

which the related party is a resident for tax purposes, and

(B) other cases which the Secretary determines do not present a risk of eroding the Federal tax base.<sup>1</sup>

(8) requirements for record keeping and information reporting in addition to any requirements imposed by section 6038A.

(Added Pub. L. 115-97, title I, §14222(a), Dec. 22, 2017, 131 Stat. 2219.)

EFFECTIVE DATE

Pub. L. 115-97, title I, §14222(c), Dec. 22, 2017, 131 Stat. 2220, provided that: “The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 2017.”

**§ 268. Sale of land with unharvested crop**

Where an unharvested crop sold by the taxpayer is considered under the provisions of section 1231 as “property used in the trade or business”, in computing taxable income no deduction (whether or not for the taxable year of the sale and whether for expenses, depreciation, or otherwise) attributable to the production of such crop shall be allowed.

(Aug. 16, 1954, ch. 736, 68A Stat. 80.)

**§ 269. Acquisitions made to evade or avoid income tax**

**(a) In general**

If—

(1) any person or persons acquire, directly or indirectly, control of a corporation, or

(2) any corporation acquires, directly or indirectly, property of another corporation, not controlled, directly or indirectly, immediately before such acquisition, by such acquiring corporation or its stockholders, the basis of which property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation,

and the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance which such person or corporation would not otherwise enjoy, then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraphs (1) and (2), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of the corporation.

**(b) Certain liquidations after qualified stock purchases**

**(1) In general**

If—

(A) there is a qualified stock purchase by a corporation of another corporation,

(B) an election is not made under section 338 with respect to such purchase,

(C) the acquired corporation is liquidated pursuant to a plan of liquidation adopted not

more than 2 years after the acquisition date, and

(D) the principal purpose for such liquidation is the evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance which the acquiring corporation would not otherwise enjoy,

then the Secretary may disallow such deduction, credit, or other allowance.

**(2) Meaning of terms**

For purposes of paragraph (1), the terms “qualified stock purchase” and “acquisition date” have the same respective meanings as when used in section 338.

**(c) Power of Secretary to allow deduction, etc., in part**

In any case to which subsection (a) or (b) applies the Secretary is authorized—

(1) to allow as a deduction, credit, or allowance any part of any amount disallowed by such subsection, if he determines that such allowance will not result in the evasion or avoidance of Federal income tax for which the acquisition was made; or

(2) to distribute, apportion, or allocate gross income, and distribute, apportion, or allocate the deductions, credits, or allowances the benefit of which was sought to be secured, between or among the corporations, or properties, or parts thereof, involved, and to allow such deductions, credits, or allowances so distributed, apportioned, or allocated, but to give effect to such allowance only to such extent as he determines will not result in the evasion or avoidance of Federal income tax for which the acquisition was made; or

(3) to exercise his powers in part under paragraph (1) and in part under paragraph (2).

(Aug. 16, 1954, ch. 736, 68A Stat. 80; Pub. L. 88-272, title II, §235(c)(2), Feb. 26, 1964, 78 Stat. 126; Pub. L. 94-455, title XIX, §§1901(a)(38), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1771, 1834; Pub. L. 98-369, div. A, title VII, §712(k)(8)(A), (B), July 18, 1984, 98 Stat. 952; Pub. L. 113-295, div. A, title II, §221(a)(45), Dec. 19, 2014, 128 Stat. 4045.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295 struck out “or acquired on or after October 8, 1940.” after “persons acquire,” in par. (1) and after “corporation acquires,” in par. (2).

1984—Subsecs. (b), (c). Pub. L. 98-369 added subsec. (b), redesignated former subsec. (b) as (c) and inserted reference to subsec. (b).

1976—Subsecs. (a), (b). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (c). Pub. L. 94-455, §1901(a)(38), struck out subsec. (c) relating to presumptions in the case of disproportionate purchase price.

1964—Subsec. (a). Pub. L. 88-272 substituted “the Secretary or his delegate may disallow such deduction, credit, or other allowance” for “such deduction, credit or other allowance shall not be allowed”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title VII, §712(k)(8)(C), July 18, 1984, 98 Stat. 952, provided that: “The amendments

<sup>1</sup> So in original. Probably should be followed by “and”.