

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 pre-

ceding 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 the¹ 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.)

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-

¹ So in original. The word “the” probably should not appear.

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

- Part I. Corporations improperly accumulating surplus.
- II. Personal holding companies.
- [III. Repealed.]
- IV. Deduction for dividends paid.

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

- Sec. 531. Imposition of accumulated earnings tax.
- 532. Corporations subject to accumulated earnings tax.
- 533. Evidence of purpose to avoid income tax.
- 534. Burden of proof.
- 535. Accumulated taxable income.
- 536. Income not placed on annual basis.
- 537. Reasonable needs of the business.

§ 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).