

flect the probable intent of Congress, notwithstanding directory language of Pub. L. 115-97, which repealed section 1551 in part I of subchapter B of chapter 5.

#### EFFECTIVE DATE OF REPEAL

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

### § 1552. Earnings and profits

#### (a) General rule

Pursuant to regulations prescribed by the Secretary the earnings and profits of each member of an affiliated group required to be included in a consolidated return for such group filed for a taxable year shall be determined by allocating the tax liability of the group for such year among the members of the group in accord with whichever of the following methods the group shall elect in its first consolidated return filed for such a taxable year:

(1) The tax liability shall be apportioned among the members of the group in accordance with the ratio which that portion of the consolidated taxable income attributable to each member of the group having taxable income bears to the consolidated taxable income.

(2) The tax liability of the group shall be allocated to the several members of the group on the basis of the percentage of the total tax which the tax of such member if computed on a separate return would bear to the total amount of the taxes for all members of the group so computed.

(3) The tax liability of the group (excluding the tax increases arising from the consolidation) shall be allocated on the basis of the contribution of each member of the group to the consolidated taxable income of the group. Any tax increases arising from the consolidation shall be distributed to the several members in direct proportion to the reduction in tax liability resulting to such members from the filing of the consolidated return as measured by the difference between their tax liabilities determined on a separate return basis and their tax liabilities based on their contributions to the consolidated taxable income.

(4) The tax liability of the group shall be allocated in accord with any other method selected by the group with the approval of the Secretary.

#### (b) Failure to elect

If no election is made in such first return, the tax liability shall be allocated among the several members of the group pursuant to the method prescribed in subsection (a)(1).

(Aug. 16, 1954, ch. 736, 68A Stat. 371; Pub. L. 88-272, title II, § 234(b)(8), Feb. 26, 1964, 78 Stat. 116; Pub. L. 94-455, title XIX, §§ 1901(a)(159), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1790, 1834.)

#### AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §§ 1901(a)(159), 1906(b)(13)(A), struck out “beginning after December 31, 1953, and ending after the date of enactment of this title” after “group filed for a taxable year”, and “or his delegate” after “Secretary” in two places.

1964—Subsec. (a)(3). Pub. L. 88-272 struck out “(determined without regard to the 2 percent increase pro-

vided by section 1503(a))”, before “based on their contributions”.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(159) of Pub. L. 94-455 applicable with respect to 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.

### PART II—CERTAIN CONTROLLED CORPORATIONS

Sec.	
1561.	Limitation on accumulated earnings credit in the case of certain controlled corporations.
[1562.]	Repealed.]
1563.	Definitions and special rules.
[1564.]	Repealed.]

#### AMENDMENTS

2017—Pub. L. 115-97, title I, § 13001(b)(6)(B), Dec. 22, 2017, 131 Stat. 2098, which directed amendment of the table of sections for part II of subchapter B of chapter 5 by substituting “Limitation on accumulated earnings credit in the case of certain controlled corporations” for “Limitations on certain multiple tax benefits in the case of certain controlled corporations” in item 1561, was executed to the table of sections for part II of subchapter B of this chapter to reflect the probable intent of Congress.

1990—Pub. L. 101-508, title XI, § 11801(b)(12), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 1564 “Transitional rules in the case of certain controlled corporations”.

1969—Pub. L. 91-172, title IV, § 401(a)(3), (b)(2)(E), Dec. 30, 1969, 83 Stat. 600, 602, substituted “Sec. 1561. Limitations on certain multiple tax benefits in the case of certain controlled corporations.” for “Sec. 1561. Surtax exemptions in case of certain controlled corporations.”, and struck out item 1562, effective with respect to taxable years beginning after Dec. 31, 1974, and added item 1564.

1964—Pub. L. 88-272, title II, § 235(a), Feb. 26, 1964, 78 Stat. 116, added designation of part II, and items 1561 to 1563.

#### § 1561. Limitation on accumulated earnings credit in the case of certain controlled corporations

##### (a) In general

The component members of a controlled group of corporations on a December 31 shall, for their taxable years which include such December 31, be limited for purposes of this subtitle to one \$250,000 (\$150,000 if any component member is a corporation described in section 535(c)(2)(B)) amount for purposes of computing the accumulated earnings credit under section 535(c)(2) and (3). Such amount shall be divided equally among the component members of such group on such December 31 unless the Secretary prescribes regulations permitting an unequal allocation of such amount.

##### (b) Certain short taxable years

If a corporation has a short taxable year which does not include a December 31 and is a component member of a controlled group of corporations with respect to such taxable year, then for purposes of this subtitle, the amount to be used