, § 1001(a)(2)(A), Nov. 10, 1988, 102 Stat. 3349; Pub. L. 103–66, title XIII, §§ 13201(b)(1), 13202(b), Aug. 10, 1993, 107 Stat. 459, 461; Pub. L. 107–16, title I, § 101(c)(4), June 7, 2001, 115 Stat. 43; Pub. L. 108–27, title III, § 302(e)(5), May 28, 2003, 117 Stat. 764; Pub. L. 112–240, title I, § 102(c)(1)(A), Jan. 2, 2013, 126 Stat. 2319.)

AMENDMENTS

2013—Pub. L. 112–240 substituted ''20 percent'' for ''15 percent''.

2003—Pub. L. 108–27 substituted ''equal to 15 percent of the accumulated taxable income.'' for ''equal to the product of the highest rate of tax under section 1(c) and the accumulated taxable income.''

2001—Pub. L. 107–16 substituted ''equal to the product of the highest rate of tax under section 1(c) and the accumulated taxable income.'' for ''equal to 39.6 percent of the accumulated taxable income.''

1993—Pub. L. 103–66, § 13202(b), substituted ''39.6 percent'' for ''36 percent''.

Pub. L. 103–66, § 13201(b)(1), substituted ''36 percent'' for ''28 percent''.

1988—Pub. L. 100–647 amended section generally. Prior to amendment, section read as follows: ''In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the accumulated taxable income (as defined in section 535) of every corporation described in section 532, an accumulated earnings tax equal to the sum of—

''(1) 27½ percent of the accumulated taxable income not in excess of $100,000, plus

''(2) 38½ percent of the accumulated taxable income in excess of $100,000.''

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–240 applicable to taxable years beginning after Dec. 31, 2012, see section 102(d)(1) of Pub. L. 112–240, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–27 applicable, except as otherwise provided, to taxable years beginning after Dec. 31, 2002, see section 302(f) of Pub. L. 108–27, set out as an Effective and Termination Dates of 2003 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–16 applicable to taxable years beginning after Dec. 31, 2000, see section 101(d)(1) of Pub. L. 107–16, set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable to taxable years beginning after Dec. 31, 1992, see sections 13201(c) and 13202(c) of Pub. L. 103–66, set out as notes under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–647, title I, § 1001(a)(2)(B), Nov. 10, 1988, 102 Stat. 3349, provided that: ''The amendment made by subparagraph (A) [amending this section] shall apply to taxable years beginning after December 31, 1987. Such amendment shall not be treated as a change in a rate of tax for purposes of section 15 of the 1986 Code.''

§ 532. Corporations subject to accumulated earnings tax

(a) General rule

The accumulated earnings tax imposed by section 531 shall apply to every corporation (other than those described in subsection (b)) formed or availed of for the purpose of avoiding the income tax with respect to its shareholders or the shareholders of any other corporation, by permitting earnings and profits to accumulate instead of being divided or distributed.

(b) Exceptions

The accumulated earnings tax imposed by section 531 shall not apply to—

(1) a personal holding company (as defined in section 542),

(2) a corporation exempt from tax under subchapter F (section 501 and following), or

(3) a passive foreign investment company (as defined in section 1297).

(c) Application determined without regard to number of shareholders

The application of this part to a corporation shall be determined without regard to the number of shareholders of such corporation.

(Aug. 16, 1954, ch. 736, 68A Stat. 179; Pub. L. 98–369, div. A, title I, § 58(a), July 18, 1984, 98 Stat. 574; Pub. L. 99–514, title XII, § 1235(f)(1), Oct. 22, 1986, 100 Stat. 2575; Pub. L. 105–34, title XI, § 1122(d)(1), Aug. 5, 1997, 111 Stat. 977; Pub. L. 109–135, title IV, § 403(n)(1), Dec. 21, 2005, 119 Stat. 2626.)

AMENDMENTS

2005—Subsec. (b)(2) to (4). Pub. L. 109–135 redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follow: ''a foreign personal holding company (as defined in section 552),''.

1997—Subsec. (b)(4). Pub. L. 105–34 substituted ''section 1297'' for ''section 1296''.

1986—Subsec. (b)(4). Pub. L. 99–514 added par. (4).