

1235(h) of Pub. L. 99-514, set out as a note under section 1291 of this title.

**Subchapter Q—Readjustment of Tax Between Years and Special Limitations**

- Part I. Income averaging.
- II. Mitigation of effect of limitations and other provisions.
- [III, IV. Repealed.]
- V. Claim of right.
- [VI. Repealed.]
- VII. Recoveries of foreign expropriation losses.

AMENDMENTS

- 1997—Pub. L. 105-34, title IX, §933(b), Aug. 5, 1997, 111 Stat. 882, added item for part I.
- 1986—Pub. L. 99-514, title I, §141(c), Oct. 22, 1986, 100 Stat. 2117, struck out item for part I “Income averaging”.
- 1981—Pub. L. 97-34, title I, §101(c)(2)(C), Aug. 13, 1981, 95 Stat. 183, struck out item for part VI “Maximum rate on personal service income”.
- 1976—Pub. L. 94-455, title XIX, §§1901(b)(36)(E), (37)(F), 1951(c)(3)(D), Oct. 4, 1976, 90 Stat. 1802, 1803, 1841, struck out items for parts III and IV “Involuntary liquidation and replacement of LIFO inventories” and “War loss recoveries”, respectively, and substituted in item for part VI “Maximum rate on personal service income” for “Other limitations”.
- 1966—Pub. L. 89-384, §1(g)(1), Apr. 8, 1966, 80 Stat. 104, added item for part VII.
- 1964—Pub. L. 88-272, title II, §232(f)(3), Feb. 26, 1964, 78 Stat. 112, substituted “averaging” for “attributable to several taxable years” in item for part I.

PART I—INCOME AVERAGING

- Sec. 1301. Averaging of farm income.

PRIOR PROVISIONS

A prior part I consisted of sections 1301 to 1305, prior to repeal by Pub. L. 99-514, title I, §141(a), Oct. 22, 1986, 100 Stat. 2117.

**§ 1301. Averaging of farm income**

**(a) In general**

At the election of an individual engaged in a farming business or fishing business, the tax imposed by section 1 for such taxable year shall be equal to the sum of—

- (1) a tax computed under such section on taxable income reduced by elected farm income, plus
- (2) the increase in tax imposed by section 1 which would result if taxable income for each of the 3 prior taxable years were increased by an amount equal to one-third of the elected farm income.

Any adjustment under this section for any taxable year shall be taken into account in applying this section for any subsequent taxable year.

**(b) Definitions**

In this section—

**(1) Elected farm income**

**(A) In general**

The term “elected farm income” means so much of the taxable income for the taxable year—

- (i) which is attributable to any farming business or fishing business; and

- (ii) which is specified in the election under subsection (a).

**(B) Treatment of gains**

For purposes of subparagraph (A), gain from the sale or other disposition of property (other than land) regularly used by the taxpayer in such a farming business or fishing business for a substantial period shall be treated as attributable to such a farming business or fishing business.

**(2) Individual**

The term “individual” shall not include any estate or trust.

**(3) Farming business**

The term “farming business” has the meaning given such term by section 263A(e)(4).

**(4) Fishing business**

The term “fishing business” means the conduct of commercial fishing as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

**(c) Regulations**

The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations regarding—

- (1) the order and manner in which items of income, gain, deduction, or loss, or limitations on tax, shall be taken into account in computing the tax imposed by this chapter on the income of any taxpayer to whom this section applies for any taxable year, and
- (2) the treatment of any short taxable year.

(Added Pub. L. 105-34, title IX, §933(a), Aug. 5, 1997, 111 Stat. 881; amended Pub. L. 108-357, title III, §314(b), Oct. 22, 2004, 118 Stat. 1468.)

PRIOR PROVISIONS

A prior section 1301, added Pub. L. 88-272, title II, §232(a), Feb. 26, 1964, 78 Stat. 106; amended Pub. L. 91-172, title III, §311(a), Dec. 30, 1969, 83 Stat. 586; Pub. L. 98-369, div. A, title I, §173(b), (c)(1), July 18, 1984, 98 Stat. 704, placed a limit on the tax attributable to averagable income, prior to repeal by Pub. L. 99-514, title I, §§141(a), 151(a), Oct. 22, 1986, 100 Stat. 2117, 2121, effective Dec. 31, 1986.

Another prior section 1301, act Aug. 16, 1954, ch. 736, 68A Stat. 334, related to compensation from an employment, defined “an employment”, and stated the rule with respect to partners, prior to the general revision of this part by Pub. L. 88-272.

A prior section 1302, added Pub. L. 88-272, title II, §232(a), Feb. 26, 1964, 78 Stat. 106; amended Pub. L. 91-172, title III, §311(b), Dec. 30, 1969, 83 Stat. 586; Pub. L. 94-455, title VII, §701(f)(1), Oct. 4, 1976, 90 Stat. 1580; Pub. L. 95-30, title I, §102(b)(15), May 23, 1977, 91 Stat. 138; Pub. L. 95-600, title I, §101(d)(2), Nov. 6, 1978, 92 Stat. 2770; Pub. L. 95-615, §202(g)(5), formerly §202(f)(5), Nov. 8, 1978, 92 Stat. 3100, renumbered Pub. L. 96-222, title I, §108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223; Pub. L. 97-34, title I, §111(b)(3), Aug. 13, 1981, 95 Stat. 194; Pub. L. 97-248, title II, §265(b)(2)(B), Sept. 3, 1982, 96 Stat. 547; Pub. L. 98-369, div. A, title I, §173(a), (c)(2)-(4), July 18, 1984, 98 Stat. 703, 704, defined “averagable income” and other terms related to income averaging, prior to repeal by Pub. L. 99-514, title I, §141(a), 151(a), Oct. 22, 1986, 100 Stat. 2117, 2121, effective Dec. 31, 1986.

Another prior section 1302, act Aug. 16, 1964, ch. 736, 68A Stat. 335, related to income from an invention or artistic work, prior to the general revision of this part by Pub. L. 88-272.