

ing to special rule where option price is between 85 percent and 100 percent of value of stock), or

“(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock).”

Subsec. (b)(1). Pub. L. 101-508, §11801(c)(9)(J)(ii), substituted “an incentive stock option or an” for “a qualified stock option, incentive stock option, a restricted stock option, or an”.

Subsec. (c). Pub. L. 101-508, §11801(c)(9)(J)(iii), amended subsec. (c) generally, striking out references for definitions of “qualified stock option” and “restricted stock option”.

1981—Subsec. (a)(1). Pub. L. 97-34, §251(b)(5)(A), inserted “, an incentive stock option,” after “qualified stock option”.

Subsec. (b)(1). Pub. L. 97-34, §251(b)(5)(B), inserted “incentive stock option,” after “qualified stock option.”

Subsec. (c)(4). Pub. L. 97-34, §251(b)(5)(C), added par. (4).

1979—Subsec. (a). Pub. L. 96-167 substituted “Furnishing of information” for “Requirement of reporting” in heading, and in closing par. substituted provisions relating to the furnishing, on or before Jan. 31 of the following calendar year, a written statement in such manner and setting forth such information, as prescribed by regulation for provisions prescribing the making of a return at such time and in such manner as prescribed by regulation, determining qualified stock options, restricted stock options or options granted under an employee stock purchase plan to be options under the provisions of this section, and restricting the necessity of a return only to the first transfer of such share.

Subsec. (b). Pub. L. 96-167 added subsec. (b). Former subsec. (b), requiring every corporation making a return to furnish each person named in the return a written statement setting forth such information as prescribed by regulation, and requiring such statement to be furnished before January 31 of the year following the calendar year for which the return was made, was struck out.

Subsec. (c). Pub. L. 96-167 redesignated subsec. (d) as (c). Former subsec. (c), requiring any corporation transferring any share of stock pursuant to the exercise of an option described in subsec. (a)(2) to identify such stock, was struck out.

Subsec. (d). Pub. L. 96-167 redesignated subsec. (d) as (c).

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §403(d), Dec. 20, 2006, 120 Stat. 2955, provided that: “The amendments made by this section [amending this section and section 6724 of this title] shall apply to calendar years beginning after the date of the enactment of this Act [Dec. 20, 2006].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to options granted on or after Jan. 1, 1976, and exercised on or after Jan. 1, 1981, or outstanding on Jan. 1, 1981, or granted on or after Jan. 1, 1976, and outstanding Aug. 13, 1981, see section 251(c) of Pub. L. 97-34, set out as an Effective Date note under section 422 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-167 applicable with respect to calendar years beginning after 1979, see section 7(c) of Pub. L. 96-167, set out as a note under section 6652 of this title.

EFFECTIVE DATE

Section applicable to stock transferred pursuant to options exercised on or after Jan. 1, 1964, See section

221(e) of Pub. L. 88-272, set out as an Effective Date of 1964 Amendment note under section 421 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

[§ 6039A. Repealed. Pub. L. 96-223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299]

Section, added Pub. L. 94-455, title XX, §2005(d)(1), Oct. 4, 1976, 90 Stat. 1877, related to information regarding carryover basis property acquired from a decedent. Repeal was achieved by repealing section 2005(d)(1) of Pub. L. 94-455 and the amendments made by that section.

EFFECTIVE DATE OF REPEAL AND REVIVAL OF PRIOR LAW

Repeal applicable in respect of decedents dying after Dec. 31, 1976, and, except for certain elections, this title to be applied and administered as if this section had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendment and Revival of Prior Law note under section 1023 of this title.

[§ 6039B. Repealed. Pub. L. 99-514, title XIII, § 1303(b)(5), Oct. 22, 1986, 100 Stat. 2658]

Section, added Pub. L. 95-600, title VI, §601(b)(4), Nov. 6, 1978, 92 Stat. 2896; amended Pub. L. 96-595, §3(b), Dec. 24, 1980, 94 Stat. 3466, related to returns of general stock ownership corporations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 22, 1986, see section 1311(f) of Pub. L. 99-514, as amended, set out as an Effective Date; Transitional Rules note under section 141 of this title.

§ 6039C. Returns with respect to foreign persons holding direct investments in United States real property interests

(a) General rule

To the extent provided in regulations, any foreign person holding direct investments in United States real property interests for the calendar year shall make a return setting forth—

- (1) the name and address of such person,
- (2) a description of all United States real property interests held by such person at any time during the calendar year, and
- (3) such other information as the Secretary may by regulations prescribe.

(b) Definition of foreign persons holding direct investments in United States real property interests

For purposes of this section, a foreign person shall be treated as holding direct investments in United States real property interests during any calendar year if—

- (1) such person did not engage in a trade or business in the United States at any time during such calendar year, and
- (2) the fair market value of the United States real property interests held directly by such person at any time during such year equals or exceeds \$50,000.

(c) Definitions and special rules

For purposes of this section—

(1) United States real property interest

The term “United States real property interest” has the meaning given to such term by section 897(c).

(2) Foreign person

The term “foreign person” means any person who is not a United States person.

(3) Attribution of ownership

For purposes of subsection (b)(2)—

(A) Interests held by partnerships, etc.

United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

(B) Interests held by family members

United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

(4) Time and manner of filing return

All returns required to be made under this section shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

(d) Special rule for United States interest and Virgin Islands interest

A nonresident alien individual or foreign corporation subject to tax under section 897(a) (and any person required to withhold tax under section 1445) shall pay any tax and file any return required by this title—

(1) to the United States, in the case of any interest in real property located in the United States and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the United States) described in section 897(c)(1)(A)(ii), and

(2) to the Virgin Islands, in the case of any interest in real property located in the Virgin Islands and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the Virgin Islands) described in section 897(c)(1)(A)(ii).

(Added Pub. L. 96-499, title XI, §1123(a), Dec. 5, 1980, 94 Stat. 2687; amended Pub. L. 97-34, title VIII, §831(a)(3), (e), Aug. 13, 1981, 95 Stat. 352, 354; Pub. L. 98-369, div. A, title I, §129(b)(1), July 18, 1984, 98 Stat. 659; Pub. L. 99-514, title XVIII, §1810(f)(7), Oct. 22, 1986, 100 Stat. 2828.)

AMENDMENTS

1986—Subsec. (d). Pub. L. 99-514 inserted “(and any person required to withhold tax under section 1445)” after “section 897(a)”.

1984—Pub. L. 98-369 amended section generally, inserting in section catchline “foreign persons holding direct investments in” and substituting in text provisions concerning returns with respect to foreign persons holding direct investments in United States real property for provisions concerning returns with respect to United States real property interests.

1981—Subsec. (b)(4)(C). Pub. L. 97-34, §831(e), substituted “For purposes of determining whether an entity to which this subsection applies has a substantial investor in United States real property, the assets of

any person shall include the person’s pro rata share of the United States real property interest held by any corporation (whether domestic or foreign) if the person’s pro rata share of the United States real property interests exceeded \$50,000” for “The assets of any entity to which this subsection applies shall include its pro rata share of the United States real property interests held by any corporation in which the entity is a substantial investor in United States real property”.

Subsec. (f). Pub. L. 97-34, §831(a)(3), added subsec. (f).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §129(c)(2), July 18, 1984, 98 Stat. 660, provided that: “The amendments made by subsection (b) [amending this section] shall apply to calendar year 1980 and subsequent calendar years.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to dispositions after June 18, 1980, in taxable years ending after such date, see section 831(i) of Pub. L. 97-34, set out as a note under section 897 of this title.

EFFECTIVE DATE

Section applicable to 1980 and subsequent calendar years, with 1980 being treated as beginning on June 19, 1980, and ending on Dec. 31, 1980, see section 1125(b) of Pub. L. 96-499, set out as a note under section 897 of this title.

§ 6039D. Returns and records with respect to certain fringe benefit plans**(a) In general**

Every employer maintaining a specified fringe benefit plan during any year for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

- (1) the number of employees of the employer,
- (2) the number of employees of the employer eligible to participate under the plan,
- (3) the number of employees participating under the plan,
- (4) the total cost of the plan during the year,
- (5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged, and
- (6) the number of highly compensated employees among the employees described in paragraphs (1), (2), and (3).

(b) Recordkeeping requirement

Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

(c) Additional information when required by the Secretary

Any employer—

- (1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and