§ 267A. Certain related party amounts paid or accrued in hybrid transactions or with hybrid entities

(a) In general

No deduction shall be allowed under this chapter for any disqualified related party amount paid or accrued pursuant to a hybrid transaction or by, or to, a hybrid entity.

(b) Disqualified related party amount

For purposes of this section—

(1) Disqualified related party amount

The term ''disqualified related party amount'' means any interest or royalty paid or accrued to a related party to the extent that—

(A) such amount is not included in the income of such related party under the tax law of the country of which such related party is a resident for tax purposes or is subject to tax, or

(B) such related party is allowed a deduction with respect to such amount under the tax law of such country.

Such term shall not include any payment to the extent such payment is included in the gross income of a United States shareholder under section 951(a).

(2) Related party

The term ''related party'' means a related person as defined in section 954(d)(3), except that such section shall be applied with respect to the person making the payment described in paragraph (1) in lieu of the controlled foreign corporation otherwise referred to in such section.

(c) Hybrid transaction

For purposes of this section, the term ''hybrid transaction'' means any transaction, series of transactions, agreement, or instrument one or more payments with respect to which are treated as interest or royalties for purposes of this chapter and which are not so treated for purposes the tax law of the foreign country of which the recipient of such payment is resident for tax purposes or is subject to tax.

(d) Hybrid entity

For purposes of this section, the term ''hybrid entity'' means any entity which is either—

(1) treated as fiscally transparent for purposes of this chapter but not so treated for purposes of the tax law of the foreign country of which the entity is resident for tax purposes or is subject to tax, or

(2) treated as fiscally transparent for purposes of such tax law but not so treated for purposes of this chapter.

(e) Regulations

The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance providing for—

(1) rules for treating certain conduit arrangements which involve a hybrid transaction or a hybrid entity as subject to subsection (a),

(2) rules for the application of this section to branches or domestic entities,

(3) rules for treating certain structured transactions as subject to subsection (a),

(4) rules for treating a tax preference as an exclusion from income for purposes of applying subsection (b)(1) if such tax preference has the effect of reducing the generally applicable statutory rate by 25 percent or more,

(5) rules for treating the entire amount of interest or royalty paid or accrued to a related party as a disqualified related party amount if such amount is subject to a participation exemption system or other system which provides for the exclusion or deduction of a substantial portion of such amount,

(6) rules for determining the tax residence of a foreign entity if the entity is otherwise considered a resident of more than one country or of no country,

(7) exceptions from subsection (a) with respect to—

(A) cases in which the disqualified related party amount is taxed under the laws of a foreign country other than the country of 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,[1]

(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,

[1] So in original. Probably should be followed by ''and''.