

1509; Oct. 4, 1976, Pub. L. 94-455, title XIX, §1906(b)(13)(A), 90 Stat. 1834, related to definitions for this part.

#### 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#### [PART IX—REPEALED]

### [§ 1111. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(13A), Oct. 4, 1976, 90 Stat. 1786]

Section, added Pub. L. 87-403, §1(a), Feb. 2, 1962, 76 Stat. 4, related to distribution of stock pursuant to order enforcing antitrust laws.

#### Subchapter P—Capital Gains and Losses

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| Part |  |
| I.   | Treatment of capital gains.                                |
| II.  | Treatment of capital losses.                               |
| III. | General rules for determining capital gains and losses.    |
| IV.  | Special rules for determining capital gains and losses.    |
| V.   | Special rules for bonds and other debt instruments.        |
| VI.  | Treatment of certain passive foreign investment companies. |

#### AMENDMENTS

1986—Pub. L. 99-514, title XII, §1235(g), Oct. 22, 1986, 100 Stat. 2576, added item for part VI.

1984—Pub. L. 98-369, div. A, title I, §42(b)(1), July 18, 1984, 98 Stat. 557, added item for part V.

#### PART I—TREATMENT OF CAPITAL GAINS

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| Sec.  |   |
| 1201. | Alternative tax for corporations.                             |
| 1202. | Partial exclusion for gain from certain small business stock. |

#### AMENDMENTS

2000—Pub. L. 106-554, §1(a)(7) [title I, §117(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-604, substituted “Partial” for “50-percent” in item 1202.

1993—Pub. L. 103-66, title XIII, §13113(d)(6), Aug. 10, 1993, 107 Stat. 430, added item 1202.

1986—Pub. L. 99-514, title III, §301(b)(13), Oct. 22, 1986, 100 Stat. 2218, struck out item 1202 “Deduction for capital gains”.

1978—Pub. L. 95-600, title IV, §401(b)(6), Nov. 6, 1978, 92 Stat. 2867, substituted “Alternative tax for corporations” for “Alternative tax” in item 1201.

### § 1201. Alternative tax for corporations

#### (a) General rule

If for any taxable year a corporation has a net capital gain and any rate of tax imposed by section 11, 511, or 831(a) or (b) (whichever is applicable) exceeds 35 percent (determined without regard to the last 2 sentences of section 11(b)(1)), then, in lieu of any such tax, there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

- (1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

- (2) a tax of 35 percent of the net capital gain (or, if less, taxable income).

#### (b) Special rate for qualified timber gains

##### (1) In general

If, for any taxable year ending after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and beginning on or before the date which is 1 year after such date, a corporation has both a net capital gain and qualified timber gain—

(A) subsection (a) shall apply to such corporation for the taxable year without regard to whether the applicable tax rate exceeds 35 percent, and

(B) the tax computed under subsection (a)(2) shall be equal to the sum of—

- (i) 15 percent of the least of—

- (I) qualified timber gain,

- (II) net capital gain, or

- (III) taxable income, plus

- (ii) 35 percent of the excess (if any) of taxable income over the sum of the amounts for which a tax was determined under subsection (a)(1) and clause (i).

##### (2) Qualified timber gain

For purposes of this section, the term “qualified timber gain” means, with respect to any taxpayer for any taxable year, the excess (if any) of—

(A) the sum of the taxpayer’s gains described in subsections (a) and (b) of section 631 for such year, over

(B) the sum of the taxpayer’s losses described in such subsections for such year.

For purposes of subparagraphs (A) and (B), only timber held more than 15 years shall be taken into account.

##### (3) Computation for taxable years in which rate first applies or ends

In the case of any taxable year which includes either of the dates set forth in paragraph (1), the qualified timber gain for such year shall not exceed the qualified timber gain properly taken into account for—

(A) in the case of the taxable year including the date of the enactment of the Food, Conservation, and Energy Act of 2008, the portion of the year after such date, and

(B) in the case of the taxable year including the date which is 1 year after such date of enactment, the portion of the year on or before such later date.

#### (c) Cross references

##### For computation of the alternative tax—

(1) in the case of life insurance companies, see section 801(a)(2),

(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

(3) in the case of real estate investment trusts, see section 857(b)(3)(A).

(Aug. 16, 1954, ch. 736, 68A Stat. 320; Mar. 13, 1956, ch. 83, §5(7), 70 Stat. 49; Pub. L. 86-69, §3(f)(2), June 25, 1959, 73 Stat. 140; Pub. L. 87-834, §8(g)(3), Oct. 16, 1962, 76 Stat. 999; Pub. L. 91-172, title V, §511(b), Dec. 30, 1969, 83 Stat. 635; Pub. L. 94-455, title XIX, §1901(a)(135), (b)(33)(L), Oct. 4, 1976, 90