

[amending this section] shall apply with respect to payments made after the date of the enactment of this Act [Nov. 10, 1978].”

CONSTRUCTION OF SECTION 806 OF PUB. L. 99-514

Nothing in section 806 of Pub. L. 99-514 [amending this section] or in any legislative history relating thereto to be construed as requiring the Secretary of the Treasury or his delegate to permit an automatic change of a taxable year, see section 1008(e)(9) of Pub. L. 100-647, set out as a note under section 1378 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.

EXCEPTION FOR CERTAIN INDEBTEDNESS

Pub. L. 99-514, title XVIII, §1812(c)(5), Oct. 22, 1986, 100 Stat. 2835, provided that: “Clause (i) of section 174(c)(3)(A) of the Tax Reform Act of 1984 [section 174(c)(3)(A)(i) of Pub. L. 98-369, set out as a note above] shall be applied by substituting ‘December 31, 1983’ for ‘September 29, 1983’ in the case of indebtedness which matures on January 1, 1999, the payments on which from January 1989 through November 1993 equal U/L plus \$77,600, the payments on which from December 1993 to maturity equal U/L plus \$50,100, and which accrued interest at 13.75 percent through December 31, 1989.”

§ 268. Sale of land with unharvested crop

Where an unharvested crop sold by the taxpayer is considered under the provisions of section 1231 as “property used in the trade or business”, in computing taxable income no deduction (whether or not for the taxable year of the sale and whether for expenses, depreciation, or otherwise) attributable to the production of such crop shall be allowed.

(Aug. 16, 1954, ch. 736, 68A Stat. 80.)

§ 269. Acquisitions made to evade or avoid income tax

(a) In general

If—

(1) any person or persons acquire, or acquired on or after October 8, 1940, directly or indirectly, control of a corporation, or

(2) any corporation acquires, or acquired on or after October 8, 1940, directly or indirectly, property of another corporation, not controlled, directly or indirectly, immediately before such acquisition, by such acquiring corporation or its stockholders, the basis of which property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation,

and the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance which such person or corporation would not otherwise enjoy, then the Secretary may disallow such deduction, credit, or other allowance. For purposes

of paragraphs (1) and (2), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of the corporation.

(b) Certain liquidations after qualified stock purchases

(1) In general

If—

(A) there is a qualified stock purchase by a corporation of another corporation,

(B) an election is not made under section 338 with respect to such purchase,

(C) the acquired corporation is liquidated pursuant to a plan of liquidation adopted not more than 2 years after the acquisition date, and

(D) the principal purpose for such liquidation is the evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance which the acquiring corporation would not otherwise enjoy,

then the Secretary may disallow such deduction, credit, or other allowance.

(2) Meaning of terms

For purposes of paragraph (1), the terms “qualified stock purchase” and “acquisition date” have the same respective meanings as when used in section 338.

(c) Power of Secretary to allow deduction, etc., in part

In any case to which subsection (a) or (b) applies the Secretary is authorized—

(1) to allow as a deduction, credit, or allowance any part of any amount disallowed by such subsection, if he determines that such allowance will not result in the evasion or avoidance of Federal income tax for which the acquisition was made; or

(2) to distribute, apportion, or allocate gross income, and distribute, apportion, or allocate the deductions, credits, or allowances the benefit of which was sought to be secured, between or among the corporations, or properties, or parts thereof, involved, and to allow such deductions, credits, or allowances so distributed, apportioned, or allocated, but to give effect to such allowance only to such extent as he determines will not result in the evasion or avoidance of Federal income tax for which the acquisition was made; or

(3) to exercise his powers in part under paragraph (1) and in part under paragraph (2).

(Aug. 16, 1954, ch. 736, 68A Stat. 80; Pub. L. 88-272, title II, §235(c)(2), Feb. 26, 1964, 78 Stat. 126; Pub. L. 94-455, title XIX, §§1901(a)(38), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1771, 1834; Pub. L. 98-369, div. A, title VII, §712(k)(8)(A), (B), July 18, 1984, 98 Stat. 952.)

AMENDMENTS

1984—Subsecs. (b), (c). Pub. L. 98-369 added subsec. (b), redesignated former subsec. (b) as (c) and inserted reference to subsec. (b).

1976—Subsecs. (a), (b). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.