

## AMENDMENTS

1993—Pub. L. 103-66 substituted “Except as provided in section 132(a)(6), there shall” for “There shall”.

## EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to reimbursements or other payments in respect of expenses incurred after Dec. 31, 1993, see section 13213(e) of Pub. L. 103-66, set out as a note under section 62 of this title.

## EFFECTIVE DATE

Section applicable to taxable years beginning after December 31, 1969, except that it does not apply to moving expenses paid or incurred before July 1, 1970, in connection with the commencement of work by the taxpayer as an employee at a new principal place of work of which the taxpayer had been notified by his employer on or before December 19, 1969, see section 231(d) of Pub. L. 91-172, set out as an Effective Date of 1969 Amendment note under section 217 of this title.

## MOVING EXPENSES OF MEMBERS OF THE UNIFORMED SERVICES

Withholding, reporting, inclusion within adjusted gross income, and deduction for reimbursement for moving expenses of members of the uniformed services, see section 2 of Pub. L. 93-490, Oct. 26, 1974, 88 Stat. 1466, set out as a note under section 217 of this title.

### § 83. Property transferred in connection with performance of services

#### (a) General rule

If, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the excess of—

(1) the fair market value of such property (determined without regard to any restriction other than a restriction which by its terms will never lapse) at the first time the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, over

(2) the amount (if any) paid for such property,

shall be included in the gross income of the person who performed such services in the first taxable year in which the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable. The preceding sentence shall not apply if such person sells or otherwise disposes of such property in an arm's length transaction before his rights in such property become transferable or not subject to a substantial risk of forfeiture.

#### (b) Election to include in gross income in year of transfer

##### (1) In general

Any person who performs services in connection with which property is transferred to any person may elect to include in his gross income for the taxable year in which such property is transferred, the excess of—

(A) the fair market value of such property at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse), over

(B) the amount (if any) paid for such property.

If such election is made, subsection (a) shall not apply with respect to the transfer of such property, and if such property is subsequently forfeited, no deduction shall be allowed in respect of such forfeiture.

#### (2) Election

An election under paragraph (1) with respect to any transfer of property shall be made in such manner as the Secretary prescribes and shall be made not later than 30 days after the date of such transfer. Such election may not be revoked except with the consent of the Secretary.

#### (c) Special rules

For purposes of this section—

##### (1) Substantial risk of forfeiture

The rights of a person in property are subject to a substantial risk of forfeiture if such person's rights to full enjoyment of such property are conditioned upon the future performance of substantial services by any individual.

##### (2) Transferability of property

The rights of a person in property are transferable only if the rights in such property of any transferee are not subject to a substantial risk of forfeiture.

##### (3) Sales which may give rise to suit under section 16(b) of the Securities Exchange Act of 1934

So long as the sale of property at a profit could subject a person to suit under section 16(b) of the Securities Exchange Act of 1934, such person's rights in such property are—

(A) subject to a substantial risk of forfeiture, and

(B) not transferable.

(4) For purposes of determining an individual's basis in property transferred in connection with the performance of services, rules similar to the rules of section 72(w) shall apply.

#### (d) Certain restrictions which will never lapse

##### (1) Valuation

In the case of property subject to a restriction which by its terms will never lapse, and which allows the transferee to sell such property only at a price determined under a formula, the price so determined shall be deemed to be the fair market value of the property unless established to the contrary by the Secretary, and the burden of proof shall be on the Secretary with respect to such value.

##### (2) Cancellation

If, in the case of property subject to a restriction which by its terms will never lapse, the restriction is canceled, then, unless the taxpayer establishes—

(A) that such cancellation was not compensatory, and

(B) that the person, if any, who would be allowed a deduction if the cancellation were treated as compensatory, will treat the transaction as not compensatory, as evidenced in such manner as the Secretary shall prescribe by regulations,

the excess of the fair market value of the property (computed without regard to the re-

strictions) at the time of cancellation over the sum of—

(C) the fair market value of such property (computed by taking the restriction into account) immediately before the cancellation, and

(D) the amount, if any, paid for the cancellation,

shall be treated as compensation for the taxable year in which such cancellation occurs.

**(e) Applicability of section**

This section shall not apply to—

(1) a transaction to which section 421 applies,

(2) a transfer to or from a trust described in section 401(a) or a transfer under an annuity plan which meets the requirements of section 404(a)(2),

(3) the transfer of an option without a readily ascertainable fair market value,

(4) the transfer of property pursuant to the exercise of an option with a readily ascertainable fair market value at the date of grant, or

(5) group-term life insurance to which section 79 applies.

**(f) Holding period**

In determining the period for which the taxpayer has held property to which subsection (a) applies, there shall be included only the period beginning at the first time his rights in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier.

**(g) Certain exchanges**

If property to which subsection (a) applies is exchanged for property subject to restrictions and conditions substantially similar to those to which the property given in such exchange was subject, and if section 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036) applied to such exchange, or if such exchange was pursuant to the exercise of a conversion privilege—

(1) such exchange shall be disregarded for purposes of subsection (a), and

(2) the property received shall be treated as property to which subsection (a) applies.

**(h) Deduction by employer**

In the case of a transfer of property to which this section applies or a cancellation of a restriction described in subsection (d), there shall be allowed as a deduction under section 162, to the person for whom were performed the services in connection with which such property was transferred, an amount equal to the amount included under subsection (a), (b), or (d)(2) in the gross income of the person who performed such services. Such deduction shall be allowed for the taxable year of such person in which or with which ends the taxable year in which such amount is included in the gross income of the person who performed such services.

**(i) Qualified equity grants**

**(1) In general**

For purposes of this subtitle—

**(A) Timing of inclusion**

If qualified stock is transferred to a qualified employee who makes an election with

respect to such stock under this subsection, subsection (a) shall be applied by including the amount determined under such subsection with respect to such stock in income of the employee in the taxable year determined under subparagraph (B) in lieu of the taxable year described in subsection (a).

**(B) Taxable year determined**

The taxable year determined under this subparagraph is the taxable year of the employee which includes the earliest of—

(i) the first date such qualified stock becomes transferable (including, solely for purposes of this clause, becoming transferable to the employer),

(ii) the date the employee first becomes an excluded employee,

(iii) the first date on which any stock of the corporation which issued the qualified stock becomes readily tradable on an established securities market (as determined by the Secretary, but not including any market unless such market is recognized as an established securities market by the Secretary for purposes of a provision of this title other than this subsection),

(iv) the date that is 5 years after the first date the rights of the employee in such stock are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, or

(v) the date on which the employee revokes (at such time and in such manner as the Secretary provides) the election under this subsection with respect to such stock.

**(2) Qualified stock**

**(A) In general**

For purposes of this subsection, the term “qualified stock” means, with respect to any qualified employee, any stock in a corporation which is the employer of such employee, if—

(i) such stock is received—

(I) in connection with the exercise of an option, or

(II) in settlement of a restricted stock unit, and

(ii) such option or restricted stock unit was granted by the corporation—

(I) in connection with the performance of services as an employee, and

(II) during a calendar year in which such corporation was an eligible corporation.

**(B) Limitation**

The term “qualified stock” shall not include any stock if the employee may sell such stock to, or otherwise receive cash in lieu of stock from, the corporation at the time that the rights of the employee in such stock first become transferable or not subject to a substantial risk of forfeiture.

**(C) Eligible corporation**

For purposes of subparagraph (A)(ii)(II)—

**(i) In general**

The term “eligible corporation” means, with respect to any calendar year, any corporation if—

(I) no stock of such corporation (or any predecessor of such corporation) is readily tradable on an established securities market (as determined under paragraph (1)(B)(iii)) during any preceding calendar year, and

(II) such corporation has a written plan under which, in such calendar year, not less than 80 percent of all employees who provide services to such corporation in the United States (or any possession of the United States) are granted stock options, or are granted restricted stock units, with the same rights and privileges to receive qualified stock.

**(ii) Same rights and privileges**

For purposes of clause (i)(II)—

(I) except as provided in subclauses (II) and (III), the determination of rights and privileges with respect to stock shall be made in a similar manner as under section 423(b)(5),

(II) employees shall not fail to be treated as having the same rights and privileges to receive qualified stock solely because the number of shares available to all employees is not equal in amount, so long as the number of shares available to each employee is more than a de minimis amount, and

(III) rights and privileges with respect to the exercise of an option shall not be treated as the same as rights and privileges with respect to the settlement of a restricted stock unit.

**(iii) Employee**

For purposes of clause (i)(II), the term “employee” shall not include any employee described in section 4980E(d)(4) or any excluded employee.

**(iv) Special rule for calendar years before 2018**

In the case of any calendar year beginning before January 1, 2018, clause (i)(II) shall be applied without regard to whether the rights and privileges with respect to the qualified stock are the same.

**(3) Qualified employee; excluded employee**

For purposes of this subsection—

**(A) In general**

The term “qualified employee” means any individual who—

- (i) is not an excluded employee, and
- (ii) agrees in the election made under this subsection to meet such requirements as are determined by the Secretary to be necessary to ensure that the withholding requirements of the corporation under chapter 24 with respect to the qualified stock are met.

**(B) Excluded employee**

The term “excluded employee” means, with respect to any corporation, any individual—

- (i) who is a 1-percent owner (within the meaning of section 416(i)(1)(B)(ii)) at any time during the calendar year or who was

such a 1 percent owner at any time during the 10 preceding calendar years,

(ii) who is or has been at any prior time—

(I) the chief executive officer of such corporation or an individual acting in such a capacity, or

(II) the chief financial officer of such corporation or an individual acting in such a capacity,

(iii) who bears a relationship described in section 318(a)(1) to any individual described in subclause (I) or (II) of clause (ii), or

(iv) who is one of the 4 highest compensated officers of such corporation for the taxable year, or was one of the 4 highest compensated officers of such corporation for any of the 10 preceding taxable years, determined with respect to each such taxable year on the basis of the shareholder disclosure rules for compensation under the Securities Exchange Act of 1934 (as if such rules applied to such corporation).

**(4) Election**

**(A) Time for making election**

An election with respect to qualified stock shall be made under this subsection no later than 30 days after the first date the rights of the employee in such stock are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, and shall be made in a manner similar to the manner in which an election is made under subsection (b).

**(B) Limitations**

No election may be made under this section with respect to any qualified stock if—

(i) the qualified employee has made an election under subsection (b) with respect to such qualified stock,

(ii) any stock of the corporation which issued the qualified stock is readily tradable on an established securities market (as determined under paragraph (1)(B)(iii)) at any time before the election is made, or

(iii) such corporation purchased any of its outstanding stock in the calendar year preceding the calendar year which includes the first date the rights of the employee in such stock are transferable or are not subject to a substantial risk of forfeiture, unless—

(I) not less than 25 percent of the total dollar amount of the stock so purchased is deferral stock, and

(II) the determination of which individuals from whom deferral stock is purchased is made on a reasonable basis.

**(C) Definitions and special rules related to limitation on stock redemptions**

**(i) Deferral stock**

For purposes of this paragraph, the term “deferral stock” means stock with respect to which an election is in effect under this subsection.

**(ii) Deferral stock with respect to any individual not taken into account if individual holds deferral stock with longer deferral period**

Stock purchased by a corporation from any individual shall not be treated as deferral stock for purposes of subparagraph (B)(iii) if such individual (immediately after such purchase) holds any deferral stock with respect to which an election has been in effect under this subsection for a longer period than the election with respect to the stock so purchased.

**(iii) Purchase of all outstanding deferral stock**

The requirements of subclauses (I) and (II) of subparagraph (B)(iii) shall be treated as met if the stock so purchased includes all of the corporation's outstanding deferral stock.

**(iv) Reporting**

Any corporation which has outstanding deferral stock as of the beginning of any calendar year and which purchases any of its outstanding stock during such calendar year shall include on its return of tax for the taxable year in which, or with which, such calendar year ends the total dollar amount of its outstanding stock so purchased during such calendar year and such other information as the Secretary requires for purposes of administering this paragraph.

**(5) Controlled groups**

For purposes of this subsection, all persons treated as a single employer under section 414(b) shall be treated as 1 corporation.

**(6) Notice requirement**

Any corporation which transfers qualified stock to a qualified employee shall, at the time that (or a reasonable period before) an amount attributable to such stock would (but for this subsection) first be includible in the gross income of such employee—

- (A) certify to such employee that such stock is qualified stock, and
- (B) notify such employee—

(i) that the employee may be eligible to elect to defer income on such stock under this subsection, and

(ii) that, if the employee makes such an election—

(I) the amount of income recognized at the end of the deferral period will be based on the value of the stock at the time at which the rights of the employee in such stock first become transferable or not subject to substantial risk of forfeiture, notwithstanding whether the value of the stock has declined during the deferral period,

(II) the amount of such income recognized at the end of the deferral period will be subject to withholding under section 3401(i) at the rate determined under section 3402(t), and

(III) the responsibilities of the employee (as determined by the Secretary

under paragraph (3)(A)(ii)) with respect to such withholding.

**(7) Restricted stock units**

This section (other than this subsection), including any election under subsection (b), shall not apply to restricted stock units.

(Added Pub. L. 91-172, title III, §321(a), Dec. 30, 1969, 83 Stat. 588; amended Pub. L. 94-455, title XIX, §§1901(a)(15), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1765, 1834; Pub. L. 97-34, title II, §252(a), Aug. 13, 1981, 95 Stat. 260; Pub. L. 97-448, title I, §102(k)(1), Jan. 12, 1983, 96 Stat. 2374; Pub. L. 98-369, div. A, title II, §223(c), July 18, 1984, 98 Stat. 775; Pub. L. 99-514, title XVIII, §1827(e), Oct. 22, 1986, 100 Stat. 2851; Pub. L. 101-508, title XI, §11801(a)(5), Nov. 5, 1990, 104 Stat. 1388-520; Pub. L. 108-357, title VIII, §906(b), Oct. 22, 2004, 118 Stat. 1654; Pub. L. 115-97, title I, §13603(a), Dec. 22, 2017, 131 Stat. 2159.)

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsecs. (c)(3) and (i)(3)(B)(iv), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. Section 16(b) of the Act is classified to section 78p(b) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

2017—Subsec. (i). Pub. L. 115-97 added subsec. (i).

2004—Subsec. (c)(4). Pub. L. 108-357 added par. (4).

1990—Subsec. (i). Pub. L. 101-508 struck out subsec. (i) “Transition rules” which read as follows: “This section shall apply to property transferred after June 30, 1969, except that this section shall not apply to property transferred—

“(1) pursuant to a binding written contract entered into before April 22, 1969,

“(2) upon the exercise of an option granted before April 22, 1969,

“(3) before May 1, 1970, pursuant to a written plan adopted and approved before July 1, 1969,

“(4) before January 1, 1973, upon the exercise of an option granted pursuant to a binding written contract entered into before April 22, 1969, between a corporation and the transferor requiring the transferor to grant options to employees of such corporation (or a subsidiary of such corporation) to purchase a determinable number of shares of stock of such corporation, but only if the transferee was an employee of such corporation (or a subsidiary of such corporation) on or before April 22, 1969, or

“(5) in exchange for (or pursuant to the exercise of a conversion privilege contained in) property transferred before July 1, 1969, or for property to which this section does not apply (by reason of paragraphs (1), (2), (3), or (4)), if section 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036) applies, or if gain or loss is not otherwise required to be recognized upon the exercise of such conversion privilege, and if the property received in such exchange is subject to restrictions and conditions substantially similar to those to which the property given in such exchange was subject.”

1986—Subsec. (e)(5). Pub. L. 99-514 struck out “the cost of” before “group-life insurance”.

1984—Subsec. (e)(5). Pub. L. 98-369 added par. (5).

1983—Subsec. (c)(3). Pub. L. 97-448 substituted “Securities Exchange Act of 1934” for “Securities and Exchange Act of 1934” in heading and text.

1981—Subsec. (c)(3). Pub. L. 97-34 added par. (3).

1976—Subsec. (b)(2). Pub. L. 94-455, §1901(a)(15), struck out “(or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969)” after “after the date of such transfer”, and §1906(b)(13)(A), “or his delegate” after “Secretary” wherever appearing.

Subsec. (d)(1), (2)(B). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13603(f), Dec. 22, 2017, 131 Stat. 2164, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 409A, 422, 423, 3401, 3402, 6051, and 6652 of this title] shall apply to stock attributable to options exercised, or restricted stock units settled, after December 31, 2017.

“(2) REQUIREMENT TO PROVIDE NOTICE.—The amendments made by subsection (e) [amending section 6652 of this title] shall apply to failures after December 31, 2017.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to distributions on or after Oct. 22, 2004, see section 906(c) of Pub. L. 108-357, set out as a note under section 72 of this title.

#### 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

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 223(d)(1) of Pub. L. 98-369, set out as a note under section 79 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title II, §252(c), Aug. 13, 1981, 95 Stat. 260, as amended by Pub. L. 97-448, title I, §102(k)(2), 96 Stat. 2374, provided that: “The amendment made by subsection (a) [amending this section] and the provisions of subsection (b) [set out below] shall apply to transfers after December 31, 1981.”

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(15) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

#### EFFECTIVE DATE

Pub. L. 91-172, title III, §321(d), Dec. 30, 1969, 83 Stat. 591, provided that: “The amendments made by subsections (a) and (c) [amending sections 402, 403, and 404 of this title] shall apply to taxable years ending after June 30, 1969. The amendments made by subsection (b) [enacting this section] shall apply with respect to contributions made and premiums paid after August 1, 1969.”

#### 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.

#### TRANSITION RULE

Pub. L. 115-97, title I, §13603(g), Dec. 22, 2017, 131 Stat. 2164, provided that: “Until such time as the Secretary

(or the Secretary’s delegate) issues regulations or other guidance for purposes of implementing the requirements of paragraph (2)(C)(i)(II) of section 83(i) of the Internal Revenue Code of 1986 (as added by this section), or the requirements of paragraph (6) of such section, a corporation shall be treated as being in compliance with such requirements (respectively) if such corporation complies with a reasonable good faith interpretation of such requirements.”

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

#### APPLICATION OF AMENDMENTS MADE BY SECTION 252 OF PUB. L. 97-34

Pub. L. 99-514, title XVIII, §1879(p), Oct. 22, 1986, 100 Stat. 2911, as amended by Pub. L. 100-647, title I, §1018(q)(3), Nov. 10, 1988, 102 Stat. 3585, provided that:

“(1) Notwithstanding subsection (c) of section 252 of the Economic Recovery Tax Act of 1981 [section 252(c) of Pub. L. 97-34, set out above], the amendment made by subsection (a) of such section 252 [amending this section] (and the provisions of subsection (b) of such section 252 [set out below]) shall apply to any transfer of stock to any person if—

“(A) such transfer occurred in November or December of 1973 and was pursuant to the exercise of an option granted in November or December of 1971.

“(B) in December 1973 the corporation granting the option was acquired by another corporation in a transaction qualifying as a reorganization under section 368 of the Internal Revenue Code of 1954 [now 1986].

“(C) the fair market value (as of July 1, 1974) of the stock received by such person in the reorganization in exchange for the stock transferred to him pursuant to the exercise of such option was less than 50 percent of the fair market value of the stock so received (as of December 4, 1973).

“(D) in 1975 or 1976 such person sold substantially all of the stock received in such reorganization, and

“(E) such person makes an election under this section at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

“(2) LIMITATION ON AMOUNT OF BENEFIT.—Paragraph (1) shall not apply to transfers with respect to any employee to the extent that the application of paragraph (1) with respect to such employee would (but for this paragraph) result in a reduction in liability for income tax with respect to such employee for all taxable years in excess of \$100,000 (determined without regard to any interest).

“(3) STATUTE OF LIMITATIONS.—

“(A) OVERPAYMENTS.—If refund or credit of any overpayment of tax resulting from the application of paragraph (1) is prevented on the date of the enactment of this Act [Oct. 22, 1986] (or at any time within 6 months after such date of enactment) by the operation of any law or rule of law, refund or credit of such overpayment (to the extent attributable to the application of paragraph (1)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 6-month period.

“(B) DEFICIENCIES.—If the assessment of any deficiency of tax resulting from the application of paragraph (1) is prevented on the date of the enactment of this Act [Oct. 22, 1986] (or at any time within 6 months after such date of enactment) by the operation of any law or rule of law, assessment of such deficiency (to the extent attributable to the application of paragraph (1)) may, nevertheless, be made within such 6-month period.”

## TIME FOR MAKING CERTAIN SECTION 83(b) ELECTIONS

Pub. L. 98-369, div. A, title V, §556, July 18, 1984, 98 Stat. 898, as amended by Pub. L. 99-514, §2, title XVIII, §1855(b), Oct. 22, 1986, 100 Stat. 2095, 2882, provided that: "In the case of any transfer of property in connection with the performance of services on or before November 18, 1982, the election permitted by section 83(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] may be made, notwithstanding paragraph (2) of such section 83(b), with the income tax return for any taxable year ending after July 18, 1984, and beginning before the date of the enactment of the Tax Reform Act of 1986 [Oct. 22, 1986] if—

"(1) the amount paid for such property was not less than its fair market value at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse), and

"(2) the election is consented to by the person transferring such property.

The election shall contain that information required by the Secretary of the Treasury or his delegate for elections permitted by such section 83(b). The period for assessing any tax attributable to a transfer of property which is the subject of an election made pursuant to this section shall not expire before the date which is 3 years after the date such election was made."

## PROPERTY SUBJECT TO TRANSFER RESTRICTIONS TO COMPLY WITH "POOLING-OF-INTERESTS ACCOUNTING" RULES

Pub. L. 97-34, title II, §252(b), Aug. 13, 1981, 95 Stat. 260, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided, effective with respect to taxable years ending after Dec. 31, 1981, that: "For purposes of section 83 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], property is subject to substantial risk of forfeiture and is not transferable so long as such property is subject to a restriction on transfer to comply with the "Pooling-of-Interests Accounting" rules set forth in Accounting Series Release Numbered 130 ((10/5/72) 37 FR 20937; 17 CFR 211.130) and Accounting Series Release Numbered 135 ((1/18/73) 38 FR 1734; 17 CFR 211.135)."

**§ 84. Transfer of appreciated property to political organization****(a) General rule**

If—

(1) any person transfers property to a political organization, and

(2) the fair market value of such property exceeds its adjusted basis,

then for purposes of this chapter the transferor shall be treated as having sold such property to the political organization on the date of the transfer, and the transferor shall be treated as having realized an amount equal to the fair market value of such property on such date.

**(b) Basis of property**

In the case of a transfer of property to a political organization to which subsection (a) applies, the basis of such property in the hands of the political organization shall be the same as it would be in the hands of the transferor, increased by the amount of gain recognized to the transferor by reason of such transfer.

**(c) Political organization defined**

For purposes of this section, the term "political organization" has the meaning given to such term by section 527(e)(1).

(Added Pub. L. 93-625, §13(a)(1), Jan. 3, 1975, 88 Stat. 2120.)

## EFFECTIVE DATE

Pub. L. 93-625, §13(b), Jan. 3, 1975, 88 Stat. 2121, provided that: "The amendments made by subsection (a) [enacting this section] shall apply to transfers made after May 7, 1974, in taxable years ending after such date."

## NONRECOGNITION OF GAIN OR LOSS WHERE ORGANIZATION SOLD CONTRIBUTED PROPERTY BEFORE AUGUST 2, 1973

Pub. L. 93-625, §13(c), Jan. 3, 1975, 88 Stat. 2121, provided that in the case of the sale or exchange of property before Aug. 2, 1973, which was acquired by the exempt political organization by contribution, no gain or loss shall be recognized by such organization.

**§ 85. Unemployment compensation****(a) General rule**

In the case of an individual, gross income includes unemployment compensation.

**(b) Unemployment compensation defined**

For purposes of this section, the term "unemployment compensation" means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation.

(Added Pub. L. 95-600, title I, §112(a), Nov. 6, 1978, 92 Stat. 2777; amended Pub. L. 97-34, title I, §103(c)(1), Aug. 13, 1981, 95 Stat. 188; Pub. L. 97-248, title VI, §611(a), Sept. 3, 1982, 96 Stat. 706; Pub. L. 98-21, title I, §§121(f)(1), 122(c)(2), Apr. 20, 1983, 97 Stat. 84, 87; Pub. L. 99-514, title I, §121, Oct. 22, 1986, 100 Stat. 2109; Pub. L. 111-5, div. B, title I, §1007(a), Feb. 17, 2009, 123 Stat. 317; Pub. L. 113-295, div. A, title II, §221(a)(15), Dec. 19, 2014, 128 Stat. 4039.)

## AMENDMENTS

2014—Subsec. (c). Pub. L. 113-295 struck out subsec. (c). Text read as follows: "In the case of any taxable year beginning in 2009, gross income shall not include so much of the unemployment compensation received by an individual as does not exceed \$2,400."

2009—Subsec. (c). Pub. L. 111-5 added subsec. (c).

1986—Subsec. (a). Pub. L. 99-514 substituted "General rule" for "In general" in heading and amended text generally. Prior to amendment, text read as follows: "If the sum for the taxable year of the adjusted gross income of the taxpayer (determined without regard to this section, section 86 and section 221) and the unemployment compensation exceeds the base amount, gross income for the taxable year includes unemployment compensation in an amount equal to the lesser of—

"(1) one-half of the amount of the excess of such sum over the base amount, or

"(2) the amount of the unemployment compensation."

Subsecs. (b), (c). Pub. L. 99-514, in amending section generally, redesignated former subsec. (c) as (b) and struck out former subsec. (b), "Base amount defined", which read as follows: "For purposes of this section, the term 'base amount' means—

"(1) except as provided in paragraphs (2) and (3), \$12,000,

"(2) \$18,000, in the case of a joint return under section 6013, or

"(3) zero, in the case of a taxpayer who—

"(A) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and

"(B) does not live apart from his spouse at all times during the taxable year."

1983—Subsec. (a). Pub. L. 98-21, §122(c)(2), struck out " section 105(d)," after "section 86".