

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 32(a) of Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 1(c)(1) of Pub. L. 85-866, set out as a note under section 165 of this title.

Pub. L. 85-866, title I, §32(c), Sept. 2, 1958, 72 Stat. 1632, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendment made by subsection (b) of this section [amending this section] shall apply with respect to adjustments under section 545(b)(4) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for taxable years beginning after December 31, 1957."

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

Pub. L. 94-455, title XIX, §1951(b)(9)(B), Oct. 4, 1976, 90 Stat. 1839, provided that: "Notwithstanding subparagraph (A) [amending this section], if any amount was deducted under paragraph (9) of section 545(b) in a taxable year beginning before January 1, 1977, on account of a lien which is satisfied or released in a taxable year beginning on or after such date, the amount so deducted shall be included in income, for purposes of section 545, as provided in the second sentence of such paragraph. Shareholders of any corporation which has amounts included in its income by reason of the preceding sentence may elect to compute the income tax on dividends attributable to amounts so included as provided in the third sentence of such paragraph."

§ 546. Income not placed on annual basis

Section 443(b) (relating to computation of tax on change of annual accounting period) shall not apply in the computation of the personal holding company tax imposed by section 541.

(Aug. 16, 1954, ch. 736, 68A Stat. 191.)

§ 547. Deduction for deficiency dividends**(a) General rule**

If a determination (as defined in subsection (c)) with respect to a taxpayer establishes liability for personal holding company tax imposed by section 541 (or by a corresponding provision of a prior income tax law) for any taxable year, a deduction shall be allowed to the taxpayer for the amount of deficiency dividends (as defined in subsection (d)) for the purpose of determining the personal holding company tax for such year, but not for the purpose of determining interest, additional amounts, or assessable penalties computed with respect to such personal holding company tax.

(b) Rules for application of section**(1) Allowance of deduction**

The deficiency dividend deduction shall be allowed as of the date the claim for the deficiency dividend deduction is filed.

(2) Credit or refund

If the allowance of a deficiency dividend deduction results in an overpayment of personal holding company tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the de-

termination 2 years remained before the expiration of the period of limitation on the filing of claim for refund for the taxable year to which the overpayment relates. No interest shall be allowed on a credit or refund arising from the application of this section.

(c) Determination

For purposes of this section, the term "determination" means—

(1) a decision by the Tax Court or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

(2) a closing agreement made under section 7121; or

(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the taxpayer relating to the liability of such taxpayer for personal holding company tax.

(d) Deficiency dividends**(1) Definition**

For purposes of this section, the term "deficiency dividends" means the amount of the dividends paid by the corporation on or after the date of the determination and before filing claim under subsection (e), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for personal holding company tax exists, if distributed during such taxable year. No dividends shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination.

(2) Effect on dividends paid deduction**(A) For taxable year in which paid**

Deficiency dividends paid in any taxable year (to the extent of the portion thereof taken into account under subsection (a) in determining personal holding company tax) shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year and succeeding years.

(B) For prior taxable year

Deficiency dividends paid in any taxable year (to the extent of the portion thereof taken into account under subsection (a) in determining personal holding company tax) shall not be allowed for purposes of section 563(b) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

(e) Claim required

No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefor is filed within 120 days after the determination.

(f) Suspension of statute of limitations and stay of collection**(1) Suspension of running of statute**

If the corporation files a claim, as provided in subsection (e), the running of the statute of

limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency and all interest, additional amounts, or assessable penalties, shall be suspended for a period of 2 years after the date of the determination.

(2) Stay of collection

In the case of any deficiency with respect to the tax imposed by section 541 established by a determination under this section—

(A) the collection of the deficiency and all interest, additional amounts, and assessable penalties shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

(B) if claim for deficiency dividend deduction is filed under subsection (e), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part) and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

(g) Deduction denied in case of fraud, etc.

No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of the deficiency is due to fraud with intent to evade tax, or to wilful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

(Aug. 16, 1954, ch. 736, 68A Stat. 191; Pub. L. 94-455, title XIX, §§ 1901(a)(78), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1777, 1834.)

AMENDMENTS

1976—Subsecs. (c)(3), (e), (g). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (h). Pub. L. 94-455, § 1901(a)(78), struck out subsec. (h) relating to the effective date of provisions concerning deduction of deficiency dividends.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(78) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

[PART III—REPEALED]

[[§§ 551 to 558. Repealed. Pub. L. 108-357, title IV, § 413(a)(1), Oct. 22, 2004, 118 Stat. 1506]

Section 551, acts Aug. 16, 1954, ch. 736, 68A Stat. 193; Pub. L. 88-272, title II, § 225(f)(4), Feb. 26, 1964, 78 Stat. 88; Pub. L. 94-455, title XIX, § 1901(a)(79), (b)(1)(F)(i), (12)(A), Oct. 4, 1976, 90 Stat. 1777, 1790, 1795; Pub. L. 98-369, div. A, title I, § 132(b), July 18, 1984, 98 Stat. 666; Pub. L. 99-514, title XII, § 1235(e), title XVIII, § 1810(h)(2), Oct. 22, 1986, 100 Stat. 2575, 2829; Pub. L. 100-647, title I, § 1012(bb)(1)(A), (B), Nov. 10, 1988, 102 Stat. 3533; Pub. L. 105-34, title XI, § 1122(d)(2), Aug. 5, 1997, 111 Stat. 977, provided for taxation of foreign personal holding company income to United States shareholders.

Section 552, acts Aug. 16, 1954, ch. 736, 68A Stat. 195; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, § 132(c)(2), July 18, 1984, 98 Stat. 666; Pub. L. 99-514, title XII, § 1222(b), title XVIII, § 1810(h)(1), Oct. 22, 1986, 100 Stat. 2557, 2829; Pub. L. 100-647, title I, § 1012(bb)(1)(C), Nov. 10, 1988, 102 Stat. 3533, defined “foreign personal holding company”.

Section 553, acts Aug. 16, 1954, ch. 736, 68A Stat. 195; Pub. L. 86-435, § 1(e), Apr. 22, 1960, 74 Stat. 78; Pub. L. 88-272, title II, § 225(e), Feb. 26, 1964, 78 Stat. 85; Pub. L. 94-455, title XIX, § 1901(b)(32)(F), Oct. 4, 1976, 90 Stat. 1800; Pub. L. 99-514, title VI, § 645(a)(3), Oct. 22, 1986, 100 Stat. 2291, related to determination of foreign personal holding company income.

Section 554, acts Aug. 16, 1954, ch. 736, 68A Stat. 196; Pub. L. 88-272, title II, § 225(e), Feb. 26, 1964, 78 Stat. 86; Pub. L. 98-369, div. A, title I, § 132(a), July 18, 1984, 98 Stat. 665, related to constructive ownership of stock and treatment of convertible securities as outstanding stock.

Section 555, act Aug. 16, 1954, ch. 736, 68A Stat. 196, related to determination of gross income of foreign personal holding companies.

Section 556, acts Aug. 16, 1954, ch. 736, 68A Stat. 196; Pub. L. 85-866, title I, § 33(a), (b)(1), (c)(1), Sept. 2, 1958, 72 Stat. 1632; Pub. L. 87-403, § 3(e), Feb. 2, 1962, 76 Stat. 7; Pub. L. 88-272, title II, §§ 207(b)(6), 209(c)(2), Feb. 26, 1964, 78 Stat. 42, 46; Pub. L. 91-172, title II, § 201(a)(2)(B), Dec. 30, 1969, 83 Stat. 558; Pub. L. 94-455, title XIX, §§ 1901(a)(80), (b)(32)(G), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1778, 1800, 1834; Pub. L. 97-448, title I, § 102(m)(2), Jan. 12, 1983, 96 Stat. 2374; Pub. L. 101-508, title XI, § 11802(d)(1), Nov. 5, 1990, 104 Stat. 1388-529, related to undistributed foreign personal holding company income.

Section 557, act Aug. 16, 1954, ch. 736, 68A Stat. 198, related to inapplicability of section 443(b) of this title in the computation of income.

Section 558, added Pub. L. 85-866, title I, § 33(d)(1), Sept. 2, 1958, 72 Stat. 1632, related to returns of officers, directors, and shareholders of foreign personal holding companies.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

PART IV—DEDUCTION FOR DIVIDENDS PAID

Sec. 561.	Definition of deduction for dividends paid.
562.	Rules applicable in determining dividends eligible for dividends paid deduction.
563.	Rules relating to dividends paid after close of taxable year.
564.	Dividend carryover.
565.	Consent dividends.

§ 561. Definition of deduction for dividends paid

(a) General rule

The deduction for dividends paid shall be the sum of—

- (1) the dividends paid during the taxable year,
- (2) the consent dividends for the taxable year (determined under section 565), and
- (3) in the case of a personal holding company, the dividend carryover described in section 564.

(b) Special rules applicable

In determining the deduction for dividends paid, the rules provided in section 562 (relating