

or credited in the same manner as an overpayment, under this part, shall not be diminished by any credit or set-off based upon any item other than the one which was the subject of the adjustment. The amount of the adjustment under this part, if paid, shall not be recovered by a claim or suit for refund or suit for erroneous refund based upon any item other than the one which was the subject of the adjustment.

(d) Taxes imposed by subtitle C

This part shall not apply to any tax imposed by subtitle C (sec. 3101 and following relating to employment taxes).

(Aug. 16, 1954, ch. 736, 68A Stat. 340; Pub. L. 85-866, title I, § 59(b), Sept. 2, 1958, 72 Stat. 1647; Pub. L. 89-44, title VIII, § 809(d)(5)(B), June 21, 1965, 79 Stat. 168; Pub. L. 91-172, title V, § 512(f)(7), (8), Dec. 30, 1969, 83 Stat. 641, 642; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 113-295, div. A, title II, § 221(a)(87), Dec. 19, 2014, 128 Stat. 4050.)

AMENDMENTS

2014—Subsecs. (d), (e). Pub. L. 113-295 redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: “No adjustment shall be made under this part in respect of any taxable year beginning prior to January 1, 1932.”

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

1969—Subsec. (a). Pub. L. 91-172, § 512(f)(7), substituted “capital loss carryback or carryover” for “capital loss carryover”.

Subsec. (b). Pub. L. 91-172, § 512(f)(8), inserted reference to net capital loss.

1965—Subsec. (a)(1)(A). Pub. L. 89-44 struck out “(b)(1) and (3)” and inserted in lieu thereof “(b)(1), (3), and (4)”.

1958—Subsec. (c). Pub. L. 85-866 substituted in second sentence “The” for “Other than in the case of an adjustment resulting from a determination under section 1313(a)(4), the”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91-172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89-44, set out as a note under section 6420 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective with respect to determinations made after Nov. 14, 1954, see section 59(c) of Pub. L. 85-866, set out as a note under section 1312 of this title.

[§ 1315. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(143), Oct. 4, 1976, 90 Stat. 1788]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 341, related to effective date of this part.

EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set

out as an Effective Date of 1976 Amendment note under section 2 of this title.

[PART III—REPEALED]

[§ 1321. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(144), Oct. 4, 1976, 90 Stat. 1788]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 342, related to involuntary liquidation of LIFO inventories.

EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

[PART IV—REPEALED]

[§§ 1331 to 1337. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(145)(A), Oct. 4, 1976, 90 Stat. 1788]

Section 1331, act Aug. 16, 1954, ch. 736, 68A Stat. 343, related to war loss recoveries.

Section 1332, act Aug. 16, 1954, ch. 736, 68A Stat. 343, related to inclusion in gross income of war loss recoveries.

Section 1333, act Aug. 16, 1954, ch. 736, 68A Stat. 344, related to tax adjustment measured by prior benefits.

Section 1334, act Aug. 16, 1954, ch. 736, 68A Stat. 346, related to restoration of value of investments referable to destroyed or seized property.

Section 1335, act Aug. 16, 1954, ch. 736, 68A Stat. 346, related to election by taxpayer for application of section 1333.

Section 1336, act Aug. 16, 1954, ch. 736, 68A Stat. 347, related to basis of recovered property.

Section 1337, act Aug. 16, 1954, ch. 736, 68A Stat. 347, related to applicable rules.

EFFECTIVE DATE OF REPEAL

Pub. L. 94-455, title XIX, § 1901(a)(145)(B), Oct. 4, 1976, 90 Stat. 1788, provided that: “The repeal by subparagraph (A) [repealing sections 1331 to 1337 of this title] shall apply with respect to war loss recoveries in taxable years beginning after December 31, 1976”.

PART V—CLAIM OF RIGHT

Sec.

1341. Computation of tax where taxpayer restores substantial amount held under claim of right.

[1342. Repealed.]

AMENDMENTS

1976—Pub. L. 94-455, title XIX, § 1901(b)(38), Oct. 4, 1976, 90 Stat. 1803, struck out item 1342 “Computation of tax where taxpayer recovers substantial amount held by another under claim of right”.

§ 1341. Computation of tax where taxpayer restores substantial amount held under claim of right

(a) General rule

If—

(1) an item was included in gross income for a prior taxable year (or years) because it appeared that the taxpayer had an unrestricted right to such item;

(2) a deduction is allowable for the taxable year because it was established after the close of such prior taxable year (or years) that the taxpayer did not have an unrestricted right to such item or to a portion of such item; and

(3) the amount of such deduction exceeds \$3,000,

then the tax imposed by this chapter for the taxable year shall be the lesser of the following:

- (4) the tax for the taxable year computed with such deduction; or
- (5) an amount equal to—
 - (A) the tax for the taxable year computed without such deduction, minus
 - (B) the decrease in tax under this chapter (or the corresponding provisions of prior revenue laws) for the prior taxable year (or years) which would result solely from the exclusion of such item (or portion thereof) from gross income for such prior taxable year (or years).

For purposes of paragraph (5)(B), the corresponding provisions of the Internal Revenue Code of 1939 shall be chapter 1 of such code (other than subchapter E, relating to self-employment income) and subchapter E of chapter 2 of such code.

(b) Special rules

(1) If the decrease in tax ascertained under subsection (a)(5)(B) exceeds the tax imposed by this chapter for the taxable year (computed without the deduction) such excess shall be considered to be a payment of tax on the last day prescribed by law for the payment of tax for the taxable year, and shall be refunded or credited in the same manner as if it were an overpayment for such taxable year.

(2) Subsection (a) does not apply to any deduction allowable with respect to an item which was included in gross income by reason of the sale or other disposition of stock in trade of the taxpayer (or other property of a kind which would properly have been included in the inventory of the taxpayer if on hand at the close of the prior taxable year) or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business. This paragraph shall not apply if the deduction arises out of refunds or repayments with respect to rates made by a regulated public utility (as defined in section 7701(a)(33) without regard to the limitation contained in the last two sentences thereof) if such refunds or repayments are required to be made by the Government, political subdivision, agency, or instrumentality referred to in such section, or by an order of a court, or are made in settlement of litigation or under threat or imminence of litigation.

(3) If the tax imposed by this chapter for the taxable year is the amount determined under subsection (a)(5), then the deduction referred to in subsection (a)(2) shall not be taken into account for any purpose of this subtitle other than this section.

(4) For purposes of determining whether paragraph (4) or paragraph (5) of subsection (a) applies—

- (A) in any case where the deduction referred to in paragraph (4) of subsection (a) results in a net operating loss, such loss shall, for purposes of computing the tax for the taxable year under such paragraph (4), be carried back to the same extent and in the same manner as is provided under section 172; and
- (B) in any case where the exclusion referred to in paragraph (5)(B) of subsection (a) results in a net operating loss or capital loss for the

prior taxable year (or years), such loss shall, for purposes of computing the decrease in tax for the prior taxable year (or years) under such paragraph (5) (B), be carried back and carried over to the same extent and in the same manner as is provided under section 172 or section 1212, except that no carryover beyond the taxable year shall be taken into account.

(5) For purposes of this chapter, the net operating loss described in paragraph (4)(A) of this subsection, or the net operating loss or capital loss described in paragraph (4)(B) of this subsection, as the case may be, shall (after the application of paragraph (4) or (5)(B) of subsection (a) for the taxable year) be taken into account under section 172 or 1212 for taxable years after the taxable year to the same extent and in the same manner as—

- (A) a net operating loss sustained for the taxable year, if paragraph (4) of subsection (a) applied, or
- (B) a net operating loss or capital loss sustained for the prior taxable year (or years), if paragraph (5)(B) of subsection (a) applied.

(Aug. 16, 1954, ch. 736, 68A Stat. 348; Pub. L. 85-866, title I, §60(a)-(d), Sept. 2, 1958, 72 Stat. 1647; Pub. L. 87-863, §5(a), Oct. 23, 1962, 76 Stat. 1142; Pub. L. 88-272, title II, §234(b)(7), Feb. 26, 1964, 78 Stat. 116; Pub. L. 94-455, title XIX, §1901(a)(146), Oct. 4, 1976, 90 Stat. 1788.)

REFERENCES IN TEXT

Chapter 1 of the Internal Revenue Code of 1939, referred to in subsec. (a), was comprised of sections 1 to 482 of former Title 26, Internal Revenue Code. Chapter 1 was repealed by section 7851(a)(1)(A) of this title. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See also section 7851(e) of this title for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

Subchapter E of chapter 2 of the Internal Revenue Code of 1939, referred to in subsec. (a), was comprised of sections 710 to 784 of former Title 26, Internal Revenue Code. Sections 710 to 736, 740, 742 to 744, 750, 751, 760, 761, and 780 to 784 were repealed by act Nov. 8, 1945, ch. 453, title I, §122(a), 59 Stat. 568. Section 741 was repealed by act Oct. 21, 1942, ch. 619, title II, §§224(b), 228(b), 56 Stat. 920, 925. Section 752 was repealed by act Oct. 21, 1942, ch. 619, title II, §229(a)(1), 56 Stat. 931, eff. as of Oct. 8, 1940.

AMENDMENTS

1976—Subsec. (b)(2). Pub. L. 94-455 struck out provision relating to the applicability of this paragraph where deduction arises out of payments or repayments made pursuant to a price redetermination provision in a subcontract entered into before Jan. 1, 1958.

1964—Subsec. (b)(2). Pub. L. 88-272 substituted “7701(a)(33) without regard to the limitation continued in the last two sentences thereof” for “1503(c) without regard to paragraph (2) thereof”.

1962—Subsec. (b)(4), (5). Pub. L. 87-863 added pars. (4) and (5).

1958—Subsec. (a). Pub. L. 85-866, §60(a), inserted “and subchapter E of chapter 2 of such code” in last sentence.

Subsec. (b)(2). Pub. L. 85-866, §60(b), (c), in second sentence inserted “with respect to rates” and inserted “, or by an order of a court, or are made in settlement of litigation or under threat or imminence of litigation” and inserted last sentence.

Subsec. (b)(3). Pub. L. 85-866, §60(d), added par. (3).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective for 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.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 234(c) of Pub. L. 88-272, set out as a note under section 1503 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-863, §5(b), Oct. 23, 1962, 76 Stat. 1143, provided that: "The amendment made by subsection (a) [amending this section] shall be effective with respect to taxable years beginning on or after January 1, 1962."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 60(a), (c), (d) 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, §60(e), Sept. 2, 1958, 72 Stat. 1647, provided that: "The amendment made by subsection (b) [amending this section] shall apply with respect to taxable years beginning after December 31, 1957. No interest shall be allowed or paid on any overpayment resulting from the application of the amendment made by subsection (c) [amending this section]."

[§ 1342. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(147), Oct. 4, 1976, 90 Stat. 1788]

Section, added Aug. 12, 1955, ch. 870, §3, 69 Stat. 717, related to computation of tax where taxpayer recovers substantial amount held by another under claim of right.

EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

[PART VI—REPEALED]

[§ 1346. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(148), Oct. 4, 1976, 90 Stat. 1788]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 349, related to recovery of unconstitutional Federal taxes.

EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

[§ 1347. Repealed. Pub. L. 94-455, title XIX, § 1951(b)(12)(A), Oct. 4, 1976, 90 Stat. 1840]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 349; Sept. 2, 1958, Pub. L. 85-866, title I, §61(a), 72 Stat. 1648; Dec. 30, 1969, Pub. L. 91-172, title VIII, §803(d)(5), 83 Stat. 684, related to claims against the United States involving acquisition of property.

SAVINGS PROVISION

Pub. L. 94-455, title XIX, §1951(b)(12)(B), Oct. 4, 1976, 90 Stat. 1840, provided that: "Notwithstanding subparagraph (A) [repealing this section], if amounts received in a taxable year beginning after December 31, 1976, would have been subject to the provisions of section 1347 if received in a taxable year beginning before such

date, the tax imposed by section 1 attributable to such receipt shall be computed as if section 1347 had not been repealed."

[§ 1348. Repealed. Pub. L. 97-34, title I, § 101(c)(1), Aug. 13, 1981, 95 Stat. 183]

Section, added Pub. L. 91-172, title VIII, §804(a), Dec. 30, 1969, 83 Stat. 685; amended Pub. L. 93-406, title II, §2005(c)(14), Sept. 2, 1974, 88 Stat. 992; Pub. L. 94-455, title III, §302(a), Oct. 4, 1976, 90 Stat. 1554; Pub. L. 95-600, title IV, §§441(a), 442(a), title VII, §701(x)(1), (2), Nov. 6, 1978, 92 Stat. 2878, 2920; Pub. L. 95-600, title IV, §441(a), as amended Pub. L. 96-222, title I, §104(a)(5)(B), Apr. 1, 1980, 94 Stat. 218, provided for a 50-percent maximum rate on personal service income.

EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1981, see section 101(f)(1) of Pub. L. 97-34, set out as an Effective Date of 1981 Amendment note under section 1 of this title.

TRANSITIONAL RULE IN CASE OF TAXABLE YEAR BEGINNING BEFORE NOV. 1, 1978, AND ENDING AFTER OCT. 31, 1978

Pub. L. 95-600, title IV, §441(b)(2), Nov. 6, 1978, 92 Stat. 2878, as amended by Pub. L. 96-222, title I, §104(a)(5)(A), Apr. 1, 1980, 94 Stat. 218, provided that in the case of a taxable year which began before Nov. 1, 1978, and ended after Oct. 31, 1978, the amount taken into account under subsec. (b)(2)(B) of section 1348 of this title by reason of section 57(a)(9) of this title be 50 percent of the lesser of the net capital gain for the taxable year or the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year before Nov. 1, 1978.

PART VII—RECOVERIES OF FOREIGN EXPROPRIATION LOSSES

Sec.

1351. Treatment of recoveries of foreign expropriation losses.

§ 1351. Treatment of recoveries of foreign expropriation losses

(a) Election

(1) In general

This section shall apply only to a recovery, by a domestic corporation subject to the tax imposed by section 11 or 801, of a foreign expropriation loss sustained by such corporation and only if such corporation was subject to the tax imposed by section 11 or 801, as the case may be, for the year of the loss and elects to have the provisions of this section apply with respect to such loss.

(2) Time, manner, and scope

An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulations. An election made with respect to any foreign expropriation loss shall apply to all recoveries in respect of such loss.

(b) Definition of foreign expropriation loss

For purposes of this section, the term "foreign expropriation loss" means any loss sustained by reason of the expropriation, intervention, seizure, or similar taking of property by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing. For purposes of the pre-