

## EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

**[§ 1347. Repealed. Pub. L. 94-455, title XIX, § 1951(b)(12)(A), Oct. 4, 1976, 90 Stat. 1840]**

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 349; Sept. 2, 1958, Pub. L. 85-866, title I, § 61(a), 72 Stat. 1648; Dec. 30, 1969, Pub. L. 91-172, title VIII, § 803(d)(5), 83 Stat. 684, related to claims against the United States involving acquisition of property.

## SAVINGS PROVISION

Pub. L. 94-455, title XIX, § 1951(b)(12)(B), Oct. 4, 1976, 90 Stat. 1840, provided that: "Notwithstanding subparagraph (A) [repealing this section], if amounts received in a taxable year beginning after December 31, 1976, would have been subject to the provisions of section 1347 if received in a taxable year beginning before such date, the tax imposed by section 1 attributable to such receipt shall be computed as if section 1347 had not been repealed."

**[§ 1348. Repealed. Pub. L. 97-34, title I, § 101(c)(1), Aug. 13, 1981, 95 Stat. 183]**

Section, added Pub. L. 91-172, title VIII, § 804(a), Dec. 30, 1969, 83 Stat. 685; amended Pub. L. 93-406, title II, § 2005(c)(14), Sept. 2, 1974, 88 Stat. 992; Pub. L. 94-455, title III, § 302(a), Oct. 4, 1976, 90 Stat. 1554; Pub. L. 95-600, title IV, §§ 441(a), 442(a), title VII, § 701(x)(1), (2), Nov. 6, 1978, 92 Stat. 2878, 2920; Pub. L. 95-600, title IV, § 441(a), as amended Pub. L. 96-222, title I, § 104(a)(5)(B), Apr. 1, 1980, 94 Stat. 218, provided for a 50-percent maximum rate on personal service income.

## EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1981, see section 101(f)(1) of Pub. L. 97-34, set out as an Effective Date of 1981 Amendment note under section 1 of this title.

**TRANSITIONAL RULE IN CASE OF TAXABLE YEAR BEGINNING BEFORE NOV. 1, 1978, AND ENDING AFTER OCT. 31, 1978**

Pub. L. 95-600, title IV, § 441(b)(2), Nov. 6, 1978, 92 Stat. 2878, as amended by Pub. L. 96-222, title I, § 104(a)(5)(A), Apr. 1, 1980, 94 Stat. 218, provided that in the case of a taxable year which began before Nov. 1, 1978, and ended after Oct. 31, 1978, the amount taken into account under subsec. (b)(2)(B) of section 1348 of this title by reason of section 57(a)(9) of this title be 50 percent of the lesser of the net capital gain for the taxable year or the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year before Nov. 1, 1978.

**PART VII—RECOVERIES OF FOREIGN EXPROPRIATION LOSSES**

Sec.

1351. Treatment of recoveries of foreign expropriation losses.

**§ 1351. Treatment of recoveries of foreign expropriation losses**

**(a) Election**

**(1) In general**

This section shall apply only to a recovery, by a domestic corporation subject to the tax imposed by section 11 or 801, of a foreign expropriation loss sustained by such corporation and only if such corporation was subject to the tax imposed by section 11 or 801, as the case

may be, for the year of the loss and elects to have the provisions of this section apply with respect to such loss.

**(2) Time, manner, and scope**

An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulations. An election made with respect to any foreign expropriation loss shall apply to all recoveries in respect of such loss.

**(b) Definition of foreign expropriation loss**

For purposes of this section, the term "foreign expropriation loss" means any loss sustained by reason of the expropriation, intervention, seizure, or similar taking of property by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing. For purposes of the preceding sentence, a debt which becomes worthless shall, to the extent of any deduction allowed under section 166(a), be treated as a loss.

**(c) Amount of recovery**

**(1) General rule**

The amount of any recovery of a foreign expropriation loss is the amount of money and the fair market value of other property received in respect of such loss, determined as of the date of receipt.

**(2) Special rule for life insurance companies**

The amount of any recovery of a foreign expropriation loss includes, in the case of a life insurance company, the amount of decrease of any item taken into account under section 807(c), to the extent such decrease is attributable to the release, by reason of such loss, of its liabilities with respect to such item.

**(d) Adjustment for prior tax benefits**

**(1) In general**

That part of the amount of a recovery of a foreign expropriation loss to which this section applies which, when added to the aggregate of the amounts of previous recoveries with respect to such loss, does not exceed the allowable deductions in prior taxable years on account of such loss shall be excluded from gross income for the taxable year of the recovery for purposes of computing the tax under this subtitle; but there shall be added to, and assessed and collected as a part of, the tax under this subtitle for such taxable year an amount equal to the total increase in the tax under this subtitle for all taxable years which would result by decreasing, in an amount equal to such part of the recovery so excluded, the deductions allowable in the prior taxable years on account of such loss. For purposes of this paragraph, if the loss to which the recovery relates was taken into account as a loss from the sale or exchange of a capital asset, the amount of the loss shall be treated as an allowable deduction even though there were no gains against which to allow such loss.

**(2) Computation**

The increase in the tax for each taxable year referred to in paragraph (1) shall be computed in accordance with regulations prescribed by

the Secretary. Such regulations shall give effect to previous recoveries of any kind (including recoveries described in section 111, relating to recovery of tax benefit items) with respect to any prior taxable year, but shall otherwise treat the tax previously determined for any taxable year in accordance with the principles set forth in section 1314(a) (relating to correction of errors). Subject to the provisions of paragraph (3), all credits allowable against the tax for any taxable year, and all carryovers and carrybacks affected by so decreasing the allowable deductions, shall be taken into account in computing the increase in the tax.

**(3) Foreign taxes**

For purposes of this subsection, any choice made under subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year may be changed.

**(4) Substitution of current tax rate**

For purposes of this subsection, the rates of tax specified in section 11(b) for the taxable year of the recovery shall be treated as having been in effect for all prior taxable years.

**(e) Gain on recovery**

That part of the amount of a recovery of a foreign expropriation loss to which this section applies which is not excluded from gross income under subsection (d)(1) shall be considered for the taxable year of the recovery as gain on the involuntary conversion of property as a result of its destruction or seizure and shall be recognized or not recognized as provided in section 1033.

**(f) Basis of recovered property**

The basis of property (other than money) received as a recovery of a foreign expropriation loss to which this section applies shall be an amount equal to its fair market value on the date of receipt, reduced by such part of the gain under subsection (e) which is not recognized as provided in section 1033.

**(g) Restoration of value of investments**

For purposes of this section, if the value of any interest in, or with respect to, property (including any interest represented by a security, as defined in section 165(g)(2))—

(1) which became worthless by reason of the expropriation, intervention, seizure, or similar taking of such property by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing, and

(2) which was taken into account as a loss from the sale or exchange of a capital asset or with respect to which a deduction for a loss was allowed under section 165 or a deduction for a bad debt was allowed under section 166,

is restored in whole or in part by reason of any recovery of money or other property in respect of the property which became worthless, the value so restored shall be treated as property received as a recovery in respect of such loss or such bad debt.

**(h) Special rule for evidences of indebtedness**

Bonds or other evidences of indebtedness received as a recovery of a foreign expropriation

loss to which this section applies shall not be considered to have any original issue discount within the meaning of section 1273(a).

**(i) Adjustments for succeeding years**

For purposes of this subtitle, proper adjustment shall be made, under regulations prescribed by the Secretary, in—

(1) the credit under section 27 (relating to foreign tax credit),

(2) the credit under section 38 (relating to general business credit),

(3) the net operating loss deduction under section 172, or the operations loss deduction under section 810,

(4) the capital loss carryover under section 1212(a), and

(5) such other items as may be specified by such regulations,

for the taxable year of a recovery of a foreign expropriation loss to which this section applies, and for succeeding taxable years, to take into account items changed in making the computations under subsection (d) for taxable years prior to the taxable year of such recovery.

(Added Pub. L. 89-384, §1(a), Apr. 8, 1966, 80 Stat. 99; amended Pub. L. 94-455, title X, §1031(b)(3), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1623, 1834; Pub. L. 95-600, title III, §301(b)(17), Nov. 6, 1978, 92 Stat. 2823; Pub. L. 98-369, div. A, title I, §42(a)(12), title II, §211(b)(18), title IV, §474(r)(25), July 18, 1984, 98 Stat. 557, 756, 844; Pub. L. 99-514, title XVIII, §1812(a)(4), Oct. 22, 1986, 100 Stat. 2833.)

AMENDMENTS

1986—Subsec. (d)(2). Pub. L. 99-514 substituted “relating to recovery of tax benefit items” for “relating to recovery of bad debts, etc.”.

1984—Subsec. (a)(1). Pub. L. 98-369, §211(b)(18)(A), substituted “801” for “802” in two places.

Subsec. (c)(2). Pub. L. 98-369, §211(b)(18)(B), substituted “section 807(c)” for “section 810(c)”.

Subsec. (h). Pub. L. 98-369, §42(a)(12), substituted “section 1273(a)” for “section 1232(a)(2)”.

Subsec. (i)(1). Pub. L. 98-369, §474(r)(25)(A), substituted “section 27” for “section 33”.

Subsec. (i)(2). Pub. L. 98-369, §474(r)(25)(B), substituted “section 38 (relating to general business credit)” for “section 38 (relating to investment credit)”.

Subsec. (i)(3). Pub. L. 98-369, §211(b)(18)(C), substituted “section 810” for “section 812”.

1978—Subsec. (d)(4). Pub. L. 95-600 substituted “the rates of tax specified in section 11(b)” for “the normal tax rate provided by section 11(b) and the surtax rate provided by section 11(c) which are in effect”.

1976—Subsecs. (a)(2), (d)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(3). Pub. L. 94-455, §1031(b)(3), struck out provisions relating to an election to have limitation provided by section 904(a)(2) apply and to revocation of such an election previously made.

Subsec. (i). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 42(a)(12) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see

section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

Amendment by section 211(b)(18) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

Amendment by section 474(r)(25) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1031(b)(3) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1975, with exceptions for certain mining operations, and for income from possessions, see section 1031(c) of Pub. L. 94-455, set out as a note under section 904 of this title.

EFFECTIVE DATE

Pub. L. 89-384, §2, Apr. 8, 1966, 80 Stat. 105, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by section 1 (except subsection (b)) [enacting this section and section 6167 of this title and amending sections 46, 901, 6503, and 6601 of this title] shall apply with respect to amounts received after December 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] added by section 1(a)) sustained after December 31, 1958."

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.

**Subchapter R—Election To Determine Corporate Tax on Certain International Shipping Activities Using Per Ton Rate**

Sec.	
1352.	Alternative tax on qualifying shipping activities.
1353.	Notional shipping income.
1354.	Alternative tax election; revocation; termination.
1355.	Definitions and special rules.
1356.	Qualifying shipping activities.
1357.	Items not subject to regular tax; depreciation; interest.
1358.	Allocation of credits, income, and deductions.
1359.	Disposition of qualifying vessels.

PRIOR PROVISIONS

A prior subchapter R, consisting of section 1361, related to election of certain partnerships and proprietorships to be taxed as domestic corporations, prior to repeal by Pub. L. 89-389, §4(b)(1), Apr. 14, 1966, 80 Stat. 116, effective Jan. 1, 1969.

**§ 1352. Alternative tax on qualifying shipping activities**

In the case of an electing corporation, the tax imposed by section 11 shall be the amount equal to the sum of—

- (1) the tax imposed by section 11 determined after the application of this subchapter, and
- (2) a tax equal to—
  - (A) the highest rate of tax specified in section 11, multiplied by
  - (B) the notional shipping income for the taxable year.

(Added Pub. L. 108-357, title II, §248(a), Oct. 22, 2004, 118 Stat. 1450.)

EFFECTIVE DATE

Subchapter applicable to taxable years beginning after Oct. 22, 2004, see section 248(c) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendments note under section 56 of this title.

**§ 1353. Notional shipping income**

**(a) In general**

For purposes of this subchapter, the notional shipping income of an electing corporation shall be the sum of the amounts determined under subsection (b) for each qualifying vessel operated by such electing corporation.

**(b) Amounts**

**(1) In general**

For purposes of subsection (a), the amount of notional shipping income of an electing corporation for each qualifying vessel for the taxable year shall equal the product of—

- (A) the daily notional shipping income, and
- (B) the number of days during the taxable year that the electing corporation operated such vessel as a qualifying vessel in United States foreign trade.

**(2) Treatment of vessels the income from which is not otherwise subject to tax**

In the case of a qualifying vessel any of the income from which is not included in gross income by reason of section 883 or otherwise, the amount of notional shipping income from such vessel for the taxable year shall be the amount which bears the same ratio to such shipping income (determined without regard to this paragraph) as the gross income from the operation of such vessel in the United States foreign trade bears to the sum of such gross income and the income so excluded.

**(c) Daily notional shipping income**

For purposes of subsection (b), the daily notional shipping income from the operation of a qualifying vessel is—

- (1) 40 cents for each 100 tons of so much of the net tonnage of the vessel as does not exceed 25,000 net tons, and
- (2) 20 cents for each 100 tons of so much of the net tonnage of the vessel as exceeds 25,000 net tons.

**(d) Multiple operators of vessel**

If for any period 2 or more persons are operators of a qualifying vessel, the notional shipping income from the operation of such vessel for such period shall be allocated among such persons on the basis of their respective ownership, charter, and operating agreement interests in such vessel or on such other basis as the Secretary may prescribe by regulations.