

years ending after such date, see section 302(d) of Pub. L. 108-357, set out as a note under section 38 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

#### EFFECTIVE DATE

Section applicable to sales or uses after Sept. 30, 1980, in taxable years ending after such date, see section 232(h)(1) of Pub. L. 96-223, set out as a note under section 40 of this title.

### § 88. Certain amounts with respect to nuclear decommissioning costs

In the case of any taxpayer who is required to include the amount of any nuclear decommissioning costs in the taxpayer's cost of service for ratemaking purposes, there shall be includable in the gross income of such taxpayer the amount so included for any taxable year.

(Added Pub. L. 98-369, div. A, title I, §91(f)(1), July 18, 1984, 98 Stat. 607; amended Pub. L. 99-514, title XVIII, §1807(a)(4)(E)(vii), Oct. 22, 1986, 100 Stat. 2813.)

#### AMENDMENTS

1986—Pub. L. 99-514 substituted “for ratemaking purposes” for “of ratemaking purposes”.

#### 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

Section effective July 18, 1984, with respect to taxable years ending after such date, see section 91(g)(5) of Pub. L. 98-369, as amended, set out as an Effective Date of 1984 Amendment note under section 461 of this title.

#### 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.

### [§ 89. Repealed. Pub. L. 101-140, title II, § 202(a), Nov. 8, 1989, 103 Stat. 830]

Section, added Pub. L. 99-514, title XI, §1151(a), Oct. 22, 1986, 100 Stat. 2494; amended Pub. L. 100-647, title I, §1011B(a)(1)-(9), (21), (28), (29), (34), title III, §3021(a)(1)(A), (B), (2)(A), (3)-(9), (11)-(13)(A), (b)(2)(B), (3), title VI, §6051(a), Nov. 10, 1988, 102 Stat. 3483-3485, 3487, 3488, 3625-3632, 3695, related to nondiscrimination rules regarding benefits provided under employee benefit plans.

#### EFFECTIVE DATE OF REPEAL

Pub. L. 101-140, title II, §202(c), Nov. 8, 1989, 103 Stat. 830, provided that: “The amendments made by this section [repealing this section] shall take effect as if included in section 1151 of the Tax Reform Act of 1986 [Pub. L. 99-514, see section 1151(k) set out as a note under section 79 of this title].”

#### NONENFORCEMENT OF SECTION FOR FISCAL YEAR 1990

Pub. L. 101-136, title V, §528, Nov. 3, 1989, 103 Stat. 816, provided that: “No monies appropriated by this Act [see Tables for classification] may be used to implement or enforce section 1151 of the Tax Reform Act of 1986 or the amendments made by such section [section 1151 of Pub. L. 99-514, which enacted section 89 of this title, amended sections 79, 105, 106, 117, 120, 125, 127, 129, 132, 414, 505, 3121, 3306, 6039D, and 6652 of this title and section 409 of Title 42, The Public Health and Welfare, and enacted provisions set out as a note under section 89 of this title].”

#### TRANSITIONAL PROVISIONS

Pub. L. 100-647, title III, §3021(c), Nov. 10, 1988, 102 Stat. 3633, provided for the first issue of valuation rules, the interim impact on former employees, the meeting of the written requirement for covered plans in connection with implementation of section 89 of the Code, and the issuance by Nov. 15, 1988, of rules necessary to carry out section 89, prior to repeal by Pub. L. 101-140, title II, §203(a)(7), Nov. 8, 1989, 103 Stat. 831.

#### PART-TIME EMPLOYEE DEFINED FOR PURPOSES OF SUBSECTION (f)

Pub. L. 100-647, title VI, §6070, Nov. 10, 1988, 102 Stat. 3704, increased the number of employees who would be excluded from consideration under this section during plan years 1989 and 1990, in the case of a plan maintained by an employer which employs fewer than 10 employees on a normal working day during a plan year, prior to repeal by Pub. L. 101-140, title II, §203(a)(7), Nov. 8, 1989, 103 Stat. 831.

### § 90. Illegal Federal irrigation subsidies

#### (a) General rule

Gross income shall include an amount equal to any illegal Federal irrigation subsidy received by the taxpayer during the taxable year.

#### (b) Illegal Federal irrigation subsidy

For purposes of this section—

##### (1) In general

The term “illegal Federal irrigation subsidy” means the excess (if any) of—

- (A) the amount required to be paid for any Federal irrigation water delivered to the taxpayer during the taxpayer year, over
- (B) the amount paid for such water.

##### (2) Federal irrigation water

The term “Federal irrigation water” means any water made available for agricultural purposes from the operation of any reclamation or irrigation project referred to in paragraph (8) of section 202 of the Reclamation Reform Act of 1982.

#### (c) Denial of deduction

No deduction shall be allowed under this subtitle by reason of any inclusion in gross income under subsection (a).

(Added Pub. L. 100-203, title X, §10611(a), Dec. 22, 1987, 101 Stat. 1330-451.)

#### REFERENCES IN TEXT

Section 202 of the Reclamation Reform Act of 1982, referred to in subsec. (b)(2), is classified to section 390bb of Title 43, Public Lands.

#### EFFECTIVE DATE

Pub. L. 100-203, title X, §10611(c), Dec. 22, 1987, 101 Stat. 1330-452, provided that: “The amendments made by this section [enacting this section] shall apply to

water delivered to the taxpayer in months beginning after the date of the enactment of this Act [Dec. 22, 1987].”

**§ 91. Certain foreign branch losses transferred to specified 10-percent owned foreign corporations**

**(a) In general**

If a domestic corporation transfers substantially all of the assets of a foreign branch (within the meaning of section 367(a)(3)(C), as in effect before the date of the enactment of the Tax Cuts and Jobs Act) to a specified 10-percent owned foreign corporation (as defined in section 245A) with respect to which it is a United States shareholder after such transfer, such domestic corporation shall include in gross income for the taxable year which includes such transfer an amount equal to the transferred loss amount with respect to such transfer.

**(b) Transferred loss amount**

For purposes of this section, the term “transferred loss amount” means, with respect to any transfer of substantially all of the assets of a foreign branch, the excess (if any) of—

- (1) the sum of losses—
  - (A) which were incurred by the foreign branch after December 31, 2017, and before the transfer, and
  - (B) with respect to which a deduction was allowed to the taxpayer, over
- (2) the sum of—
  - (A) any taxable income of such branch for a taxable year after the taxable year in which the loss was incurred and through the close of the taxable year of the transfer, and
  - (B) any amount which is recognized under section 904(f)(3) on account of the transfer.

**(c) Reduction for recognized gains**

The transferred loss amount shall be reduced (but not below zero) by the amount of gain recognized by the taxpayer on account of the transfer (other than amounts taken into account under subsection (b)(2)(B)).

**(d) Source of income**

Amounts included in gross income under this section shall be treated as derived from sources within the United States.

**(e) Basis adjustments**

Consistent with such regulations or other guidance as the Secretary shall prescribe, proper adjustments shall be made in the adjusted basis of the taxpayer’s stock in the specified 10-percent owned foreign corporation to which the transfer is made, and in the transferee’s adjusted basis in the property transferred, to reflect amounts included in gross income under this section.

(Added Pub. L. 115–97, title I, § 14102(d)(1), Dec. 22, 2017, 131 Stat. 2193.)

REFERENCES IN TEXT

The date of the enactment of the Tax Cuts and Jobs Act, referred to in subsec. (a), probably means the date of enactment of title I of Pub. L. 115–97, which was approved Dec. 22, 2017. Prior versions of the bill that was enacted into law as Pub. L. 115–97 included such Short Title, but it was not enacted as part of title I of Pub. L. 115–97.

EFFECTIVE DATE

Pub. L. 115–97, title I, § 14102(d)(3), Dec. 22, 2017, 131 Stat. 2194, provided that: “The amendments made by this subsection [enacting this section] shall apply to transfers after December 31, 2017.”

TRANSITION RULE

Pub. L. 115–97, title I, § 14102(d)(4), Dec. 22, 2017, 131 Stat. 2194, provided that: “The amount of gain taken into account under section 91(c) of the Internal Revenue Code of 1986, as added by this subsection, shall be reduced by the amount of gain which would be recognized under section 367(a)(3)(C) (determined without regard to the amendments made by subsection (e) [amending section 367 of this title]) with respect to losses incurred before January 1, 2018.”

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

Sec.	
101.	Certain death payments. <sup>1</sup>
102.	Gifts and inheritances.
103.	Interest on State and local bonds.
[103A.	Repealed.]
104.	Compensation for injuries or sickness.
105.	Amounts received under accident and health plans.
106.	Contributions by employer to accident and health plans.
107.	Rental value of parsonages.
108.	Income from discharge of indebtedness.
109.	Improvements by lessee on lessor’s property.
110.	Qualified lessee construction allowances for short-term leases.
111.	Recovery of tax benefit items.
112.	Certain combat zone compensation of members of the Armed Forces.
[113, 114.	Repealed.]
115.	Income of States, municipalities, etc.
[116.	Repealed.]
117.	Qualified scholarships.
118.	Contributions to the capital of a corporation.
119.	Meals or lodging furnished for convenience of employer. <sup>1</sup>
[120.	Repealed.]
121.	Exclusion of gain from sale of principal residence.
122.	Certain reduced uniformed services retirement pay.
123.	Amounts received under insurance contracts for certain living expenses.
[124.	Repealed.]
125.	Cafeteria plans.
126.	Certain cost-sharing payments.
127.	Educational assistance programs.
[128.	Repealed.]
129.	Dependent care assistance programs. <sup>2</sup>
130.	Certain personal injury liability assignments.
131.	Certain foster care payments.
132.	Certain fringe benefits.
[133.	Repealed.]
134.	Certain military benefits.
135.	Income from United States savings bonds used to pay higher education tuition and fees.
136.	Energy conservation subsidies provided by public utilities.
137.	Adoption assistance programs.
138.	Medicare Advantage MSA.
139.	Disaster relief payments.
139A.	Federal subsidies for prescription drug plans.
139B.	Benefits provided to volunteer firefighters and emergency medical responders.
139C.	COBRA premium assistance.

<sup>1</sup> So in original. Does not conform to section catchline.  
<sup>2</sup> Editorially supplied. Section 129 added by Pub. L. 97–34 without corresponding amendment of part analysis.