

service corporation to which an election under section 444 applies.

(f) Other definitions and special rules

For purposes of this section—

(1) Applicable amount

The term “applicable amount” means any amount paid to an employee-owner which is includible in the gross income of such employee, other than—

(A) any gain from the sale or exchange of property between the owner-employee and the corporation, or

(B) any dividend paid by the corporation.

(2) Employee-owner

The term “employee-owner” has the meaning given such term by section 269A(b)(2) (as modified by section 441(i)(2)).

(3) Nondeferral and deferral periods

(A) Deferral period

The term “deferral period” has the meaning given to such term by section 444(b)(4).

(B) Nondeferral period

The term “nondeferral period” means the portion of the taxable year of the personal service corporation which occurs after the portion of such year constituting the deferral period.

(4) Adjusted taxable income

The term “adjusted taxable income” means taxable income determined without regard to—

(A) any amount paid to an employee-owner which is includible in the gross income of such employee-owner, and

(B) any net operating loss carryover to the extent such carryover is attributable to amounts described in subparagraph (A).

(5) Personal service corporation

The term “personal service corporation” has the meaning given to such term by section 441(i)(2).

(Added Pub. L. 100-203, title X, §10206(c)(1), Dec. 22, 1987, 101 Stat. 1330-401; amended Pub. L. 100-647, title II, §2004(e)(2)(B), (3), (14)(A), (C), Nov. 10, 1988, 102 Stat. 3600, 3602.)

AMENDMENTS

1988—Subsecs. (c)(1)(A)(i), (d)(1). Pub. L. 100-647, §2004(e)(14)(C), substituted “amounts paid” for “amounts paid or incurred”.

Subsec. (f)(2). Pub. L. 100-647, §2004(e)(3), substituted “section 269A(b)(2) (as modified by section 441(i)(2))” for “section 296A(b)(2)”.

Subsec. (f)(4). Pub. L. 100-647, §2004(e)(14)(A), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The term ‘adjusted taxable income’ means taxable income increased by any amount paid or incurred to an employee-owner which was includible in the gross income of such employee-owner.”

Subsec. (f)(5). Pub. L. 100-647, §2004(e)(2)(B), added par. (5).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1986, see section 10206(d)(1) of Pub. L. 100-203, set out as a note under section 444 of this title.

PART X—TERMINAL RAILROAD CORPORATIONS AND THEIR SHAREHOLDERS

Sec.

281. Terminal railroad corporations and their shareholders.

AMENDMENTS

1962—Pub. L. 87-870, §1(a), Oct. 23, 1962, 76 Stat. 1158, added part X and item 281.

§ 281. Terminal railroad corporations and their shareholders

(a) Computation of taxable income of terminal railroad corporations

(1) In general

In computing the taxable income of a terminal railroad corporation—

(A) such corporation shall not be considered to have received or accrued—

(i) the portion of any liability of any railroad corporation, with respect to related terminal services provided by such corporation, which is discharged by crediting such liability with an amount of related terminal income, or

(ii) the portion of any charge which would be made by such corporation for related terminal services provided by it, but which is not made as a result of taking related terminal income into account in computing such charge; and

(B) no deduction otherwise allowable under this chapter shall be disallowed as a result of any discharge of liability described in subparagraph (A)(i) or as a result of any computation of charges in the manner described in subparagraph (A)(ii).

(2) Limitation

In the case of any taxable year ending after the date of the enactment of this section, paragraph (1) shall not apply to the extent that it would (but for this paragraph) operate to create (or increase) a net operating loss for the terminal railroad corporation for the taxable year.

(b) Computation of taxable income of shareholders

Subject to the limitation in subsection (a)(2), in computing the taxable income of any shareholder of a terminal railroad corporation, no amount shall be considered to have been received or accrued or paid or incurred by such shareholder as a result of any discharge of liability described in subsection (a)(1)(A)(i) or as a result of any computation of charges in the manner described in subsection (a)(1)(A)(ii).

(c) Agreement required

In the case of any taxable year, subsections (a) and (b) shall apply with respect to any discharge of liability described in subsection (a)(1)(A)(i), and to any computation of charges in the manner described in subsection (a)(1)(A)(ii), only if such discharge or computation (as in the case

may be) was provided for in a written agreement, to which all of the shareholders of the terminal railroad corporation were parties, entered into before the beginning of such taxable year.

(d) Definitions

For purposes of this section—

(1) Terminal railroad corporation

The term “terminal railroad corporation” means a domestic railroad corporation which is not a member, other than as a common parent corporation, of an affiliated group (as defined in section 1504) and—

(A) all of the shareholders of which are rail carriers subject to part A of subtitle IV of title 49;

(B) the primary business of which is the providing of railroad terminal and switching facilities and services to rail carriers subject to part A of subtitle IV of title 49 and to the shippers and passengers of such railroad corporations;

(C) a substantial part of the services of which for the taxable year is rendered to one or more of its shareholders; and

(D) each shareholder of which computes its taxable income on the basis of a taxable year beginning or ending on the same day that the taxable year of the terminal railroad corporation begins or ends.

(2) Related terminal income

The term “related terminal income” means the income (determined in accordance with regulations prescribed by the Secretary) of a terminal railroad corporation derived—

(A) from services or facilities of a character ordinarily and regularly provided by terminal railroad corporations for railroad corporations or for the employees, passengers, or shippers of railroad corporations;

(B) from the use by persons other than railroad corporations of portions of a facility, or a service which is used primarily for railroad purposes;

(C) from any railroad corporation for services or facilities provided by such terminal railroad corporation in connection with railroad operations; and

(D) from the United States in payment for facilities or services in connection with mail handling.

For purposes of subparagraph (B), a substantial addition, constructed after the date of the enactment of this section, to a facility shall be treated as a separate facility.

(3) Related terminal services

The term “related terminal services” includes only services, and the use of facilities, taken into account in computing related terminal income.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(Added Pub. L. 87-870, §1(a), Oct. 23, 1962, 76 Stat. 1158; amended Pub. L. 94-455, title XIX, §§1901(a)(40), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1771, 1834; Pub. L. 95-473, §2(a)(2)(D), (E), Oct. 17,

1978, 92 Stat. 1464; Pub. L. 104-88, title III, §304(b), Dec. 29, 1995, 109 Stat. 943.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a)(2), (d)(2), refers to the date of enactment of Pub. L. 87-870, which was approved Oct. 23, 1962.

AMENDMENTS

1995—Subsec. (d)(1)(A), (B). Pub. L. 104-88 substituted “rail carriers subject to part A of subtitle IV” for “domestic railroad corporations providing transportation subject to subchapter I of chapter 105”.

1978—Subsec. (d)(1)(A). Pub. L. 95-473, §2(a)(2)(D), substituted “providing transportation subject to subchapter I of chapter 105 of title 49” for “subject to part I of the Interstate Commerce Act (49 U.S.C. 1 and following)”.

Subsec. (d)(1)(B). Pub. L. 95-473, §2(a)(2)(E), substituted “providing transportation subject to subchapter I of chapter 105 of title 49” for “subject to part I of the Interstate Commerce Act”.

1976—Subsec. (d)(1)(A). Pub. L. 94-455, §1901(a)(40)(A), inserted “(49 U.S.C. 1 and following)” after “Interstate Commerce Act”.

Subsecs. (e), (f). Pub. L. 94-455, §§1901(a)(40)(B), 1906(b)(13)(A), redesignated subsec. (f) as (e) and struck out “or his delegate” after “Secretary”. Former subsec. (e), which made special provision for the application of this section to taxable years ending before Oct. 23, 1962, was struck out.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(40) of Pub. L. 94-455 effective for 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

Pub. L. 87-870, §2(a), Oct. 23, 1962, 76 Stat. 1160, provided that: “The amendments made by the first section of this Act [enacting this section] shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954.”

INTERNAL REVENUE CODE OF 1939; INCLUSION OF TERMINAL RAILROAD CORPORATIONS AND THEIR SHAREHOLDERS PROVISION

Pub. L. 87-870, §2(b), Oct. 23, 1962, 76 Stat. 1160, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Provisions having the same effect as section 281 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by the first section of this Act) shall be deemed to be included in the Internal Revenue Code of 1939, effective with respect to all taxable years to which such Code applies.”

PART XI—SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS

Sec. 291. Special rules relating to corporate preference items.

AMENDMENTS

1982—Pub. L. 97-248, title II, §204(a), Sept. 3, 1982, 96 Stat. 423, added part XI heading and analysis of sections consisting of item 291.

§ 291. Special rules relating to corporate preference items

(a) Reduction in certain preference items, etc.

For purposes of this subtitle, in the case of a corporation—