

(B) Constructive ownership

Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

(3) Related person

For purposes of this subsection, the term “related person” means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner.

(f) Cross reference

For provisions relating to penalties for failure to file a return required by this section, see section 6721.

(Added Pub. L. 99-514, title VI, §641(a), Oct. 22, 1986, 100 Stat. 2282; amended Pub. L. 100-647, title I, §1006(h)(1), (2), (3)(B), Nov. 10, 1988, 102 Stat. 3410; Pub. L. 101-508, title XI, §11323(a), (b)(1), Nov. 5, 1990, 104 Stat. 1388-464; Pub. L. 103-66, title XIII, §13261(e), Aug. 10, 1993, 107 Stat. 539.)

PRIOR PROVISIONS

A prior section 1060 was renumbered section 1061 of this title.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103-66, §13261(e)(1), substituted “section 197 intangibles” for “goodwill or going concern value”.

Subsec. (d)(1). Pub. L. 103-66, §13261(e)(2), substituted “section 197 intangibles” for “goodwill or going concern value (or similar items)”.

1990—Subsec. (a). Pub. L. 101-508, §11323(a), inserted at end “If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate.”

Subsecs. (e), (f). Pub. L. 101-508, §11323(b)(1), added subsec. (e) and redesignated former subsec. (e) as (f).

1988—Subsec. (b)(3). Pub. L. 100-647, §1006(h)(1), substituted “deems” for “may find”.

Subsec. (d). Pub. L. 100-647, §1006(h)(2), added subsec. (d).

Subsec. (e). Pub. L. 100-647, §1006(h)(3)(B), added subsec. (e).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable, except as otherwise provided, with respect to property acquired after Aug. 10, 1993, see section 13261(g) of Pub. L. 103-66, set out as an Effective Date note under section 197 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to acquisitions after Oct. 9, 1990, but not applicable to any acquisition pursuant to a written binding contract in effect on Oct. 9, 1990, and at all times thereafter before such acquisition, see section 11323(d) of Pub. L. 101-508, set out as a note under section 338 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title VI, §641(c), Oct. 22, 1986, 100 Stat. 2283, provided that: “The amendments made by this

section [enacting this section and renumbering former section 1060 as 1061] shall apply to any acquisition of assets after May 6, 1986, unless such acquisition is pursuant to a binding contract which was in effect on May 6, 1986, and at all times thereafter.”

§ 1061. Cross references

(1) For nonrecognition of gain in connection with the transfer of obsolete vessels to the Maritime Administration under chapter 573 of title 46, United States Code, see section 57307 of title 46.

(2) For recognition of gain or loss in connection with the construction of new vessels, see chapter 533 of title 46, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 311, §1054; renumbered §1055, Pub. L. 86-779, §8(b), Sept. 14, 1960, 74 Stat. 1003; renumbered §1056, Pub. L. 88-9, §1(b), Apr. 10, 1963, 77 Stat. 7; renumbered §1057, Pub. L. 94-455, title II, §212(a)(1), Oct. 4, 1976, 90 Stat. 1545; renumbered §1058, Pub. L. 94-455, title X, §1015(c), Oct. 4, 1976, 90 Stat. 1618; renumbered §1059, Pub. L. 95-345, §2(d)(1), Aug. 15, 1978, 92 Stat. 482; renumbered §1060, Pub. L. 98-369, div. A, title I, §53(a), July 18, 1984, 98 Stat. 565; renumbered §1061 and amended, Pub. L. 99-514, title VI, §641(a), title XVIII, §1899A(27), Oct. 22, 1986, 100 Stat. 2282, 2960; Pub. L. 109-304, §17(e)(5), Oct. 6, 2006, 120 Stat. 1708.)

AMENDMENTS

2006—Par. (1). Pub. L. 109-304, §17(e)(5)(A), substituted “chapter 573 of title 46, United States Code, see section 57307 of title 46” for “section 510 of the Merchant Marine Act, 1936, see subsection (e) of that section, as amended August 4, 1939 (46 U.S.C. App. 1160)”.

Par. (2). Pub. L. 109-304, §17(e)(5)(B), substituted “chapter 533 of title 46, United States Code” for “section 511 of such Act, as amended (46 U.S.C. App. 1161)”.

Par. (3). Pub. L. 109-304, §17(e)(5)(C), struck out par. (3), which read as follows: “For nonrecognition of gain in connection with vessels exchanged with the Maritime Administration under section 8 of the Merchant Ship Sales Act of 1946, see subsection (a) of that section (50 U.S.C. App. 1741).”

1986—Pub. L. 99-514, §641(a), renumbered section 1060 of this title as this section.

Pars. (1), (2). Pub. L. 99-514, §1899A(27), which directed the amendment of pars. (1) and (2) of section 1060 by substituting “46 U.S.C. App.” for “46 U.S.C.” was executed to section 1061 to reflect the probable intent of Congress in view of the renumbering of section 1060 as 1061 by section 641(a) of Pub. L. 99-514.

[PART V—REPEALED]

[§ 1071. Repealed. Pub. L. 104-7, §2(a), Apr. 11, 1995, 109 Stat. 93]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 311; Sept. 2, 1958, Pub. L. 85-866, title I, §48(a), 72 Stat. 1642; Oct. 4, 1976, Pub. L. 94-455, title XIX, §§1901(b)(31)(E), 1906(b)(13)(A), 90 Stat. 1800, 1834, provided for nonrecognition on FCC certified sales and exchanges.

EFFECTIVE DATE OF REPEAL

Pub. L. 104-7, §2(d), Apr. 11, 1995, 109 Stat. 93, provided that:

“(1) IN GENERAL.—The amendments made by this section [repealing this section and amending sections 1245 and 1250 of this title] shall apply to—

“(A) sales and exchanges on or after January 17, 1995, and

“(B) sales and exchanges before such date if the FCC tax certificate with respect to such sale or exchange is issued on or after such date.

“(2) BINDING CONTRACTS.—