

not be treated as a member of an affiliated group with respect to the amount included in gross income under paragraph (1).

(5) Special rule

Sections 1367(a)(2)(D) and 1371(c)(1) shall not apply with respect to any increase in the tax imposed by reason of this subsection.

(Added Pub. L. 97-354, § 2, Oct. 19, 1982, 96 Stat. 1676; amended Pub. L. 98-369, div. A, title VII, § 721(a), (b)(1), (p), July 18, 1984, 98 Stat. 966, 970; Pub. L. 99-514, title V, § 511(d)(2)(C), title VI, § 632(b), title VII, § 701(e)(4)(J), Oct. 22, 1986, 100 Stat. 2249, 2277, 2343; Pub. L. 100-203, title X, § 10227(a), Dec. 22, 1987, 101 Stat. 1330-416; Pub. L. 100-647, title I, § 1006(f)(7), title II, § 2004(n), Nov. 10, 1988, 102 Stat. 3407, 3608; Pub. L. 109-135, title IV, § 411(a), Dec. 21, 2005, 119 Stat. 2636.)

AMENDMENTS

- 2005—Subsec. (d)(5). Pub. L. 109-135 added par. (5).
- 1988—Subsec. (d). Pub. L. 100-647, § 1006(f)(7), struck out subsec. (d) which related to distributions of appreciated property.
- Subsec. (d)(4)(D). Pub. L. 100-647, § 2004(n), added subpar. (D).
- Subsec. (e). Pub. L. 100-647, § 1006(f)(7), struck out subsec. (e) which provided that subsec. (d) not apply to reorganizations, etc.
- 1987—Subsec. (d). Pub. L. 100-203 added subsec. (d) relating to recapture of LIFO benefits.
- 1986—Subsec. (a). Pub. L. 99-514, § 701(e)(4)(J), struck out “and in section 58(d)” after “this subchapter”.
- Subsec. (c)(2). Pub. L. 99-514, § 511(d)(2)(C), redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which read as follows: “section 163(d) (relating to limitation on interest on investment indebtedness).”.
- Subsec. (e). Pub. L. 99-514, § 632(b), amended subsec. (e) generally, substituting “reorganizations, etc.” for “complete liquidations and reorganizations”, in heading and in text struck out reference to property in complete liquidation of the corporation.
- 1984—Subsec. (b)(4). Pub. L. 98-369, § 721(p), added par. (4).
- Subsec. (c)(2). Pub. L. 98-369, § 721(b)(1), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out subpar. (A) which provided “subsection (b)(5) or (d)(4) of section 108 (relating to income from discharge of indebtedness).”.
- Subsec. (d). Pub. L. 98-369, § 721(a)(2), substituted “Except as provided in subsection (e), if” for “If”.
- Subsec. (e). Pub. L. 98-369, § 721(a)(1), added subsec. (e).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-135, title IV, § 411(b), Dec. 21, 2005, 119 Stat. 2636, provided that: “The amendment made by this section [amending this section] shall take effect as if included in section 10227 of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100-203].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1006(f)(7) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Amendment by section 2004(n) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title X, § 10227(b), Dec. 22, 1987, 101 Stat. 1330-417, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2) the amendment made by subsection (a) [amending this section] shall apply in the case of elections made after December 17, 1987.

“(2) EXCEPTION.—The amendment made by subsection (a) shall not apply in the case of any election made by a corporation after December 17, 1987, and before January 1, 1989, if, on or before December 17, 1987—

“(A) there was a resolution adopted by the board of directors of such corporation to make an election under subchapter S of chapter 1 of the Internal Revenue Code of 1986, or

“(B) there was a ruling request with respect to the business filed with the Internal Revenue Service expressing an intent to make such an election.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 511(d)(2)(C) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 511(e) of Pub. L. 99-514, set out as a note under section 163 of this title.

Amendment by section 632(b) of Pub. L. 99-514 applicable to any distribution in complete liquidation, and any sale or exchange, made by a corporation after July 31, 1986, unless such corporation is completely liquidated before Jan. 1, 1987, any transaction described in section 338 of this title for which the acquisition date occurs after Dec. 31, 1986, and any distribution, not in complete liquidation, made after Dec. 31, 1986, with exceptions and special and transitional rules, see section 633 of Pub. L. 99-514, set out as an Effective Date note under section 336 of this title.

Amendment by section 701(e)(4)(J) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the Subchapter S Revision Act of 1982, Pub. L. 97-354, see section 721(y)(1) of Pub. L. 98-369, set out as a note under section 1361 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97-354, set out as a note under section 1361 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(e)(4)(J) of Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

PART II—TAX TREATMENT OF SHAREHOLDERS

- Sec.
- 1366. Pass-thru of items to shareholders.
- 1367. Adjustments to basis of stock of shareholders, etc.
- 1368. Distributions.

§ 1366. Pass-thru of items to shareholders

(a) Determination of shareholder’s tax liability

(1) In general

In determining the tax under this chapter of a shareholder for the shareholder’s taxable year in which the taxable year of the S corporation ends (or for the final taxable year of