

1966—Subsec. (a). Pub. L. 89-809, §211(a)(1), inserted reference to amounts paid to patrons as a per-unit retain allocation as defined in section 1388(f).

Subsec. (b). Pub. L. 89-809, §211(a)(2), inserted “and per-unit retain allocations” in heading, added pars. (3) and (4), and, in text following par. (4), inserted provisions making existing text applicable only to amounts described in pars. (1) and (2) and inserted text covering the treatment of amounts described in pars. (3) and (4).

Subsec. (e). Pub. L. 89-809, §211(a)(3), inserted provision that the marketing of products shall be treated as occurring during any of the taxable years in which the pool is open.

Subsec. (f). Pub. L. 89-809, §211(a)(4), substituted “paragraphs (1) and (2) of subsection (b)” for “subsection (b)”.

#### EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IX, §911(c), Dec. 30, 1969, 83 Stat. 722, provided that: “The amendments made by this section [amending this section and section 1388 of this title] shall apply to per-unit retain allocations made after October 9, 1969.”

#### EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-809, title II, §211(e), Nov. 13, 1966, 80 Stat. 1584, provided that:

“(1) The amendments made by subsections (a), (b), and (c) [amending this section and sections 1383, 1385, and 1388 of this title] shall apply to per-unit retain allocations made during taxable years of an organization described in section 1381(a) (relating to organizations to which part I of subchapter T of chapter 1 applies) beginning after April 30, 1966, with respect to products delivered during such years.

“(2) The amendments made by subsection (d) [amending section 6044 of this title] shall apply with respect to calendar years after 1966.”

#### 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.

### § 1383. Computation of tax where cooperative redeems nonqualified written notices of allocation or nonqualified per-unit retain certificates

#### (a) General rule

If, under section 1382(b)(2) or (4), or (c)(2)(B), a deduction is allowable to an organization for the taxable year for amounts paid in redemption of nonqualified written notices of allocation or non-qualified per-unit retain certificates, then the tax imposed by this chapter on such organization for the taxable year shall be the lesser of the following:

(1) the tax for the taxable year computed with such deduction; or

(2) an amount equal to—

(A) the tax for the taxable year computed without such deduction, minus

(B) the decrease in tax under this chapter for any prior taxable year (or years) which would result solely from treating such non-qualified written notices of allocation or nonqualified per-unit retain certificates as qualified written notices of allocation or qualified per-unit retain certificates (as the case may be).

#### (b) Special rules

(1) If the decrease in tax ascertained under subsection (a)(2)(B) exceeds the tax for the tax-

able year (computed without the deduction described in subsection (a)) such excess shall be considered to be a payment of tax on the last day prescribed by law for the payment of tax for the taxable year, and shall be refunded or credited in the same manner as if it were an overpayment for such taxable year.

(2) For purposes of determining the decrease in tax under subsection (a)(2)(B), the stated dollar amount of any nonqualified written notice of allocation or nonqualified per-unit retain certificate which is to be treated under such subsection as a qualified written notice of allocation or qualified per-unit retain certificate (as 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 non-qualified 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—