

the case may be) shall be the amount paid in redemption of such written notice of allocation or per-unit retain certificate which is allowable as a deduction under section 1382(b)(2) or (4), or (c)(2)(B) for the taxable year.

(3) If the tax imposed by this chapter for the taxable year is the amount determined under subsection (a)(2), then the deduction described in subsection (a) shall not be taken into account for any purpose of this subtitle other than for purposes of this section.

(Added Pub. L. 87-834, §17(a), Oct. 16, 1962, 76 Stat. 1047; amended Pub. L. 89-809, title II, §211(a)(5)-(7), Nov. 13, 1966, 80 Stat. 1581.)

AMENDMENTS

1966—Pub. L. 89-809, §211(a)(5), inserted “or nonqualified per-unit retain certificates” in section catchline.

Subsec. (a). Pub. L. 89-809, §211(a)(6), substituted “section 1382(b)(2) or (4)” for “1382(b)(2)” and inserted references to per-unit retain certificates.

Subsec. (b)(2). Pub. L. 89-809, §211(a)(7), substituted “section 1382(b)(2) or (4)” for “section 1382(b)(2)” and inserted references to per-unit retain certificates.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable to per-unit retain allocations made during taxable years of an organization described in section 1381(a) of this title (relating to organizations to which part I of subchapter T of chapter 1 applies) beginning after Apr. 30, 1966, with respect to products delivered during such years, see section 211(e)(1) of Pub. L. 89-809, set out as a note under section 1382 of this title.

EFFECTIVE DATE

Section applicable, except as otherwise provided, to taxable years of organizations described in section 1381(a) of this title beginning after Dec. 31, 1962, see section 17(c) of Pub. L. 87-834, set out as a note under section 1381 of this title.

PART II—TAX TREATMENT BY PATRONS OF PATRONAGE DIVIDENDS AND PER-UNIT RETAIN ALLOCATIONS

Sec.
1385. Amounts includible in patron's gross income.

AMENDMENTS

1962—Pub. L. 87-834, §17(a), Oct. 16, 1962, 76 Stat. 1048, added heading of part II and item 1385.

§ 1385. Amounts includible in patron's gross income

(a) General rule

Except as otherwise provided in subsection (b), each person shall include in gross income—

(1) the amount of any patronage dividend which is paid in money, a qualified written notice of allocation, or other property (except a nonqualified written notice of allocation), and which is received by him during the taxable year from an organization described in section 1381(a),

(2) any amount, described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions by tax-exempt farmers' cooperatives), which is paid in money, a qualified written notice of allocation, or other property (except a nonqualified written notice of allocation), and which is received by him during

the taxable year from an organization described in section 1381(a)(1), and

(3) the amount of any per-unit retain allocation which is paid in qualified per-unit retain certificates and which is received by him during the taxable year from an organization described in section 1381(a).

(b) Exclusion from gross income

Under regulations prescribed by the Secretary, the amount of any patronage dividend, and any amount received on the redemption, sale, or other disposition of a nonqualified written notice of allocation which was paid as a patronage dividend, shall not be included in gross income to the extent that such amount—

(1) is properly taken into account as an adjustment to basis of property, or

(2) is attributable to personal, living, or family items.

(c) Treatment of certain nonqualified written notices of allocation and certain nonqualified per-unit retain certificates

(1) Application of subsection

This subsection shall apply to—

(A) any nonqualified written notice of allocation which—

(i) was paid as a patronage dividend, or

(ii) was paid by an organization described in section 1381(a)(1) on a patronage basis with respect to earnings derived from business or sources described in section 1382(c)(2)(A), and

(B) any nonqualified per-unit retain certificate which was paid as a per-unit retain allocation.

(2) Basis; amount of gain

In the case of any nonqualified written notice of allocation or nonqualified per-unit retain certificate to which this subsection applies, for purposes of this chapter—

(A) the basis of such written notice of allocation or per-unit retain certificate in the hands of the patron to whom such written notice of allocation or per-unit retain certificate was paid shall be zero,

(B) the basis of such written notice of allocation or per-unit retain certificate which was acquired from a decedent shall be its basis in the hands of the decedent, and

(C) gain on the redemption, sale, or other disposition of such written notice of allocation or per-unit retain certificate by any person shall, to the extent that the stated dollar amount of such written notice of allocation or per-unit retain certificate exceeds its basis, be considered as ordinary income.

(Added Pub. L. 87-834, §17(a), Oct. 16, 1962, 76 Stat. 1048; amended Pub. L. 89-809, title II, §211(b)(1)-(4), Nov. 13, 1966, 80 Stat. 1582; Pub. L. 94-455, title XIX, §§1901(b)(3)(I), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1793, 1834.)

AMENDMENTS

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

Subsec. (c)(2)(C). Pub. L. 94-455, §1901(b)(3)(I), substituted “ordinary income” for “gain from the sale or exchange of property which is not a capital asset”.