

out as an Effective Date of 1976 Amendment note under section 2 of this title.

**[§ 374. Repealed. Pub. L. 101-508, title XI, § 11801(a)(19), Nov. 5, 1990, 104 Stat. 1388-521]**

Section, added June 29, 1956, ch. 463, § 1, 70 Stat. 402; amended Mar. 31, 1976, Pub. L. 94-253, § 1(a), (d), 90 Stat. 295, 296; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1901(a)(53), (b)(10)(A), (14)(B), (C), 90 Stat. 1773, 1795, 1796; Nov. 6, 1978, Pub. L. 95-600, title III, § 369(a), 92 Stat. 2857; Apr. 1, 1980, Pub. L. 96-222, title I, § 103(a)(14), 94 Stat. 214; Oct. 22, 1986, Pub. L. 99-514, title XVIII, § 1899A(9), 100 Stat. 2958, related to nonrecognition of gain or loss in certain railroad reorganizations.

SAVINGS PROVISION

For provisions that nothing in repeal 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.

PART V—CARRYOVERS

Sec.	
381.	Carryovers in certain corporate acquisitions.
382.	Limitation on net operating loss carryforwards and certain built-in losses following ownership change.
383.	Special limitations on certain excess credits, etc.
384.	Limitation on use of preacquisition losses to offset built-in gains.

AMENDMENTS

1987—Pub. L. 100-203, title X, § 10226(b), Dec. 22, 1987, 101 Stat. 1330-415, added item 384.

1986—Pub. L. 99-514, title VI, § 621(c)(2), Oct. 22, 1986, 100 Stat. 2266, substituted "Limitation on net operating loss carryforwards and certain built-in losses following ownership change" for "Special limitations on net operating loss carryovers" in item 382 and "Special limitations on certain excess credits, etc." for "Special limitations on unused business credits, research credits, foreign taxes, and capital losses" in item 383.

1984—Pub. L. 98-369, div. A, title IV, § 474(r)(12)(C), July 18, 1984, 98 Stat. 842, substituted "unused business credits, research credits, foreign taxes, and capital losses" for "carryovers of unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, research credits, employee stock ownership credits, foreign taxes, and capital losses" in item 383.

1981—Pub. L. 97-34, title II, § 221(b)(1)(E), title III, § 331(d)(1)(E), Aug. 13, 1981, 95 Stat. 246, 295, inserted references to alcohol fuel credits, research credits, and employee stock ownership credits in item 383. For applicability of amendment by section 221(b)(1)(E) to amounts paid or incurred after June 30, 1981, and before Jan. 1, 1986, see section 221(d) of Pub. L. 97-34, set out as an Effective Date note under section 30 of this title.

1977—Pub. L. 95-30, title II, § 202(d)(3)(D), May 23, 1977, 91 Stat. 148, inserted "new employee credits," after "work incentive program credits," in item 383.

1971—Pub. L. 92-178, title III, § 302(b), Dec. 10, 1971, 85 Stat. 521, added item 383.

**§ 381. Carryovers in certain corporate acquisitions**

**(a) General rule**

In the case of the acquisition of assets of a corporation by another corporation—

(1) in a distribution to such other corporation to which section 332 (relating to liquidations of subsidiaries) applies; or

(2) in a transfer to which section 361 (relating to nonrecognition of gain or loss to corporations) applies, but only if the transfer is in connection with a reorganization described in subparagraph (A), (C), (D), (F), or (G) of section 368(a)(1),

the acquiring corporation shall succeed to and take into account, as of the close of the day of distribution or transfer, the items described in subsection (c) of the distributor or transferor corporation, subject to the conditions and limitations specified in subsections (b) and (c). For purposes of the preceding sentence, a reorganization shall be treated as meeting the requirements of subparagraph (D) or (G) of section 368(a)(1) only if the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met.

**(b) Operating rules**

Except in the case of an acquisition in connection with a reorganization described in subparagraph (F) of section 368(a)(1)—

(1) The taxable year of the distributor or transferor corporation shall end on the date of distribution or transfer.

(2) For purposes of this section, the date of distribution or transfer shall be the day on which the distribution or transfer is completed; except that, under regulations prescribed by the Secretary, the date when substantially all of the property has been distributed or transferred may be used if the distributor or transferor corporation ceases all operations, other than liquidating activities, after such date.

(3) The corporation acquiring property in a distribution or transfer described in subsection (a) shall not be entitled to carry back a net operating loss or a net capital loss for a taxable year ending after the date of distribution or transfer to a taxable year of the distributor or transferor corporation.

**(c) Items of the distributor or transferor corporation**

The items referred to in subsection (a) are:

**(1) Net operating loss carryovers**

The net operating loss carryovers determined under section 172, subject to the following conditions and limitations:

(A) The taxable year of the acquiring corporation to which the net operating loss carryovers of the distributor or transferor corporation are first carried shall be the first taxable year ending after the date of distribution or transfer.

(B) In determining the net operating loss deduction, the portion of such deduction attributable to the net operating loss carryovers of the distributor or transferor corporation to the first taxable year of the acquiring corporation ending after the date of distribution or transfer shall be limited to an amount which bears the same ratio to the taxable income (determined without regard to a net operating loss deduction) of the acquiring corporation in such taxable year as the number of days in the taxable year after the date of distribution or transfer bears to the total number of days in the taxable year.

(C) For the purpose of determining the amount of the net operating loss carryovers