

losses on loans of small business investment companies, etc.”

1976—Pub. L. 94-455, title XIX, §1901(b)(18), Oct. 4, 1976, 90 Stat. 1796, struck out item 583 “Deductions of dividends paid on certain preferred stock”.

1969—Pub. L. 91-172, title IV, §431(c)(2), Dec. 30, 1969, 83 Stat. 620, substituted “Bad debts, losses, and gains with respect to securities held by financial institutions”, for “Bad debt and loss deduction with respect to securities held by banks” in item 582, and added items 585 and 586.

§ 581. Definition of bank

For purposes of sections 582 and 584, the term “bank” means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia) or of any State, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by State or Federal authority having supervision over banking institutions. Such term also means a domestic building and loan association.

(Aug. 16, 1954, ch. 736, 68A Stat. 202; Pub. L. 87-722, §5, Sept. 28, 1962, 76 Stat. 670; Pub. L. 94-455, title XIX, §1901(c)(5), Oct. 4, 1976, 90 Stat. 1803.)

AMENDMENTS

1976—Pub. L. 94-455 substituted “or of any State” for “of any State, or of any Territory” after “District of Columbia)” and struck out “, Territorial,” after “examination by State”.

1962—Pub. L. 87-722 substituted “authority of the Comptroller of the Currency” for “section 11(k) of the Federal Reserve Act (38 Stat. 262; 12 U.S.C. 248(k))”.

§ 582. Bad debts, losses, and gains with respect to securities held by financial institutions

(a) Securities

Notwithstanding sections 165(g)(1) and 166(e), subsections (a) and (b) of section 166 (relating to allowance of deduction for bad debts) shall apply in the case of a bank to a debt which is evidenced by a security as defined in section 165(g)(2)(C).

(b) Worthless stock in affiliated bank

For purposes of section 165(g)(1), where the taxpayer is a bank and owns directly at least 80 percent of each class of stock of another bank, stock in such other bank shall not be treated as a capital asset.

(c) Bond, etc., losses and gains of financial institutions

(1) General rule

For purposes of this subtitle, in the case of a financial institution referred to in paragraph (2), the sale or exchange of a bond, debenture, note, or certificate or other evidence of indebtedness shall not be considered a sale or exchange of a capital asset. For purposes of the preceding sentence, any regular or residual interest in a REMIC shall be treated as an evidence of indebtedness.

(2) Financial institutions to which paragraph (1) applies

(A) In general

For purposes of paragraph (1), the financial institutions referred to in this paragraph are—

- (i) any bank (and any corporation which would be a bank except for the fact it is a foreign corporation),
- (ii) any financial institution referred to in section 591,
- (iii) any small business investment company operating under the Small Business Investment Act of 1958, and
- (iv) any business development corporation.

(B) Business development corporation

For purposes of subparagraph (A), the term “business development corporation” means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks within such region or State in the ordinary course of their business (except on the basis of a partial participation), and which is operated primarily for such purposes.

(C) Limitations on foreign banks

In the case of a foreign corporation referred to in subparagraph (A)(i), paragraph (1) shall only apply to gains and losses which are effectively connected with the conduct of a banking business in the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 202; Pub. L. 85-866, title I, §34, Sept. 2, 1958, 72 Stat. 1632; Pub. L. 91-172, title IV, §433(a), (c), Dec. 30, 1969, 83 Stat. 623, 624; Pub. L. 94-455, title X, §1044(a), title XIV, §1402(b)(1)(G), (2), Oct. 4, 1976, 90 Stat. 1642, 1732; Pub. L. 98-369, div. A, title X, §1001(b)(6), (e), July 18, 1984, 98 Stat. 1011, 1012; Pub. L. 99-514, title VI, §671(b)(4), title IX, §901(d)(3), Oct. 22, 1986, 100 Stat. 2318, 2379; Pub. L. 100-647, title I, §1008(d)(3), Nov. 10, 1988, 102 Stat. 3439; Pub. L. 101-508, title XI, §11801(a)(25), (c)(11), Nov. 5, 1990, 104 Stat. 1388-521, 1388-527; Pub. L. 104-188, title I, §1621(b)(4), Aug. 20, 1996, 110 Stat. 1867; Pub. L. 108-357, title VIII, §835(b)(3), Oct. 22, 2004, 118 Stat. 1593.)

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in subsec. (c)(2)(A)(iii), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

AMENDMENTS

2004—Subsec. (c)(1). Pub. L. 108-357 struck out “, and any regular interest in a FASIT,” before “shall be treated”.

1996—Subsec. (c)(1). Pub. L. 104-188 inserted “, and any regular interest in a FASIT,” after “REMIC”.

1990—Subsec. (c)(1). Pub. L. 101-508, §11801(c)(11)(A), substituted “paragraph (2)” for “paragraph (5)”.