

(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation, and

(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such individual only to the extent such stock ownership is identical with respect to each such corporation.

For purposes of this subsection, section 1563(e) shall apply in determining the ownership of stock.

(c) Authority of the Secretary under this section

The provisions of section 269(c) and the authority of the Secretary under such section, shall, to the extent not inconsistent with the provisions of this section, be applicable to this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 371; Pub. L. 85-866, title II, §205(a), Sept. 2, 1958, 72 Stat. 1680; Pub. L. 88-272, title II, §235(b), Feb. 26, 1964, 78 Stat. 125; Pub. L. 94-12, title III, §304(b), Mar. 29, 1975, 89 Stat. 45; Pub. L. 94-455, title XIX, §§1901(a)(158), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1790, 1834; Pub. L. 95-600, title III, §301(b)(18)(A), (B), Nov. 6, 1978, 92 Stat. 2823; Pub. L. 97-34, title II, §232(b)(2), Aug. 13, 1981, 95 Stat. 250; Pub. L. 99-514, title XVIII, §1899A(36), Oct. 22, 1986, 100 Stat. 2960; Pub. L. 113-295, div. A, title II, §221(a)(94), Dec. 19, 2014, 128 Stat. 4051.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295, §221(a)(94)(A), redesignated pars. (2) and (3) as (1) and (2), respectively, struck out “after June 12, 1963,” after “indirectly,” in pars. (1) and (2), as so redesignated, and struck out former par. (1) which read as follows: “any corporation transfers, on or after January 1, 1951, and on or before June 12, 1963, all or part of its property (other than money) to a transferee corporation.”

Subsec. (b)(1). Pub. L. 113-295, §221(a)(94)(B)(i), struck out “or (2)” after “(a)(1)”.

Subsec. (b)(2). Pub. L. 113-295, §221(a)(94)(B)(ii), substituted “(a)(2)” for “(a)(3)” in introductory provisions. 1986—Subsec. (c). Pub. L. 99-514 substituted “section 269(c)” for “section 269(b)”.

1981—Subsec. (a). Pub. L. 97-34 struck out “\$150,000” before “accumulated earnings credit”.

1978—Pub. L. 95-600, §301(b)(18)(B), substituted “the benefits of the graduated corporate rates” for “surtax exemption” in section catchline.

Subsec. (a). Pub. L. 95-600, §301(b)(18)(A), in provisions following par. (3) substituted “disallow the benefits of the rates contained in section 11(b) which are lower than the highest rate specified in such section” for “disallow the surtax exemption (as defined in section 11(d))” and “such benefits or” for “such exemption or”.

1976—Subsec. (a). Pub. L. 94-455 §§1901(a)(158), 1906(b)(13)(A), substituted “subsection (c)” for “subsection (d)” after “determined under” and struck out “or his delegate” after “Secretary”.

1975—Subsec. (a). Pub. L. 94-12 substituted “\$150,000” for “\$100,000”.

1964—Pub. L. 88-272 amended section generally, and among other changes, designated provisions as subsecs. (a) to (c), included among corporations who are disallowed surtax exemption and accumulated earnings credit, corporations, and five or fewer individuals in charge of a corporation who, directly or indirectly,

transfer property in contravention of subsec. (a) after June 12, 1963, substituted provisions permitting the Secretary or his delegate to disallow the exemption or the earnings credit, for provisions which disallowed the exemption and the credit except as otherwise determined by the Secretary of his delegate, provisions that for purposes of determining ownership of stock, section 1563(e) shall apply, for provisions which determined ownership in accordance with section 544, and defined control, with respect to corporations described in subsec. (a)(3), to include the additional test as stated in subsec. (b)(2)(B).

1958—Pub. L. 85-866 substituted “\$100,000” for “\$60,000”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 232(c) of Pub. L. 97-34, set out as a note under section 535 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 1901(a)(158) of 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 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years beginning after Dec. 31, 1974, see section 305(c) of Pub. L. 94-12, set out as a note under section 535 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-272, title II, §235(d), Feb. 26, 1964, 78 Stat. 127, provided that: “The amendments made by subsections (a) and (c) [enacting sections 1561 to 1563 of this title and amending sections 269, 441, and 802 of this title] shall apply with respect to taxable years ending after December 31, 1963. The amendment made by subsection (b) [amending this section] shall apply with respect to transfers made after June 12, 1963.”

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable with respect to taxable years beginning after Dec. 31, 1957, see section 205(b) of Pub. L. 85-866, set out as a note under section 535 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.

§ 1552. Earnings and profits

(a) General rule

Pursuant to regulations prescribed by the Secretary the earnings and profits of each member of an affiliated group required to be included in

a consolidated return for such group filed for a taxable year shall be determined by allocating the tax liability of the group for such year among the members of the group in accord with whichever of the following methods the group shall elect in its first consolidated return filed for such a taxable year:

(1) The tax liability shall be apportioned among the members of the group in accordance with the ratio which that portion of the consolidated taxable income attributable to each member of the group having taxable income bears to the consolidated taxable income.

(2) The tax liability of the group shall be allocated to the several members of the group on the basis of the percentage of the total tax which the tax of such member if computed on a separate return would bear to the total amount of the taxes for all members of the group so computed.

(3) The tax liability of the group (excluding the tax increases arising from the consolidation) shall be allocated on the basis of the contribution of each member of the group to the consolidated taxable income of the group. Any tax increases arising from the consolidation shall be distributed to the several members in direct proportion to the reduction in tax liability resulting to such members from the filing of the consolidated return as measured by the difference between their tax liabilities determined on a separate return basis and their tax liabilities based on their contributions to the consolidated taxable income.

(4) The tax liability of the group shall be allocated in accord with any other method selected by the group with the approval of the Secretary.

(b) Failure to elect

If no election is made in such first return, the tax liability shall be allocated among the several members of the group pursuant to the method prescribed in subsection (a)(1).

(Aug. 16, 1954, ch. 736, 68A Stat. 371; Pub. L. 88-272, title II, §234(b)(8), Feb. 26, 1964, 78 Stat. 116; Pub. L. 94-455, title XIX, §§1901(a)(159), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1790, 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §§1901(a)(159), 1906(b)(13)(A), struck out “beginning after December 31, 1953, and ending after the date of enactment of this title” after “group filed for a taxable year”, and “or his delegate” after “Secretary” in two places.

1964—Subsec. (a)(3). Pub. L. 88-272 struck out “(determined without regard to the 2 percent increase provided by section 1503(a))”, before “based on their contributions”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(159) of 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 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 234(c) of Pub. L. 88-272, set out as a note under section 1503 of this title.

PART II—CERTAIN CONTROLLED CORPORATIONS

Sec. 1561.	Limitations on certain multiple tax benefits in the case of certain controlled corporations.
[1562.	Repealed.]
1563.	Definitions and special rules.
[1564.	Repealed.]

AMENDMENTS

1990—Pub. L. 101-508, title XI, §11801(b)(12), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 1564 “Transitional rules in the case of certain controlled corporations”.

1969—Pub. L. 91-172, title IV, §401(a)(3), (b)(2)(E), Dec. 30, 1969, 83 Stat. 600, 602, substituted “Sec. 1561. Limitations on certain multiple tax benefits in the case of certain controlled corporations.” for “Sec. 1561. Surtax exemptions in case of certain controlled corporations.”, and struck out item 1562, effective with respect to taxable years beginning after Dec. 31, 1974, and added item 1564.

1964—Pub. L. 88-272, title II, §235(a), Feb. 26, 1964, 78 Stat. 116, added designation of part II, and items 1561 to 1563.

§ 1561. Limitations on certain multiple tax benefits in the case of certain controlled corporations

(a) General rule

The component members of a controlled group of corporations on a December 31 shall, for their taxable years which include such December 31, be limited for purposes of this subtitle to—

(1) amounts in each taxable income bracket in the tax table in section 11(b)(1) which do not aggregate more than the maximum amount in such bracket to which a corporation which is not a component member of a controlled group is entitled,

(2) one \$250,000 (\$150,000 if any component member is a corporation described in section 535(c)(2)(B)) amount for purposes of computing the accumulated earnings credit under section 535(c)(2) and (3), and

(3) one \$40,000 exemption amount for purposes of computing the amount of the minimum tax.

The amounts specified in paragraph (1) and the amount specified in paragraph (3) shall be divided equally among the component members of such group on such December 31 unless all of such component members consent (at such time and in such manner as the Secretary shall by regulations prescribe) to an apportionment plan providing for an unequal allocation of such amounts. The amounts specified in paragraph (2) shall be divided equally among the component members of such group on such December 31 unless the Secretary prescribes regulations permitting an unequal allocation of such amounts. Notwithstanding paragraph (1), in applying the last 2 sentences of section 11(b)(1) to such component members, the taxable income of all such component members shall be taken into account and any increase in tax under such last 2 sentences shall be divided among such component members in the same manner as amounts under paragraph (1). In applying section 55(d)(3), the alternative minimum taxable income of all component members shall be taken into account and