

as if included in the amendments made by section 651 of the Tax Reform Act of 1986 [section 651 of Pub. L. 99-514, see Effective Date note below].”

EFFECTIVE DATE

Pub. L. 99-514, title VI, § 651(d), Oct. 22, 1986, 100 Stat. 2297, provided that: “The amendments made by this section [enacting this section and amending sections 852 and 855 of this title] shall apply to calendar years beginning after December 31, 1986.”

**CHAPTER 45—PROVISIONS RELATING TO  
EXPATRIATED ENTITIES**

Sec.

4985. Stock compensation of insiders in expatriated corporations.

PRIOR PROVISIONS

A prior chapter 45, consisting of sections 4986 to 4998, related to windfall profit tax on domestic crude oil, prior to repeal by Pub. L. 100-418, title I, § 1941(a), (c), Aug. 23, 1988, 102 Stat. 1322, 1324, applicable to crude oil removed from the premises on or after Aug. 23, 1988.

**§ 4985. Stock compensation of insiders in expatriated corporations**

**(a) Imposition of tax**

In the case of an individual who is a disqualified individual with respect to any expatriated corporation, there is hereby imposed on such person a tax equal to—

(1) the rate of tax specified in section 1(h)(1)(C), multiplied by

(2) the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the expatriation date.

**(b) Value**

For purposes of subsection (a)—

**(1) In general**

The value of specified stock compensation shall be—

(A) in the case of a stock option (or other similar right) or a stock appreciation right, the fair value of such option or right, and

(B) in any other case, the fair market value of such compensation.

**(2) Date for determining value**

The determination of value shall be made—

(A) in the case of specified stock compensation held on the expatriation date, on such date,

(B) in the case of such compensation which is canceled during the 6 months before the expatriation date, on the day before such cancellation, and

(C) in the case of such compensation which is granted after the expatriation date, on the date such compensation is granted.

**(c) Tax to apply only if shareholder gain recognized**

Subsection (a) shall apply to any disqualified individual with respect to an expatriated corporation only if gain (if any) on any stock in such corporation is recognized in whole or part

by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(B)(i) with respect to such corporation.

**(d) Exception where gain recognized on compensation**

Subsection (a) shall not apply to—

(1) any stock option which is exercised on the expatriation date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the expatriation date with respect to the stock acquired pursuant to such exercise, and

(2) any other specified stock compensation which is exercised, sold, exchanged, distributed, cashed-out, or otherwise paid during such period in a transaction in which income, gain, or loss is recognized in full.

**(e) Definitions**

For purposes of this section—

**(1) Disqualified individual**

The term “disqualified individual” means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the expatriation date—

(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

**(2) Expatriated corporation; expatriation date**

**(A) Expatriated corporation**

The term “expatriated corporation” means any corporation which is an expatriated entity (as defined in section 7874(a)(2)). Such term includes any predecessor or successor of such a corporation.

**(B) Expatriation date**

The term “expatriation date” means, with respect to a corporation, the date on which the corporation first becomes an expatriated corporation.

**(3) Specified stock compensation**

**(A) In general**

The term “specified stock compensation” means payment (or right to payment) granted by the expatriated corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

**(B) Exceptions**

Such term shall not include—

(i) any option to which part II of subchapter D of chapter 1 applies, or

(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).