

(E) any State, the District of Columbia, any possession of the United States, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing,

(F) any bank (as defined in section 581),

(G) any real estate investment trust (as defined in section 856),

(H) any regulated investment company (as defined in section 851),

(I) any common trust fund (as defined in section 584(a)), and

(J) any trust which—

(i) is exempt from tax under section 664(c), or

(ii) is described in section 4947(a)(1).

(4) Withholding agent

The term “withholding agent” means all persons, in whatever capacity acting, having the control, receipt, custody, disposal, or payment of any withholdable payment.

(5) Foreign entity

The term “foreign entity” means any entity which is not a United States person.

(Added Pub. L. 111–147, title V, §501(a), Mar. 18, 2010, 124 Stat. 103.)

§ 1474. Special rules

(a) Liability for withheld tax

Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter.

(b) Credits and refunds

(1) In general

Except as provided in paragraph (2), the determination of whether any tax deducted and withheld under this chapter results in an overpayment by the beneficial owner of the payment to which such tax is attributable shall be made as if such tax had been deducted and withheld under subchapter A of chapter 3.

(2) Special rule where foreign financial institution is beneficial owner of payment

(A) In general

In the case of any tax properly deducted and withheld under section 1471 from a specified financial institution payment—

(i) if the foreign financial institution referred to in subparagraph (B) with respect to such payment is entitled to a reduced rate of tax with respect to such payment by reason of any treaty obligation of the United States—

(I) the amount of any credit or refund with respect to such tax shall not exceed the amount of credit or refund attributable to such reduction in rate, and

(II) no interest shall be allowed or paid with respect to such credit or refund, and

(ii) if such foreign financial institution is not so entitled, no credit or refund shall be allowed or paid with respect to such tax.

(B) Specified financial institution payment

The term “specified financial institution payment” means any payment if the beneficial owner of such payment is a foreign financial institution.

(3) Requirement to identify substantial United States owners

No credit or refund shall be allowed or paid with respect to any tax properly deducted and withheld under this chapter unless the beneficial owner of the payment provides the Secretary such information as the Secretary may require to determine whether such beneficial owner is a United States owned foreign entity (as defined in section 1471(d)(3)) and the identity of any substantial United States owners of such entity.

(c) Confidentiality of information

(1) In general

For purposes of this chapter, rules similar to the rules of section 3406(f) shall apply.

(2) Disclosure of list of participating foreign financial institutions permitted

The identity of a foreign financial institution which meets the requirements of section 1471(b) shall not be treated as return information for purposes of section 6103.

(d) Coordination with other withholding provisions

The Secretary shall provide for the coordination of this chapter with other withholding provisions under this title, including providing for the proper crediting of amounts deducted and withheld under this chapter against amounts required to be deducted and withheld under such other provisions.

(e) Treatment of withholding under agreements

Any tax deducted and withheld pursuant to an agreement described in section 1471(b) shall be treated for purposes of this title as a tax deducted and withheld by a withholding agent under section 1471(a).

(f) Regulations

The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of, and prevent the avoidance of, this chapter.

(Added Pub. L. 111–147, title V, §501(a), Mar. 18, 2010, 124 Stat. 104.)

PRIOR PROVISIONS

For prior sections 1481 and 1482, see Prior Provisions note preceding section 1471 of this title.

[CHAPTER 5—REPEALED]

§§ 1491, 1492. Repealed. Pub. L. 105–34, title XI, § 1131(a), Aug. 5, 1997, 111 Stat. 978]

Section 1491, acts Aug. 16, 1954, ch. 736, 68A Stat. 365; Oct. 4, 1976, Pub. L. 94–455, title X, §1015(a), 90 Stat. 1617; Nov. 6, 1978, Pub. L. 95–600, title VII, §701(u)(14)(A), 92 Stat. 2919; Aug. 20, 1996, Pub. L. 104–188, title I, §1907(b)(1), 110 Stat. 1916, imposed tax on transfers to avoid income tax.

Section 1492, acts Aug. 16, 1954, ch. 736, 68A Stat. 365; Jan. 12, 1971, Pub. L. 91–681, §1(b), 84 Stat. 2066; Oct. 4, 1976, Pub. L. 94–455, title X, §1015(b), title XIX,