

(ii) in the case of any other disposition, its fair market value at the time of such disposition,

is higher than its adjusted basis (computed without regard to this section and section 1016(a)(6)).

Determinations under subparagraph (B) shall be exclusive of interest.

(2) The term “cost of securities sold” means the amount ascertained by subtracting the inventory value of the closing inventory of a taxable year from the sum of—

(A) the inventory value of the opening inventory for such year, and

(B) the cost of securities and other property purchased during such year which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 25; Pub. L. 85-866, title I, §2(a), Sept. 2, 1958, 72 Stat. 1606.)

AMENDMENTS

1958—Subsec. (a). Pub. L. 85-866, §2(a)(2), (3), struck out “short-term” each place it appeared, and inserted sentence to provide that no reduction to cost of securities sold during taxable year shall be made in respect of subsec. (b)(1)(A)(ii) obligations held at close of year, and to permit reduction in cost of securities sold in taxable year sold if obligation is municipal bond.

Subsec. (b)(1). Pub. L. 85-866, §2(a)(1), substituted “municipal bond” for “short-term municipal bond”, designated former subpars. (A) and (B) as (A)(i) and (ii), respectively, and added subpar. (B).

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, §2(c), Sept. 2, 1958, 72 Stat. 1607, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1016 of this title] shall apply with respect to taxable years ending after December 31, 1957, but only with respect to obligations acquired after such date.”

[§ 76. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(14), Oct. 4, 1976, 90 Stat. 1765]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 25, related to inclusion in gross of all income derived from mortgages made, or obligations issued, by a joint-stock land bank.

§ 77. Commodity credit loans

(a) Election to include loans in income

Amounts received as loans from the Commodity Credit Corporation shall, at the election of the taxpayer, be considered as income and shall be included in gross income for the taxable year in which received.

(b) Effect of election on adjustments for subsequent years

If a taxpayer exercises the election provided for in subsection (a) for any taxable year, then the method of computing income so adopted shall be adhered to with respect to all subsequent taxable years unless with the approval of the Secretary a change to a different method is authorized.

(Aug. 16, 1954, ch. 736, 68A Stat. 25; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

§ 78. Gross up for deemed paid foreign tax credit

If a domestic corporation chooses to have the benefits of subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year, an amount equal to the taxes deemed to be paid by such corporation under subsections (a), (b), and (d) of section 960 (determined without regard to the phrase “80 percent of” in subsection (d)(1) thereof) for such taxable year shall be treated for purposes of this title (other than sections 245 and 245A) as a dividend received by such domestic corporation from the foreign corporation.

(Added Pub. L. 87-834, §9(b), Oct. 16, 1962, 76 Stat. 1001; amended Pub. L. 94-455, title X, §1033(b)(1), Oct. 4, 1976, 90 Stat. 1628; Pub. L. 115-97, title I, §14301(c)(1), Dec. 22, 2017, 131 Stat. 2222.)

AMENDMENTS

2017—Pub. L. 115-97 amended section generally. Prior to amendment, text read as follows: “If a domestic corporation chooses to have the benefits of subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year, an amount equal to the taxes deemed to be paid by such corporation under section 902(a) (relating to credit for corporate stockholder in foreign corporation) or under section 960(a)(1) (relating to taxes paid by foreign corporation) for such taxable year shall be treated for purposes of this title (other than section 245) as a dividend received by such domestic corporation from the foreign corporation.”

1976—Pub. L. 94-455 substituted “section 902(a)” for “section 902(a)(1)” and “section 960(a)(1)” for “section 960(a)(1)(C)”.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §14301(d), Dec. 22, 2017, 131 Stat. 2225, provided that: “The amendments made by this section [amending this section and sections 245, 535, 545, 814, 865, 901, 904 to 909, 958 to 960, 1291, 1293, and 6038 of this title and repealing section 902 of this title] shall apply to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable on different dates depending on the date the distributions were received, see section 1033(c) of Pub. L. 94-455, set out as a note under section 960 of this title.

EFFECTIVE DATE

Pub. L. 87-834, §9(e), Oct. 16, 1962, 76 Stat. 1001, provided that: “The amendments made by this section [enacting this section and amending sections 535, 545, 861, 901, and 902 of this title] shall apply—

“(1) in respect of any distribution received by a domestic corporation after December 31, 1964, and

“(2) in respect of any distribution received by a domestic corporation before January 1, 1965, in a taxable year of such corporation beginning after December 31, 1962, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year (of such foreign corporation) beginning after December 31, 1962.

For purposes of paragraph (2), a distribution made by a foreign corporation out of its profits which are attributable to a distribution received from a foreign subsidiary to which [former] section 902(b) applies shall be treated as made out of the accumulated profits of a foreign corporation for a taxable year beginning before January 1, 1963, to the extent that such distribution was paid out of the accumulated profits of such foreign subsidiary for a taxable year beginning before January 1, 1963.”

§ 79. Group-term life insurance purchased for employees

(a) General rule

There shall be included in the gross income of an employee for the taxable year an amount equal to the cost of group-term life insurance on his life provided for part or all of such year under a policy (or policies) carried directly or indirectly by his employer (or employers); but only to the extent that such cost exceeds the sum of—

- (1) the cost of \$50,000 of such insurance, and
- (2) the amount (if any) paid by the employee toward the purchase of such insurance.

(b) Exceptions

Subsection (a) shall not apply to—

(1) the cost of group-term life insurance on the life of an individual which is provided under a policy carried directly or indirectly by an employer after such individual has terminated his employment with such employer and is disabled (within the meaning of section 72(m)(7)),

(2) the cost of any portion of the group-term life insurance on the life of an employee provided during part or all of the taxable year of the employee under which—

(A) the employer is directly or indirectly the beneficiary, or

(B) a person described in section 170(c) is the sole beneficiary,

for the entire period during such taxable year for which the employee receives such insurance, and

(3) the cost of any group-term life insurance which is provided under a contract to which section 72(m)(3) applies.

(c) Determination of cost of insurance

For purposes of this section and section 6052, the cost of group-term insurance on the life of an employee provided during any period shall be determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by regulations by the Secretary.

(d) Nondiscrimination requirements

(1) In general

In the case of a discriminatory group-term life insurance plan—

(A) subsection (a)(1) shall not apply with respect to any key employee, and

(B) the cost of group-term life insurance on the life of any key employee shall be the greater of—

(i) such cost determined without regard to subsection (c), or

(ii) such cost determined with regard to subsection (c).

(2) Discriminatory group-term life insurance plan

For purposes of this subsection, the term “discriminatory group-term life insurance plan” means any plan of an employer for providing group-term life insurance unless—

(A) the plan does not discriminate in favor of key employees as to eligibility to participate, and

(B) the type and amount of benefits available under the plan do not discriminate in favor of participants who are key employees.

(3) Nondiscriminatory eligibility classification

(A) In general

A plan does not meet requirements of subparagraph (A) of paragraph (2) unless—

(i) such plan benefits 70 percent or more of all employees of the employer,

(ii) at least 85 percent of all employees who are participants under the plan are not key employees,

(iii) such plan benefits such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of key employees, or

(iv) in the case of a plan which is part of a cafeteria plan, the requirements of section 125 are met.

(B) Exclusion of certain employees

For purposes of subparagraph (A), there may be excluded from consideration—

(i) employees who have not completed 3 years of service;

(ii) part-time or seasonal employees;

(iii) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if the benefits provided under the plan were the subject of good faith bargaining between such employee representatives and such employer or employers; and

(iv) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

(4) Nondiscriminatory benefits

A plan does not meet the requirements of paragraph (2)(B) unless all benefits available to participants who are key employees are available to all other participants.

(5) Special rule

A plan shall not fail to meet the requirements of paragraph (2)(B) merely because the amount of life insurance on behalf of the employees under the plan bears a uniform relationship to the total compensation or the basic or regular rate of compensation of such employees.

(6) Key employee defined

For purposes of this subsection, the term “key employee” has the meaning given to such term by paragraph (1) of section 416(i). Such term also includes any former employee if such employee when he retired or separated from service was a key employee.

(7) Exemption for church plans

(A) In general

This subsection shall not apply to a church plan maintained for church employees.

(B) Definitions

For purposes of subparagraph (A), the terms “church plan” and “church employee”