

“(2) no change in basis of the property of such corporation shall occur, because of any change of status of a corporation to a tax-exempt entity by reason of the application of subsection (a).

“(c) TAX-EXEMPT FINANCING.—

“(1) IN GENERAL.—Any obligation issued by a corporation described in subsection (a) at least 95 percent of the net proceeds (as defined in section 150(a) of the Internal Revenue Code of 1986) of which are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities)—

“(A) shall be treated as a State or local bond (within the meaning of section 103(c) of such Code), and

“(B) shall not be treated as a private activity bond (within the meaning of section 103(b)(1) of such Code) solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation.

“(2) NO INFERENCE.—Except as provided in paragraph (1), nothing in this subsection shall be construed to affect the treatment of the private use of proceeds or property financed with obligations issued by the corporation for purposes of section 103 of the Internal Revenue Code of 1986 and part IV of subchapter B [probably means part IV of subchapter B of chapter 1] of such Code.

“(d) DEFINITIONS.—For purposes of this section:

“(1) REAL ESTATE INVESTMENT TRUST.—The term ‘real estate investment trust’ has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

“(2) NON-OPERATING CLASS III RAILROAD.—The term ‘non-operating class III railroad’ has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.), and the regulations thereunder.

“(3) STATE.—The term ‘State’ includes—

“(A) the District of Columbia and any possession of the United States, and

“(B) any authority, agency, or public corporation of a State.

“(e) APPLICABILITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a) through action of such corporation’s board of directors.

“(2) EXCEPTION.—This section shall not apply to any State which—

“(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

“(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2006.”

[§ 116. Repealed. Pub. L. 99-514, title VI, § 612(a), Oct. 22, 1986, 100 Stat. 2250]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 37; June 25, 1959, Pub. L. 86-69, §3(a)(2), 73 Stat. 139; Sept. 14, 1960, Pub. L. 86-779, §10(f), 74 Stat. 1009; Feb. 26, 1964, Pub. L. 88-272, title II, §201(c), (d)(6)(C), 78 Stat. 32; Nov. 13, 1966, Pub. L. 89-809, title I, §103(g), 80 Stat. 1552; Oct. 4, 1976, Pub. L. 94-455, title X, §§1051(h)(2), 1053(d)(1), title XIX, §1901(a)(20), 90 Stat. 1647, 1649, 1766; Apr. 2, 1980, Pub. L. 96-223, title IV, §404(a), 94 Stat. 305; Aug. 13, 1981, Pub. L. 97-34, title III, §302(b)(2), 95 Stat. 272; July 18, 1984, Pub. L. 98-369, div. A, title V, §542(b), 98 Stat. 891, authorized partial exclusion of dividends received by individuals.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1986, see section 612(c) of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 301 of this title.

§ 117. Qualified scholarships

(a) General rule

Gross income does not include any amount received as a qualified scholarship by an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii).

(b) Qualified scholarship

For purposes of this section—

(1) In general

The term “qualified scholarship” means any amount received by an individual as a scholarship or fellowship grant to the extent the individual establishes that, in accordance with the conditions of the grant, such amount was used for qualified tuition and related expenses.

(2) Qualified tuition and related expenses

For purposes of paragraph (1), the term “qualified tuition and related expenses” means—

(A) tuition and fees required for the enrollment or attendance of a student at an educational organization described in section 170(b)(1)(A)(ii), and

(B) fees, books, supplies, and equipment required for courses of instruction at such an educational organization.

(c) Limitation

(1) In general

Except as provided in paragraph (2), subsections (a) and (d) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services by the student required as a condition for receiving the qualified scholarship or qualified tuition reduction.

(2) Exceptions

Paragraph (1) shall not apply to any amount received by an individual under—

(A) the National Health Service Corps Scholarship Program under section 338A(g)(1)(A) of the Public Health Service Act, or

(B) the Armed Forces Health Professions Scholarship and Financial Assistance program under subchapter I of chapter 105 of title 10, United States Code.

(d) Qualified tuition reduction

(1) In general

Gross income shall not include any qualified tuition reduction.

(2) Qualified tuition reduction

For purposes of this subsection, the term “qualified tuition reduction” means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

(A) such employee, or

(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(h).

(3) Reduction must not discriminate in favor of highly compensated, etc.

Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of highly compensated employees (within the meaning of section 414(q)). For purposes of this paragraph, the term "highly compensated employee" has the meaning given such term by section 414(q).

[(4) Repealed. Pub. L. 101-140, title II, § 203(a)(1), (2), Nov. 8, 1989, 103 Stat. 830]

(5) Special rules for teaching and research assistants

In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, paragraph (2) shall be applied as if it did not contain the phrase "(below the graduate level)".

(Aug. 16, 1954, ch. 736, 68A Stat. 38; Pub. L. 87-256, § 110(a), Sept. 21, 1961, 75 Stat. 535; Pub. L. 94-455, title XIX, § 1901(b)(8)(A), (c)(3), Oct. 4, 1976, 90 Stat. 1794, 1803; Pub. L. 96-541, § 5(a)(1), Dec. 17, 1980, 94 Stat. 3205; Pub. L. 98-369, div. A, title V, § 532(a), July 18, 1984, 98 Stat. 887; Pub. L. 99-514, title I, § 123(a), title XI, §§ 1114(b)(2), 1151(g)(2), Oct. 22, 1986, 100 Stat. 2112, 2450, 2506; Pub. L. 100-647, title I, § 1011B(a)(31)(B), title IV, § 4001(b)(2), Nov. 10, 1988, 102 Stat. 3488, 3643; Pub. L. 101-140, title II, § 203(a)(1), (2), Nov. 8, 1989, 103 Stat. 830; Pub. L. 104-188, title I, § 1703(n)(14), Aug. 20, 1996, 110 Stat. 1878; Pub. L. 107-16, title IV, § 413(a), June 7, 2001, 115 Stat. 64.)

REFERENCES IN TEXT

Section 338A(g)(1)(A) of the Public Health Service Act, referred to in subsec. (c)(2)(A), is classified to section 254l(g)(1)(A) of Title 42, The Public Health and Welfare.

AMENDMENTS

2001—Subsec. (c). Pub. L. 107-16 designated existing provisions as par. (1), inserted par. heading, substituted "Except as provided in paragraph (2), subsections (a)" for "Subsections (a)", and added par. (2).

1996—Subsec. (d)(2)(B). Pub. L. 104-188 substituted "section 132(h)" for "section 132(f)".

1989—Subsec. (d)(4). Pub. L. 101-140, § 203(a)(2), amended par. (4) 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 subsec. (d) to read as if amendments by Pub. L. 99-514, § 1151(g)(2), which added par. (4), had not been enacted, see 1986 Amendment note below.

1988—Subsec. (d)(4). Pub. L. 100-647, § 1011B(a)(31)(B), substituted "there shall" for "there may" and "who are" for "who may be".

Subsec. (d)(5). Pub. L. 100-647, § 4001(b)(2), added par. (5).

1986—Pub. L. 99-514, § 123(a), in amending section generally, substituted "Qualified scholarships" for "Scholarships and fellowship grants" in section catchline.

Subsec. (a). Pub. L. 99-514, § 123(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as

follows: "In the case of an individual, gross income does not include—

"(1) any amount received—

"(A) as a scholarship at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) as a fellowship grant, including the value of contributed services and accommodations; and

"(2) any amount received to cover expenses for—

"(A) travel,

"(B) research,

"(C) clerical help, or

"(D) equipment,

which are incident to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient."

Subsec. (b). Pub. L. 99-514, § 123(a), in amending subsec. (b) generally, substituted qualified scholarship provision for former limitations provision, which related in par. (1) to individuals who were candidates for degrees, and in par. (2) to individuals who were not candidates for degrees, describing in subpar. (A) conditions for exclusion and in subpar. (B) extent of exclusion, such detailed provision now covered in subsec. (c).

Subsec. (c). Pub. L. 99-514, § 123(a), in amending subsec. (c) generally, substituted limitation provision for former provision relating to Federal grants for tuition and related expenses not includable merely because there was requirement of future service as Federal employee.

Subsec. (d). Pub. L. 99-514, § 123(a), in amending subsec. (d) generally, substituted "reduction" for "reductions" in heading and inserted "(within the meaning of section 414(q))" after "highly compensated employees" in par. (3).

Subsec. (d)(3). Pub. L. 99-514, § 1114(b)(2), struck out "officer, owner, or" after "with respect to any" and "officers, owners, or" after "in favor of" and inserted at end "For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

Subsec. (d)(4). Pub. L. 99-514, § 1151(g)(2), added par. (4).

1984—Subsec. (d). Pub. L. 98-369 added subsec. (d).

1980—Subsec. (c). Pub. L. 96-541 added subsec. (c).

1976—Subsecs. (a)(1)(A), (b)(1), (2). Pub. L. 94-455, § 1901(b)(8)(A), substituted "educational organization described in section 170(b)(1)(A)(ii)" for "educational institution (as defined in section 151(e)(4))" after "scholarship at an".

Subsec. (b)(2)(A)(iv). Pub. L. 94-455, § 1901(c)(3), struck out "a territory" after "or a State".

Subsec. (b)(2)(B). Pub. L. 94-455, § 1901(b)(8)(A), substituted "educational organization described in section 170(b)(1)(A)(ii)" for "educational institution (as defined in section 151(e)(4))" after "degree at an".

1961—Subsec. (b)(2)(A). Pub. L. 87-256 included cases where the grantor of the scholarship or fellowship grant is a foreign government, an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title IV, § 413(b), June 7, 2001, 115 Stat. 64, provided that: "The amendments made by subsection (a) [amending this section] shall apply to amounts received in taxable years beginning after December 31, 2001."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§ 13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1011B(a)(31)(B) 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 IV, §4001(c), Nov. 10, 1988, 102 Stat. 3643, provided that: "The amendments made by this section [amending this section and section 127 of this title] shall apply to taxable years beginning after December 31, 1987."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 123(a) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, but only in the case of scholarships and fellowships granted after Aug. 16, 1986, see section 151(d) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 1114(b)(2) 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(g)(2) 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title V, §532(b), July 18, 1984, 98 Stat. 887, 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 qualified tuition reductions (as defined in section 117(d)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) for education furnished after June 30, 1985, in taxable years ending after such date."

Provisions of subsec. (d) treated as in effect on and after Jan. 1, 1984, in case of education described in section 127(c)(8) of this title, see section 1(g)(5) of Pub. L. 98-611, set out as a note under section 127 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-541, §5(a)(2), Dec. 17, 1980, 94 Stat. 3206, provided: "The amendment made by paragraph (1) [amending this section] shall apply to taxable years beginning after December 31, 1980."

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 OF 1961 AMENDMENT

Pub. L. 87-256, §110(h)(1), Sept. 21, 1961, 75 Stat. 537, provided that: "The amendments made by subsections (a), (b), and (c) of this section [amending this section and sections 871 and 872 of this title] shall apply to taxable years beginning after December 31, 1961."

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.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUBLIC LAW 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For nonapplication of amendment by section 123(a) of Pub. L. 99-514 to the extent application of such amendment would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(3), (4) of Pub. L. 100-647, set out as a note under section 861 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.

TRANSITIONAL RULES FOR TREATMENT OF CERTAIN REDUCTIONS IN TUITION

Pub. L. 99-514, title XVIII, §1853(f), Oct. 22, 1986, 100 Stat. 2872, provided that:

"(1) A tuition reduction plan shall be treated as meeting the requirements of section 117(d)(3) of the Internal Revenue Code of 1954 [now 1986] if—

"(A) such plan would have met the requirements of such section (as amended by this section but without regard to the lack of evidence that benefits under such plan were the subject of good faith bargaining) on the day on which eligibility to participate in the plan was closed,

"(B) at all times thereafter, the tuition reductions available under such plan are available on substantially the same terms to all employees eligible to participate in such plan, and

"(C) the eligibility to participate in such plan closed on June 30, 1972, June 30, 1974, or December 31, 1975.

"(2) For purposes of applying section 117(d)(3) of the Internal Revenue Code of 1954 [now 1986] to all tuition reduction plans of an employer with at least 1 such plan described in paragraph (1) of this subsection, there shall be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement that the Secretary of the Treasury or his delegate finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if, with respect to plans other than plans described in paragraph (1), there is evidence that such benefits were the subject of good faith bargaining.

"(3) Any reduction in tuition provided with respect to a full-time course of education furnished at the graduate level before July 1, 1988, shall not be included in gross income if—

"(A) such reduction would not be included in gross income under the Internal Revenue Service regulations in effect on the date of the enactment of the Tax Reform Act of 1984 [July 18, 1984], and

"(B) such reduction is provided with respect to a student who was accepted for admission to such course of education before July 1, 1984, and began such course of education before June 30, 1985."

NATIONAL RESEARCH SERVICE AWARDS

Pub. L. 95-600, title I, §161(b), Nov. 6, 1978, 92 Stat. 2810, as amended by Pub. L. 96-167, §9(b), Dec. 29, 1979, 93 Stat. 1278; Pub. L. 96-541, §5(b), Dec. 17, 1980, 94 Stat. 3206; Pub. L. 97-248, title II, §285, Sept. 3, 1982, 96 Stat. 569; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, pro-

vided that any amount paid to, or on behalf of, an individual as a national research service award under former section 2897-1 of title 42 during calendar years 1974 through 1983 was to be treated as a scholarship or fellowship grant under this section.

SCHOLARSHIP PROGRAMS FOR MEMBERS OF THE
UNIFORMED SERVICES

Pub. L. 93-483, § 4, Oct. 26, 1974, 88 Stat. 1458, as amended Pub. L. 94-455, title XXI, § 2130, Oct. 4, 1976, 90 Stat. 1922; Pub. L. 95-171, § 5, Nov. 12, 1977, 91 Stat. 1355; Pub. L. 95-600, title I, § 161(a), Nov. 6, 1978, 92 Stat. 2810; Pub. L. 95-615, title I, § 6, Nov. 8, 1978, 92 Stat. 3098; Pub. L. 96-167, § 9(a), Dec. 29, 1979, 93 Stat. 1278; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) IN GENERAL.—Any amount received from appropriated funds as a scholarship, including the value of contributed services and accommodations, by a member of a uniformed service who is receiving training under the Armed Forces Health Professions Scholarship Program (or any other program determined by the Secretary of the Treasury or his delegate to have substantially similar objectives) from an educational institution (as defined in section 151(e)(4) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) [see section 170(b)(1)(A)(ii) of this title] shall be treated as a scholarship under section 117 of such Code [this section], whether that member is receiving training while on active duty or in an off-duty or inactive status, and without regard to whether a period of active duty is required of the member as a condition of receiving those payments.

“(b) DEFINITION OF UNIFORMED SERVICES.—For purposes of this section, the term ‘uniformed service’ has the meaning given it by section 101(3) of title 37, United States Code.

“(c) EFFECTIVE DATE.—The provisions of this section shall apply with respect to amounts received during calendar years 1973, 1974, and 1975, and, in the case of a member of a uniformed service receiving training after 1975 and before 1981 in programs described in subsection (a), with respect to amounts received after 1975 and before 1985.”

[Section 6 of Pub. L. 95-615, which reenacted § 4(c) of Pub. L. 93-483 without change, to cease to have effect on the day after Nov. 8, 1978, see section 210(a) of Pub. L. 95-615, set out as a note under section 61 of this title.]

§ 118. Contributions to the capital of a corporation

(a) General rule

In the case of a corporation, gross income does not include any contribution to the capital of the taxpayer.

(b) Contributions in aid of construction, etc.

For purposes of subsection (a), except as provided in subsection (c), the term “contribution to the capital of the taxpayer” does not include any contribution in aid of construction or any other contribution as a customer or potential customer.

(c) Special rules for water and sewerage disposal utilities

(1) General rule

For purposes of this section, the term “contribution to the capital of the taxpayer” includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

(A) such amount is a contribution in aid of construction,

(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer’s rate base for rate-making purposes.

(2) Expenditure rule

An amount meets the requirements of this paragraph if—

(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

(i) which is the property for which the contribution was made or is of the same type as such property, and

(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

(3) Definitions

For purposes of this subsection—

(A) Contribution in aid of construction

The term “contribution in aid of construction” shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

(B) Predominantly

The term “predominantly” means 80 percent or more.

(C) Regulated public utility

The term “regulated public utility” has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

(4) Disallowance of deductions and credits; adjusted basis

Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

(d) Statute of limitations

If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

(1) the statutory period for the assessment of any deficiency attributable to any part of such