

fense, prior to repeal by Pub. L. 115-232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

Amendment by Pub. L. 96-39 effective Jan. 1, 1981, with provision for an earlier effective date under certain circumstances, see section 204 of Pub. L. 96-39, set out as a note under section 1401a of Title 19, Customs Duties.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XI, §1101(g)(2), Oct. 4, 1976, 90 Stat. 1659, provided that: "The amendments made by subsection (b) [amending this section] shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date."

Pub. L. 94-455, title XI, §1101(g)(3), Oct. 4, 1976, 90 Stat. 1659, provided that: "The amendments made by subsections (c) and (f) [amending this section] shall apply to taxable years ending after March 18, 1975."

#### EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-12, title VI, §603(b), Mar. 29, 1975, 89 Stat. 65, as amended by Pub. L. 94-455, title XI, §1101(f), Oct. 4, 1976, 90 Stat. 1659; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

"(2) BINDING CONTRACT.—The amendments made by subsection (a) [amending this section] shall not apply to sales, exchanges, and other dispositions made after March 18, 1975, but before March 19, 1980, if such sales, exchanges, and other dispositions are made pursuant to a fixed contract. The term 'fixed contract' means a contract which was, on March 18, 1975, and is at all times thereafter binding on the DISC or a taxpayer which was a member of the same controlled group (within the meaning of section 993(a)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) as the DISC, which was entered into after the date on which the DISC qualified as a DISC and the DISC and the taxpayer became members of the same controlled group, and under which the price and quantity of the products sold, exchanged, or otherwise disposed of cannot be increased."

#### EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-482, §3(b), Oct. 26, 1974, 88 Stat. 1456, provided that: "The amendment made by subsection (a) [amending this section] applies to taxable years beginning after December 31, 1973. The amendment shall, at the election of the taxpayer made within 90 days after the date of enactment of this Act [Oct. 26, 1974], also apply to any taxable year beginning after December 31, 1971, and before January 1, 1974."

### § 994. Inter-company pricing rules

#### (a) In general

In the case of a sale of export property to a DISC by a person described in section 482, the taxable income of such DISC and such person shall be based upon a transfer price which would allow such DISC to derive taxable income attributable to such sale (regardless of the sales price actually charged) in an amount which does not exceed the greatest of—

(1) 4 percent of the qualified export receipts on the sale of such property by the DISC plus 10 percent of the export promotion expenses of such DISC attributable to such receipts,

(2) 50 percent of the combined taxable income of such DISC and such person which is attributable to the qualified export receipts on such property derived as the result of a sale by the DISC plus 10 percent of the export pro-

motion expenses of such DISC attributable to such receipts, or

(3) taxable income based upon the sale price actually charged (but subject to the rules provided in section 482).

#### (b) Rules for commissions, rentals, and marginal costing

The Secretary shall prescribe regulations setting forth—

(1) rules which are consistent with the rules set forth in subsection (a) for the application of this section in the case of commissions, rentals, and other income, and

(2) rules for the allocation of expenditures in computing combined taxable income under subsection (a)(2) in those cases where a DISC is seeking to establish or maintain a market for export property.

#### (c) Export promotion expenses

For purposes of this section, the term "export promotion expenses" means those expenses incurred to advance the distribution or sale of export property for use, consumption, or distribution outside of the United States, but does not include income taxes. Such expenses shall also include freight expenses to the extent of 50 percent of the cost of shipping export property aboard airplanes owned and operated by United States persons or ships documented under the laws of the United States in those cases where law or regulations does not require that such property be shipped aboard such airplanes or ships.

(Added Pub. L. 92-178, title V, §501, Dec. 10, 1971, 85 Stat. 543; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 struck out "or his delegate" after "Secretary".

#### SUBPART B—TREATMENT OF DISTRIBUTIONS TO SHAREHOLDERS

Sec.	
995.	Taxation of DISC income to shareholders.
996.	Rules for allocation in the case of distributions and losses.
997.	Special subchapter C rules.

### § 995. Taxation of DISC income to shareholders

#### (a) General rule

A shareholder of a DISC or former DISC shall be subject to taxation on the earnings and profits of a DISC as provided in this chapter, but subject to the modifications of this subpart.

#### (b) Deemed distributions

##### (1) Distributions in qualified years

A shareholder of a DISC shall be treated as having received a distribution taxable as a dividend with respect to his stock in an amount which is equal to his pro rata share of the sum (or, if smaller, the earnings and profits for the taxable year) of—

(A) the gross interest derived during the taxable year from producer's loans,

(B) the gain recognized by the DISC during the taxable year on the sale or exchange of property, other than property which in the