

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (f)(1)(A), (B)(ii), is the date of enactment of Pub. L. 109-280, which was approved Aug. 17, 2006.

CODIFICATION

Sections 1221(a)(2) and 1241(a), (b) of Pub. L. 109-280, which directed the amendment of section 509 without specifying the act to be amended, were executed to this section, which is section 509 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2006—Subsec. (a)(3)(B). Pub. L. 109-280, §1241(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “is operated, supervised, or controlled by or in connection with one or more organizations described in paragraph (1) or (2), and”. See Codification note above.

Subsec. (e). Pub. L. 109-280, §1221(a)(2), inserted at end “Such term shall also include income from sources similar to those in the preceding sentence.” See Codification note above.

Subsec. (f). Pub. L. 109-280, §1241(b), added subsec. (f). See Codification note above.

1978—Subsec. (e). Pub. L. 95-345 inserted provision relating to payments with respect to securities loans.

1975—Subsec. (a)(2)(B). Pub. L. 94-81 designated existing provisions as cl. (i) and added cl. (ii).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title XII, §1221(c), Aug. 17, 2006, 120 Stat. 1089, provided that: “The amendments made by this section [amending this section and section 4940 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 17, 2006].”

Pub. L. 109-280, title XII, §1241(e), Aug. 17, 2006, 120 Stat. 1103, provided that:

“(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 2006].

“(2) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—Subsection (c) [enacting provisions set out as a note below] shall take effect—

“(A) in the case of trusts operated in connection with an organization described in paragraph (1) or (2) of section 509(a) of the Internal Revenue Code of 1986 on the date of the enactment of this Act, on the date that is one year after the date of the enactment of this Act, and

“(B) in the case of any other trust, on the date of the enactment of this Act.”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-345, §2(e), Aug. 15, 1978, 92 Stat. 483, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting section 1058 of this title and amending sections 509, 512, 514, 851, and 4940 of this title] apply with respect to—

“(1) amounts received after December 31, 1976, as payments with respect to securities loans (as defined in section 512(a)(5) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]), and

“(2) transfers of securities, under agreements described in section 1058 of such Code, occurring after such date.”

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-81, §3(b), Aug. 9, 1975, 89 Stat. 418, provided that: “The amendment made by this section [amending this section] shall apply to unrelated business taxable income derived from trades and businesses which are acquired by the organization after June 30, 1975.”

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as a note under section 4940 of this title.

SAVINGS PROVISION

Applicability of subsec. (a) of this section to testamentary trusts, see section 101(l)(7) of Pub. L. 91-172, set out as a note under section 4940 of this title.

CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS

Pub. L. 109-280, title XII, §1241(c), Aug. 17, 2006, 120 Stat. 1103, provided that: “For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

“(1) it is a charitable trust under State law,

“(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

“(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.”

PAYOUT REQUIREMENTS FOR TYPE III SUPPORTING ORGANIZATIONS

Pub. L. 109-280, title XII, §1241(d), Aug. 17, 2006, 120 Stat. 1103, provided that:

“(1) IN GENERAL.—The Secretary of the Treasury shall promulgate new regulations under section 509 of the Internal Revenue Code of 1986 on payments required by type III supporting organizations which are not functionally integrated type III supporting organizations. Such regulations shall require such organizations to make distributions of a percentage of either income or assets to supported organizations (as defined in section 509(f)(3) of such Code) in order to ensure that a significant amount is paid to such organizations.

“(2) TYPE III SUPPORTING ORGANIZATION; FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—For purposes of paragraph (1), the terms ‘type III supporting organization’ and ‘functionally integrated type III supporting organization’ have the meanings given such terms under subparagraphs (A) and (B) section 4943(f)(5) of the Internal Revenue Code of 1986 (as added by this Act), respectively.”

PART III—TAXATION OF BUSINESS INCOME OF CERTAIN EXEMPT ORGANIZATIONS

Sec.

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| 511. | Imposition of tax on unrelated business income of charitable, etc., organizations. |
| 512. | Unrelated business taxable income. |
| 513. | Unrelated trade or business. |
| 514. | Unrelated debt-financed income. |
| 515. | Taxes of foreign countries and possessions of the United States. |

AMENDMENTS

2018—Pub. L. 115-141, div. U, title IV, §401(a)(125), Mar. 23, 2018, 132 Stat. 1190, substituted “Imposition of tax on unrelated business income of charitable, etc., organizations.” for “Imposition of tax on unrelated business income of charitable organizations, etc.” in item 511.

1969—Pub. L. 91-172, title I, §§101(a), 121(d)(3)(C), Dec. 30, 1969, 83 Stat. 492, 548, substituted “PART III” for “PART II” as part designation and substituted “Unrelated debt-financed income” for “Business leases” in item 514.

§ 511. Imposition of tax on unrelated business income of charitable, etc., organizations

(a) Charitable, etc., organizations taxable at corporation rates

(1) Imposition of tax

There is hereby imposed for each taxable year on the unrelated business taxable income

(as defined in section 512) of every organization described in paragraph (2) a tax computed as provided in section 11. In making such computation for purposes of this section, the term “taxable income” as used in section 11 shall be read as “unrelated business taxable income”.

(2) Organizations subject to tax

(A) Organizations described in sections 401(a) and 501(c)

The tax imposed by paragraph (1) shall apply in the case of any organization (other than a trust described in subsection (b) or an organization described in section 501(c)(1) which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a).

(B) State colleges and universities

The tax imposed by paragraph (1) shall apply in the case of any college or university which is an agency or instrumentality of any government or any political subdivision thereof, or which is owned or operated by a government or any political subdivision thereof, or by any agency or instrumentality of one or more governments or political subdivisions. Such tax shall also apply in the case of any corporation wholly owned by one or more such colleges or universities.

(b) Tax on charitable, etc., trusts

(1) Imposition of tax

There is hereby imposed for each taxable year on the unrelated business taxable income of every trust described in paragraph (2) a tax computed as provided in section 1(e). In making such computation for purposes of this section, the term “taxable income” as used in section 1 shall be read as “unrelated business taxable income” as defined in section 512.

(2) Charitable, etc., trusts subject to tax

The tax imposed by paragraph (1) shall apply in the case of any trust which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a) and which, if it were not for such exemption, would be subject to subchapter J (sec. 641 and following, relating to estates, trusts, beneficiaries, and decedents).

(c) Special rule for section 501(c)(2) corporations

If a corporation described in section 501(c)(2)—

(1) pays any amount of its net income for a taxable year to an organization exempt from taxation under section 501(a) (or which would pay such an amount but for the fact that the expenses of collecting its income exceed its income), and

(2) such corporation and such organization file a consolidated return for the taxable year,

such corporation shall be treated, for purposes of the tax imposed by subsection (a), as being organized and operated for the same purposes as such organization, in addition to the purposes described in section 501(c)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 169; Pub. L. 86-667, § 3, July 14, 1960, 74 Stat. 535; Pub. L.

89-352, § 2, Feb. 2, 1966, 80 Stat. 4; Pub. L. 91-172, title I, § 121(a)(1)-(3), title III, § 301(b)(8), title VIII, § 803(d)(2), Dec. 30, 1969, 83 Stat. 536, 585, 684; Pub. L. 95-30, title I, § 101(d)(6), May 23, 1977, 91 Stat. 133; Pub. L. 95-600, title III, § 301(b)(5), title IV, § 421(e)(3), Nov. 6, 1978, 92 Stat. 2821, 2876; Pub. L. 97-248, title II, § 201(d)(5), formerly § 201(c)(5), Sept. 3, 1982, 96 Stat. 419, renumbered § 201(d)(5), Pub. L. 97-448, title III, § 306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 100-647, title I, § 1007(g)(6), Nov. 10, 1988, 102 Stat. 3435.)

AMENDMENTS

1988—Subsec. (d). Pub. L. 100-647 struck out subsec. (d) which read as follows: “TAX PREFERENCES.—

“(1) ORGANIZATIONS TAXABLE AT CORPORATE RATES.— If an organization is subject to tax on unrelated business taxable income pursuant to subsection (a), the tax imposed by section 56 shall apply to such organizations with respect to items of tax preference which enter into the computation of unrelated business taxable income in the same manner as section 56 applies to corporations.

“(2) ORGANIZATIONS TAXABLE AS TRUSTS.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (b), the taxes imposed by section 55 shall apply to such organization with respect to items of tax preference which enter into the computation of unrelated business taxable income.”

1982—Subsec. (d)(2). Pub. L. 97-248 substituted “section 55” for “section 55 and section 56 (as the case may be)”.

1978—Subsec. (a)(1). Pub. L. 95-600, § 301(b)(5)(A), substituted “a tax” for “a normal tax and a surtax”.

Subsec. (a)(2). Pub. L. 95-600, § 301(b)(5)(B), substituted “tax” for “taxes” wherever appearing.

Subsec. (d). Pub. L. 95-600, § 421(e)(3), substituted provisions relating to organizations taxable at corporate rates and organizations taxable as trusts, for provisions relating to imposition of the tax imposed by section 56 of this title to an organization subject to tax under this section for tax preferences computed in unrelated business taxable income.

1977—Subsec. (b)(1). Pub. L. 95-30 substituted “section 1(e)” for “section 1(d)”.

1969—Subsec. (a)(2)(A). Pub. L. 91-172, § 121(a)(1), removed reference, in heading, to pars. (2), (3), (5), (6), (14)(B), (C), and (17) of section 501(c) of this title, and, in text, struck out exemptions to churches, conventions, or associations of churches, from the imposition of tax on their unrelated business income, made corporations organized under section 501(c)(1) of this title (i.e. organized under Acts of Congress), exempt from such tax, but made all such exemptions subservient to the exceptions in part II and section 501(a) of this title.

Subsec. (b)(1). Pub. L. 91-172, § 803(d)(2), substituted section 1(d) for section 1 in reference to section under which the computation of the tax dealing with the imposition of tax on the unrelated business taxable income of trusts, is computed.

Subsec. (b)(2). Pub. L. 91-172, § 121(a)(2), pluralized “trust” in heading and in text made the imposition of tax on the unrelated business income of exempt trusts subject to provisions of part II, and, for purposes of determining trusts exempt from taxation, substituted reference to section 501(a) for reference to “section 501(c)(3) or (17) or section 401(a)”.

Subsec. (c). Pub. L. 91-172, § 121(a)(3), added subsec. (c). Former subsec. (c), covering the effective date, was struck out.

Subsec. (d). Pub. L. 91-172, § 301(b)(8), added subsec. (d).

1966—Subsec. (a)(2)(A). Pub. L. 89-352 inserted “(14)(B) or (C),” after “(6),” in heading and in text.

1960—Subsec. (a)(2). Pub. L. 86-667, § 3(a), included organizations described in section 501(c)(17) within subpar. (A).

Subsec. (b). Pub. L. 86-667, §3(b), inserted a reference to section 501(c)(17).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97-248, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(5)(A), (B) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

Amendment by section 421(e)(3) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 421(g) of Pub. L. 95-600, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title I, §121(g), Dec. 30, 1969, 83 Stat. 549, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this section [amending this section and sections 48, 501, 502, 503, 512 to 514, 681, 801, 810, 1443, 1504, and 7605 of this title] (other than by subsections (b)(3) and (e) [enacting sections 277 and 6050 of this title]) shall apply to taxable years beginning after December 31, 1969. The amendments made by subsection (b)(3) [enacting section 277 of this title] shall apply to taxable years beginning after December 31, 1970. The amendments made by subsection (e) [enacting section 6050 of this title] shall apply with respect to transfers of property after December 31, 1969. Where an organization makes a bargain purchase of property before October 9, 1969, which is subject to a mortgage which was placed on the property more than 5 years before the purchase, and the organization paid the seller a total amount no greater than the amount of the seller's cost (including attorneys' fees) directly related to the transfer of such property to the organization (but in any event no more than 10 percent of the value of the seller's equity in the property), the indebtedness secured by such mortgage shall not be treated, notwithstanding the amendments made by subsection (d)(1) [amending section 514 of this title], as acquisition indebtedness for purposes of section 514(c)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] during a period of 10 years following the date of the transaction."

Amendment by section 301(b)(8) of Pub. L. 91-172 applicable to taxable years ending after Dec. 31, 1969, see section 301(c) of Pub. L. 91-172, set out as a note under section 5 of this title.

Amendment by section 803(d)(2) of Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1970, see section 803(f) of Pub. L. 91-172, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-352, §3, Feb. 2, 1966, 80 Stat. 4, provided in part that: "The amendment made by section 2 [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Feb. 2, 1966]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-667 applicable to taxable years beginning after Dec. 31, 1959, see section 6 of Pub.

L. 86-667, set out as a note under section 501 of this title.

§ 512. Unrelated business taxable income

(a) Definition

For purposes of this title—

(1) General rule

Except as otherwise provided in this subsection, the term "unrelated business taxable income" means the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less the deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).

(2) Special rule for foreign organizations

In the case of an organization described in section 511 which is a foreign organization, the unrelated business taxable income shall be—

(A) its unrelated business taxable income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, plus

(B) its unrelated business taxable income which is effectively connected with the conduct of a trade or business within the United States.

(3) Special rules applicable to organizations described in paragraph (7), (9), or (17) of section 501(c)

(A) General rule

In the case of an organization described in paragraph (7), (9), or (17) of section 501(c), the term "unrelated business taxable income" means the gross income (excluding any exempt function income), less the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), both computed with the modifications provided in paragraphs (6), (10), (11), and (12) of subsection (b). For purposes of the preceding sentence, the deductions provided by sections 243 and 245 (relating to dividends received by corporations) shall be treated as not directly connected with the production of gross income.

(B) Exempt function income

For purposes of subparagraph (A), the term "exempt function income" means the gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing such members or their dependents or guests goods, facilities, or services in furtherance of the purposes constituting the basis for the exemption of the organization to which such income is paid. Such term also means all income (other than an amount equal to the gross income derived from any unrelated trade or business regularly carried on by such organization computed as if the organization were subject to paragraph (1)), which is set aside—

(i) for a purpose specified in section 170(c)(4), or