

see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

CONSIDERATION OF CERTAIN TAXES TREATED AS PAID OR ACCRUED UNDER SECTION 904(c) IN DETERMINATION OF ALTERNATIVE MINIMUM TAX FOREIGN TAX CREDIT

Pub. L. 100-647, title I, §1007(f)(5), Nov. 10, 1988, 102 Stat. 3434, provided that: "In determining the amount of the alternative minimum tax foreign tax credit under section 59 of the 1986 Code, there shall not be taken into account any taxes paid or accrued in a taxable year beginning after December 31, 1986, which are treated under section 904(c) of the 1986 Code as paid or accrued in a taxable year beginning on or before December 31, 1986."

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

For applicability of amendment by section 701(a) of Pub. L. 99-514 [enacting this section] 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 VII—BASE EROSION AND ANTI-ABUSE TAX

Sec.

59A. Tax on base erosion payments of taxpayers with substantial gross receipts.

PRIOR PROVISIONS

A prior part VII, Environmental Tax, consisted of section 59A, prior to repeal by Pub. L. 113-295, div. A, title II, §221(a)(12)(A), Dec. 19, 2014, 128 Stat. 4038.

§ 59A. Tax on base erosion payments of taxpayers with substantial gross receipts

(a) Imposition of tax

There is hereby imposed on each applicable taxpayer for any taxable year a tax equal to the base erosion minimum tax amount for the taxable year. Such tax shall be in addition to any other tax imposed by this subtitle.

(b) Base erosion minimum tax amount

For purposes of this section—

(1) In general

Except as provided in paragraphs (2) and (3), the term "base erosion minimum tax amount" means, with respect to any applicable taxpayer for any taxable year, the excess (if any) of—

(A) an amount equal to 10 percent (5 percent in the case of taxable years beginning in calendar year 2018) of the modified taxable income of such taxpayer for the taxable year, over

(B) an amount equal to the regular tax liability (as defined in section 26(b)) of the taxpayer for the taxable year, reduced (but not below zero) by the excess (if any) of—

(i) the credits allowed under this chapter against such regular tax liability, over

(ii) the sum of—

(I) the credit allowed under section 38 for the taxable year which is properly allocable to the research credit determined under section 41(a), plus

(II) the portion of the applicable section 38 credits not in excess of 80 percent of the lesser of the amount of such credits or the base erosion minimum tax amount (determined without regard to this subclause).

(2) Modifications for taxable years beginning after 2025

In the case of any taxable year beginning after December 31, 2025, paragraph (1) shall be applied—

(A) by substituting "12.5 percent" for "10 percent" in subparagraph (A) thereof, and

(B) by reducing (but not below zero) the regular tax liability (as defined in section 26(b)) for purposes of subparagraph (B) thereof by the aggregate amount of the credits allowed under this chapter against such regular tax liability rather than the excess described in such subparagraph.

(3) Increased rate for certain banks and securities dealers

(A) In general

In the case of a taxpayer described in subparagraph (B) who is an applicable taxpayer for any taxable year, the percentage otherwise in effect under paragraphs (1)(A) and (2)(A) shall each be increased by one percentage point.

(B) Taxpayer described

A taxpayer is described in this subparagraph if such taxpayer is a member of an affiliated group (as defined in section 1504(a)(1)) which includes—

(i) a bank (as defined in section 581), or

(ii) a registered securities dealer under section 15(a) of the Securities Exchange Act of 1934.

(4) Applicable section 38 credits

For purposes of paragraph (1)(B)(ii)(II), the term "applicable section 38 credits" means the credit allowed under section 38 for the taxable year which is properly allocable to—

(A) the low-income housing credit determined under section 42(a),

(B) the renewable electricity production credit determined under section 45(a), and

(C) the investment credit determined under section 46, but only to the extent properly allocable to the energy credit determined under section 48.

(c) Modified taxable income

For purposes of this section—

(1) In general

The term "modified taxable income" means the taxable income of the taxpayer computed under this chapter for the taxable year, determined without regard to—

(A) any base erosion tax benefit with respect to any base erosion payment, or

(B) the base erosion percentage of any net operating loss deduction allowed under section 172 for the taxable year.

(2) Base erosion tax benefit

(A) In general

The term "base erosion tax benefit" means—