

sections 267, 441, and 706 of this title and enacting provisions set out above) or in any legislative history relating thereto shall be construed as requiring the Secretary of the Treasury or his delegate to permit an automatic change of a taxable year."

### § 1379. Transitional rules on enactment

#### (a) Old elections

Any election made under section 1372(a) (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall be treated as an election made under section 1362.

#### (b) References to prior law included

Any references in this title to a provision of this subchapter shall, to the extent not inconsistent with the purposes of this subchapter, include a reference to the corresponding provision as in effect before the enactment of the Subchapter S Revision Act of 1982.

#### (c) Distributions of undistributed taxable income

If a corporation was an electing small business corporation for the last preenactment year, subsections (f) and (d) of section 1375 (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall continue to apply with respect to distributions of undistributed taxable income for any taxable year beginning before January 1, 1983.

#### (d) Carryforwards

If a corporation was an electing small business corporation for the last preenactment year and is an S corporation for the 1st postenactment year, any carryforward to the 1st postenactment year which arose in a taxable year for which the corporation was an electing small business corporation shall be treated as arising in the 1st postenactment year.

#### (e) Preenactment and postenactment years defined

For purposes of this subsection—

##### (1) Last preenactment year

The term "last preenactment year" means the last taxable year of a corporation which begins before January 1, 1983.

##### (2) 1st postenactment year

The term "1st postenactment year" means the 1st taxable year of a corporation which begins after December 31, 1982.

(Added Pub. L. 97-354, § 2, Oct. 19, 1982, 96 Stat. 1686; amended Pub. L. 98-369, div. A, title VII, § 721(n), July 18, 1984, 98 Stat. 969.)

#### REFERENCES IN TEXT

The enactment of the Subchapter S Revision Act of 1982, referred to in subsections (a) to (c), is the enactment of Pub. L. 97-354, which was approved Oct. 19, 1982.

#### PRIOR PROVISIONS

A prior section 1379, added Pub. L. 91-172, title V, § 531(a), Dec. 30, 1969, 83 Stat. 654; amended Pub. L. 93-406, title II, § 2001(b), Sept. 2, 1974, 88 Stat. 952; Pub. L. 97-34, title III, § 312(c)(6), Aug. 13, 1981, 95 Stat. 284; Pub. L. 97-248, title II, § 233(c), Sept. 3, 1982, 96 Stat. 513, related to certain qualified pension, etc., plans, prior to the general revision of this subchapter by section 2 of Pub. L. 97-354.

#### AMENDMENTS

1984—Subsec. (b). Pub. L. 98-369 struck out "In applying this subchapter to any taxable year beginning after

December 31, 1982," and substituted "Any references in this title to a provision" for "any reference in this subchapter to another provision".

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in Subchapter S Revision Act of 1982, Pub. L. 97-354, see section 721(y)(1) of Pub. L. 98-369, set out as a note under section 1361 of this title.

#### EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1983, except that this section as in effect before Oct. 19, 1982, to remain in effect for years beginning before Jan. 1, 1984, see section 6(a), (b)(1) of Pub. L. 97-354, set out as a note under section 1361 of this title.

#### COORDINATION OF REPEALS OF CERTAIN SECTIONS

Subsec. (b) of this section as in effect on day before Sept. 3, 1982, inapplicable to any section 401(j) plan, see section 713(d)(8) of Pub. L. 98-369, set out as a note under section 404 of this title.

### Subchapter T—Cooperatives and Their Patrons

#### Part

- I. Tax treatment of cooperatives.
- II. Tax treatment by patrons of patronage dividends and per-unit retain allocations.
- III. Definitions; special rules.

#### AMENDMENTS

1966—Pub. L. 89-809, title II, § 211(b)(5), Nov. 13, 1966, 80 Stat. 1582, inserted "and per-unit retain allocations" in heading of part II.

1962—Pub. L. 87-834, § 17(a), Oct. 16, 1962, 76 Stat. 1045, added headings of subchapter T and of parts I to III.

### PART I—TAX TREATMENT OF COOPERATIVES

#### Sec.

- 1381. Organizations to which part applies.
- 1382. Taxable income of cooperatives.
- 1383. Computation of tax where cooperative redeems nonqualified written notices of allocation or nonqualified per-unit retain certificates.

#### AMENDMENTS

1966—Pub. L. 89-809, title II, § 211(a)(8), Nov. 13, 1966, 80 Stat. 1582, inserted "or nonqualified per-unit retain certificates" in item 1383.

1962—Pub. L. 87-834, § 17(a), Oct. 16, 1962, 76 Stat. 1045, added heading of part I and items 1381 to 1383.

### § 1381. Organizations to which part applies

#### (a) In general

This part shall apply to—

(1) any organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

(2) any corporation operating on a cooperative basis other than an organization—

(A) which is exempt from tax under this chapter,

(B) which is subject to the provisions of—

(i) part II of subchapter H (relating to mutual savings banks, etc.), or

(ii) subchapter L (relating to insurance companies), or

(C) which is engaged in furnishing electric energy, or providing telephone service, to persons in rural areas.

#### (b) Tax on certain farmers' cooperatives

An organization described in subsection (a)(1) shall be subject to the tax imposed by section 11.

**(c) Cross reference**

**For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).**

(Added Pub. L. 87-834, §17(a), Oct. 16, 1962, 76 Stat. 1045; amended Pub. L. 108-357, title III, §319(d), Oct. 22, 2004, 118 Stat. 1472; Pub. L. 115-97, title I, §13001(b)(2)(O), Dec. 22, 2017, 131 Stat. 2097.)

## AMENDMENTS

2017—Subsec. (b). Pub. L. 115-97 substituted “tax imposed by section 11” for “taxes imposed by section 11 or 1201”.

2004—Subsec. (c). Pub. L. 108-357 added subsec. (c).

## EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13001(c)(1) of Pub. L. 115-97, set out as a note under section 11 of this title.

## EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years beginning after Oct. 22, 2004, see section 319(e) of Pub. L. 108-357, set out as a note under section 501 of this title.

## EFFECTIVE DATE

Pub. L. 87-834, §17(c), Oct. 16, 1962, 76 Stat. 1051, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) FOR THE COOPERATIVES.—Except as provided in paragraph (3), the amendments made by subsections (a) and (b) [enacting this subchapter, amending sections 521 and 6072 of this title, and repealing section 522 of this title] shall apply to taxable years of organizations described in section 1381(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)) beginning after December 31, 1962.

“(2) FOR THE PATRONS.—Except as provided in paragraph (3), section 1385 of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply with respect to any amount received from any organization described in section 1381(a) of such Code, to the extent that such amount is paid by such organization in a taxable year of such organization beginning after December 31, 1962.

“(3) APPLICATION OF EXISTING LAW.—In the case of any money, written notice of allocation, or other property paid by any organization described in section 1381(a)—

“(A) before the first day of the first taxable year of such organization beginning after December 31, 1962, or

“(B) on or after such first day with respect to patronage occurring before such first day, the tax treatment of such money, written notice of allocation, or other property (including the tax treatment of gain or loss on the redemption, sale, or other disposition of such written notice of allocation) by any person shall be made under the Internal Revenue Code of 1986 without regard to subchapter T of chapter 1 of such Code [this subchapter].”

**§ 1382. Taxable income of cooperatives****(a) Gross income**

Except as provided in subsection (b), the gross income of any organization to which this part applies shall be determined without any adjustment (as a reduction in gross receipts, an increase in cost of goods sold, or otherwise) by reason of any allocation or distribution to a patron out of the net earnings of such organization or by reason of any amount paid to a patron as a per-unit retain allocation (as defined in section 1388(f)).

**(b) Patronage dividends and per-unit retain allocations**

In determining the taxable income of an organization to which this part applies, there shall not be taken into account amounts paid during the payment period for the taxable year—

(1) as patronage dividends (as defined in section 1388(a)), to the extent paid in money, qualified written notices of allocation (as defined in section 1388(c)), or other property (except nonqualified written notices of allocation (as defined in section 1388(d))) with respect to patronage occurring during such taxable year;

(2) in money or other property (except written notices of allocation) in redemption of a nonqualified written notice of allocation which was paid as a patronage dividend during the payment period for the taxable year during which the patronage occurred;

(3) as per-unit retain allocations (as defined in section 1388(f)), to the extent paid in money, qualified per-unit retain certificates (as defined in section 1388(h)), or other property (except nonqualified per-unit retain certificates, as defined in section 1388(i)) with respect to marketing occurring during such taxable year; or

(4) in money or other property (except per-unit retain certificates) in redemption of a nonqualified per-unit retain certificate which was paid as a per-unit retain allocation during the payment period for the taxable year during which the marketing occurred.

For purposes of this title, any amount not taken into account under the preceding sentence shall, in the case of an amount described in paragraph (1) or (2), be treated in the same manner as an item of gross income and as a deduction therefrom, and in the case of an amount described in paragraph (3) or (4), be treated as a deduction in arriving at gross income.

**(c) Deduction for nonpatronage distributions, etc.**

In determining the taxable income of an organization described in section 1381(a)(1), there shall be allowed as a deduction (in addition to other deductions allowable under this chapter)—

(1) amounts paid during the taxable year as dividends on its capital stock; and

(2) amounts paid during the payment period for the taxable year—

(A) in money, qualified written notices of allocation, or other property (except nonqualified written notices of allocation) on a patronage basis to patrons with respect to its earnings during such taxable year which are derived from business done for the United States or any of its agencies or from sources other than patronage, or

(B) in money or other property (except written notices of allocation) in redemption of a nonqualified written notice of allocation which was paid, during the payment period for the taxable year during which the earnings were derived, on a patronage basis to a patron with respect to earnings derived from business or sources described in subparagraph (A).

**(d) Payment period for each taxable year**

For purposes of subsections (b) and (c)(2), the payment period for any taxable year is the pe-