31, 1983, see section 122(d) of Pub. L. 98–21, set out as a note under section 22 of this title.

EFFECTIVE DATE

Pub. L. 97–473, title II, § 204, Jan. 14, 1983, 96 Stat. 2611, as amended by Pub. L. 98–369, div. A, title X, § 1065(a), July 18, 1984, 98 Stat. 1048; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this title [enacting this section, amending sections 41, 103, 164, 170, 2055, 2106, 2522, 4227, 4484, 6420, 6421, 6424, 6427, and 7701 of this title, and enacting provisions set out as a note under section 1 of this title]—

''(1) insofar as they relate to chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [26 U.S.C. 1 et seq.] (other than section 103 thereof), shall apply to taxable years beginning after December 31, 1982,

''(2) insofar as they relate to section 103 of such Code, shall apply to obligations issued after December 31, 1982,

''(3) insofar as they relate to chapter 11 of such Code [26 U.S.C. 2001 et seq.], shall apply to estates of decedents dying after December 31, 1982,

''(4) insofar as they relate to chapter 12 of such Code [26 U.S.C. 2501 et seq.], shall apply to gifts made after December 31, 1982, and

''(5) insofar as they relate to taxes imposed by subtitle D of such Code [26 U.S.C. 4041 et seq.], shall take effect on January 1, 1983.''

SHORT TITLE

For short title of title II of Pub. L. 97–473 as the ''Indian Tribal Governmental Tax Status Act of 1982'', see Short Title of 1983 Amendments note set out under section 1 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99–514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For nonapplication of amendment by section 123(b)(3) of Pub. L. 99–514 to the extent application of such amendment would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(3), (4) of Pub. L. 100–647, set out as a note under section 861 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

§ 7872. Treatment of loans with below-market interest rates

(a) Treatment of gift loans and demand loans

(1) In general

For purposes of this title, in the case of any below-market loan to which this section applies and which is a gift loan or a demand loan, the forgone interest shall be treated as—

(A) transferred from the lender to the borrower, and

(B) retransferred by the borrower to the lender as interest.

(2) Time when transfers made

Except as otherwise provided in regulations prescribed by the Secretary, any forgone interest attributable to periods during any calendar year shall be treated as transferred (and retransferred) under paragraph (1) on the last day of such calendar year.

(b) Treatment of other below-market loans

(1) In general

For purposes of this title, in the case of any below-market loan to which this section applies and to which subsection (a)(1) does not apply, the lender shall be treated as having transferred on the date the loan was made (or, if later, on the first day on which this section applies to such loan), and the borrower shall be treated as having received on such date, cash in an amount equal to the excess of—

(A) the amount loaned, over

(B) the present value of all payments which are required to be made under the terms of the loan.

(2) Obligation treated as having original issue discount

For purposes of this title—

(A) In general

Any below-market loan to which paragraph (1) applies shall be treated as having original issue discount in an amount equal to the excess described in paragraph (1).

(B) Amount in addition to other original issue discount

Any original issue discount which a loan is treated as having by reason of subparagraph (A) shall be in addition to any other original issue discount on such loan (determined without regard to subparagraph (A)).

(c) Below-market loans to which section applies

(1) In general

Except as otherwise provided in this subsection and subsection (g), this section shall apply to—

(A) Gifts

Any below-market loan which is a gift loan.

(B) Compensation-related loans

Any below-market loan directly or indirectly between—

(i) an employer and an employee, or

(ii) an independent contractor and a person for whom such independent contractor provides services.

(C) Corporation-shareholder loans

Any below-market loan directly or indirectly between a corporation and any shareholder of such corporation.

(D) Tax avoidance loans

Any below-market loan 1 of the principal purposes of the interest arrangements of which is the avoidance of any Federal tax.

(E) Other below-market loans

To the extent provided in regulations, any below-market loan which is not described in subparagraph (A), (B), (C), or (F) if the interest arrangements of such loan have a significant effect on any Federal tax liability of the lender or the borrower.

(F) Loans to qualified continuing care facilities

Any loan to any qualified continuing care facility pursuant to a continuing care contract.

(2) $10,000 de minimis exception for gift loans between individuals

(A) In general

In the case of any gift loan directly between individuals, this section shall not apply to any day on which the aggregate outstanding amount of loans between such individuals does not exceed $10,000.

(B) De minimis exception not to apply to loans attributable to acquisition of income-producing assets

Subparagraph (A) shall not apply to any gift loan directly attributable to the purchase or carrying of income-producing assets.

(C) Cross reference

For limitation on amount treated as interest where loans do not exceed $100,000, see subsection (d)(1).

(3) $10,000 de minimis exception for compensation-related and corporate-shareholder loans

(A) In general

In the case of any loan described in subparagraph (B) or (C) of paragraph (1), this section shall not apply to any day on which the aggregate outstanding amount of loans between the borrower and lender does not exceed $10,000.

(B) Exception not to apply where 1 of principal purposes is tax avoidance

Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

(d) Special rules for gift loans

(1) Limitation on interest accrual for purposes of income taxes where loans do not exceed $100,000

(A) In general

For purposes of subtitle A, in the case of a gift loan directly between individuals, the amount treated as retransferred by the borrower to the lender as of the close of any year shall not exceed the borrower's net investment income for such year.

(B) Limitation not to apply where 1 of principal purposes is tax avoidance

Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

(C) Special rule where more than 1 gift loan outstanding

For purposes of subparagraph (A), in any case in which a borrower has outstanding more than 1 gift loan, the net investment income of such borrower shall be allocated among such loans in proportion to the respective amounts which would be treated as retransferred by the borrower without regard to this paragraph.

(D) Limitation not to apply where aggregate amount of loans exceed $100,000

This paragraph shall not apply to any loan made by a lender to a borrower for any day on which the aggregate outstanding amount of loans between the borrower and lender exceeds $100,000.

(E) Net investment income

For purposes of this paragraph—

(i) In general

The term ''net investment income'' has the meaning given such term by section 163(d)(4).

(ii) De minimis rule

If the net investment income of any borrower for any year does not exceed $1,000, the net investment income of such borrower for such year shall be treated as zero.

(iii) Additional amounts treated as interest

In determining the net investment income of a person for any year, any amount which would be included in the gross income of such person for such year by reason of section 1272 if such section applied to all deferred payment obligations shall be treated as interest received by such person for such year.

(iv) Deferred payment obligations

The term ''deferred payment obligation'' includes any market discount bond, short-term obligation, United States savings bond, annuity, or similar obligation.

(2) Special rule for gift tax

In the case of any gift loan which is a term loan, subsection (b)(1) (and not subsection (a)) shall apply for purposes of chapter 12.

(e) Definitions of below-market loan and forgone interest

For purposes of this section—

(1) Below-market loan

The term ''below-market loan'' means any loan if—

(A) in the case of a demand loan, interest is payable on the loan at a rate less than the applicable Federal rate, or

(B) in the case of a term loan, the amount loaned exceeds the present value of all payments due under the loan.

(2) Forgone interest

The term ''forgone interest'' means, with respect to any period during which the loan is outstanding, the excess of—

(A) the amount of interest which would have been payable on the loan for the period if interest accrued on the loan at the applicable Federal rate and were payable annually on the day referred to in subsection (a)(2), over

(B) any interest payable on the loan properly allocable to such period.

(f) Other definitions and special rules

For purposes of this section—

(1) Present value

The present value of any payment shall be determined in the manner provided by regulations prescribed by the Secretary—

(A) as of the date of the loan, and

(B) by using a discount rate equal to the applicable Federal rate.

(2) Applicable Federal rate

(A) Term loans

In the case of any term loan, the applicable Federal rate shall be the applicable Federal rate in effect under section 1274(d) (as of the day on which the loan was made), compounded semiannually.

(B) Demand loans

In the case of a demand loan, the applicable Federal rate shall be the Federal short-term rate in effect under section 1274(d) for the period for which the amount of forgone interest is being determined, compounded semiannually.

(3) Gift loan

The term ''gift loan'' means any below-market loan where the forgoing of interest is in the nature of a gift.

(4) Amount loaned

The term ''amount loaned'' means the amount received by the borrower.

(5) Demand loan

The term ''demand loan'' means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan if the benefits of the interest arrangements of such loan are not transferable and are conditioned on the future performance of substantial services by an individual. To the extent provided in regulations, such term also includes any loan with an indefinite maturity.

(6) Term loan

The term ''term loan'' means any loan which is not a demand loan.

(7) Husband and wife treated as 1 person

A husband and wife shall be treated as 1 person.

(8) Loans to which section 483, 643(i), or 1274 applies

This section shall not apply to any loan to which section 483, 643(i), or 1274 applies.

(9) No withholding

No amount shall be withheld under chapter 24 with respect to—

(A) any amount treated as transferred or retransferred under subsection (a), and

(B) any amount treated as received under subsection (b).

(10) Special rule for term loans

If this section applies to any term loan on any day, this section shall continue to apply to such loan notwithstanding paragraphs (2) and (3) of subsection (c). In the case of a gift loan, the preceding sentence shall only apply for purposes of chapter 12.

(11) Time for determining rate applicable to employee relocation loans

(A) In general

In the case of any term loan made by an employer to an employee the proceeds of which are used by the employee to purchase a principal residence (within the meaning of section 121), the determination of the applicable Federal rate shall be made as of the date the written contract to purchase such residence was entered into.

(B) Paragraph only to apply to cases to which section 217 applies

Subparagraph (A) shall only apply to the purchase of a principal residence in connection with the commencement of work by an employee or a change in the principal place of work of an employee to which section 217 applies.

(g) Exception for certain loans to qualified continuing care facilities

(1) In general

This section shall not apply for any calendar year to any below-market loan made by a lender to a qualified continuing care facility pursuant to a continuing care contract if the lender (or the lender's spouse) attains age 65 before the close of such year.

(2) $90,000 limit

Paragraph (1) shall apply only to the extent that the aggregate outstanding amount of any loan to which such paragraph applies (determined without regard to this paragraph), when added to the aggregate outstanding amount of all other previous loans between the lender (or the lender's spouse) and any qualified continuing care facility to which paragraph (1) applies, does not exceed $90,000.

(3) Continuing care contract

For purposes of this section, the term ''continuing care contract'' means a written contract between an individual and a qualified continuing care facility under which—

(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

(B) the individual or individual's spouse—

(i) will first—

(I) reside in a separate, independent living unit with additional facilities outside such unit for the providing of meals and other personal care, and

(II) not require long-term nursing care, and

(ii) then will be provided long-term and skilled nursing care as the health of such individual or individual's spouse requires, and

(C) no additional substantial payment is required if such individual or individual's spouse requires increased personal care services or long-term and skilled nursing care.

(4) Qualified continuing care facility

(A) In general

For purposes of this section, the term ''qualified continuing care facility'' means 1 or more facilities—

(i) which are designed to provide services under continuing care contracts, and

(ii) substantially all of the residents of which are covered by continuing care contracts.

(B) Substantially all facilities must be owned or operated by borrower

A facility shall not be treated as a qualified continuing care facility unless substantially all facilities which are used to provide services which are required to be provided under a continuing care contract are owned or operated by the borrower.

(C) Nursing homes excluded

The term ''qualified continuing care facility'' shall not include any facility which is of a type which is traditionally considered a nursing home.

(5) Adjustment of limit for inflation

In the case of any loan made during any calendar year after 1986, the dollar amount in paragraph (2) shall be increased by an amount equal to—

(A) such amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ''calendar year 1985'' for ''calendar year 2016'' in subparagraph (A)(ii) thereof.

Any increase under the preceding sentence shall be rounded to the nearest multiple of $100 (or, if such increase is a multiple of $50, such increase shall be increased to the nearest multiple of $100).

(6) Suspension of application

Paragraph (1) shall not apply for any calendar year to which subsection (h) applies.

(h) Exception for loans to qualified continuing care facilities

(1) In general

This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

(2) Continuing care contract

For purposes of this section, the term ''continuing care contract'' means a written contract between an individual and a qualified continuing care facility under which—

(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

(B) the individual or individual's spouse will be provided with housing, as appropriate for the health of such individual or individual's spouse—

(i) in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), and

(ii) in an assisted living facility or a nursing facility, as is available in the continuing care facility, and

(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

The Secretary shall issue guidance which limits such term to contracts which provide only facilities, care, and services described in this paragraph.

(3) Qualified continuing care facility

(A) In general

For purposes of this section, the term ''qualified continuing care facility'' means 1 or more facilities—

(i) which are designed to provide services under continuing care contracts,

(ii) which include an independent living unit, plus an assisted living or nursing facility, or both, and

(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

(B) Nursing homes excluded

The term ''qualified continuing care facility'' shall not include any facility which is of a type which is traditionally considered a nursing home.

(i) Regulations

(1) In general

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

(A) regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, disposition of the lender's or borrower's interest in the loan, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section,

(B) regulations for the purpose of assuring that the positions of the borrower and lender are consistent as to the application (or nonapplication) of this section, and

(C) regulations exempting from the application of this section any class of transactions the interest arrangements of which have no significant effect on any Federal tax liability of the lender or the borrower.

(2) Estate tax coordination

Under regulations prescribed by the Secretary, any loan which is made with donative intent and which is a term loan shall be taken into account for purposes of chapter 11 in a manner consistent with the provisions of subsection (b).

(Added Pub. L. 98–369, div. A, title I, §172(a), July 18, 1984, 98 Stat. 699; amended Pub. L. 99–121, title II, §§201, 202, Oct. 11, 1985, 99 Stat. 511–513; Pub. L. 99–514, title V, §511(d)(1), title XVIII, §§1812(b)(2)–(4), 1854(c)(2)(B), Oct. 22, 1986, 100 Stat. 2248, 2834, 2879; Pub. L. 100–647, title I, §§1005(c)(15), 1018(u)(48), Nov. 10, 1988, 102 Stat. 3393, 3593; Pub. L. 104–188, title I, §§1602(b)(7), 1704(t)(58), 1906(c)(2), Aug. 20, 1996, 110 Stat. 1834, 1890, 1916; Pub. L. 105–34, title III, §312(d)(1), Aug. 5, 1997, 111 Stat. 839; Pub. L. 105–206, title VI, §6023(30), July 22, 1998, 112 Stat. 826; Pub. L. 106–554, §1(a)(7) [title III, §319(30)], Dec. 21, 2000,

114 Stat. 2763, 2763A–648; Pub. L. 109–222, title II, § 209(a), (b)(1), May 17, 2006, 120 Stat. 351, 352; Pub. L. 109–432, div. A, title IV, § 425(a), Dec. 20, 2006, 120 Stat. 2974; Pub. L. 115–97, title I, § 11002(d)(14), Dec. 22, 2017, 131 Stat. 2062.)

AMENDMENTS

2017—Subsec. (g)(5). Pub. L. 115–97 amended par. (5) generally. Prior to amendment, text read as follows:

''(A) IN GENERAL.—In the case of any loan made during any calendar year after 1986 to which paragraph (1) applies, the dollar amount in paragraph (2) shall be increased by the inflation adjustment for such calendar year. Any increase under the preceding sentence shall be rounded to the nearest multiple of $100 (or, if such increase is a multiple of $50, such increase shall be increased to the nearest multiple of $100).

''(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A), the inflation adjustment for any calendar year is the percentage (if any) by which—

''(i) the CPI for the preceding calendar year exceeds

''(ii) the CPI for calendar year 1985.

For purposes of the preceding sentence, the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.''

2006—Subsec. (g)(6). Pub. L. 109–222, § 209(b)(1), added par. (6).

Subsec. (h). Pub. L. 109–222, § 209(a), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (h)(4). Pub. L. 109–432 struck out heading and text of par. (4). Text read as follows: ''This subsection shall not apply to any calendar year after 2010.''

Subsec. (i). Pub. L. 109–222, § 209(a), redesignated subsec. (h) as (i).

2000—Subsec. (f)(3). Pub. L. 106–554 substituted ''forgoing'' for ''foregoing''.

1998—Subsec. (f)(2)(B). Pub. L. 105–206 substituted ''forgone'' for ''foregone''.

1997—Subsec. (f)(11)(A). Pub. L. 105–34 substituted ''section 121'' for ''section 1034''.

1996—Subsec. (a)(1), (2). Pub. L. 104–188, § 1704(t)(58)(A), substituted ''forgone'' for ''foregone''.

Subsec. (e). Pub. L. 104–188, § 1704(t)(58)(B), substituted ''forgone'' for ''foregone'' in heading.

Subsec. (e)(2). Pub. L. 104–188, § 1704(t)(58), substituted ''Forgone'' for ''Foregone'' in heading and ''forgone'' for ''foregone'' in introductory provisions of text.

Subsec. (f)(8). Pub. L. 104–188, § 1906(c)(2), inserted '', 643(i),'' before ''or 1274'' in heading and text.

Subsec. (f)(12). Pub. L. 104–188, § 1602(b)(7), struck out par. (12) which read as follows: ''SPECIAL RULE FOR CERTAIN EMPLOYER SECURITY LOANS.—This section shall not apply to any loan between a corporation (or any member of the controlled group of corporations which includes such corporation) and an employee stock ownership plan described in section 4975(e)(7) to the extent that the interest rate on such loan is equal to the interest rate paid on a related securities acquisition loan (as described in section 133(b)) to such corporation.''

1988—Subsec. (d)(1)(E)(i). Pub. L. 100–647, § 1005(c)(15), directed substitution of ''section 163(d)(4)'' for ''section 163(d)(3)'', which substitution had been previously made by Pub. L. 99–514, § 511(d)(1).

Subsec. (f)(11), (12). Pub. L. 100–647, § 1018(u)(48), redesignated former par. (11), Pub. L. 99–514, relating to special rule for certain employer security loans, as (12).

1986—Subsec. (d)(1)(E)(i). Pub. L. 99–514, § 511(d)(1), substituted ''section 163(d)(4)'' for ''section 163(d)(3)''.

Subsec. (f)(2)(B). Pub. L. 99–514, § 1812(b)(4), inserted '', compounded semiannually'' before the period at end.

Subsec. (f)(5). Pub. L. 99–514, § 1812(b)(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The term 'demand loan' means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan which is not transferable and the benefits of the interest arrangements of which is conditioned on the future performance of substantial services by an individual.''

Subsec. (f)(9). Pub. L. 99–514, § 1812(b)(2), amended par. (9) generally, inserting the subpar. (A) designation and adding subpar. (B).

Subsec. (f)(11). Pub. L. 99–514, § 1854(c)(2)(B), added par. (11) relating to special rule for certain employer security loans.

1985—Subsec. (c)(1). Pub. L. 99–121, § 201(c)(1), inserted ''and subsection (g)'' after ''this subsection'' in provisions preceding subpar. (A).

Subsec. (c)(1)(E). Pub. L. 99–121, § 201(c)(2), substituted ''(C), or (F)'' for ''or (C)''.

Subsec. (c)(1)(F). Pub. L. 99–121, § 201(b), added subpar. (F).

Subsec. (f)(11). Pub. L. 99–121, § 202, added par. (11) relating to time for determining rate applicable to employee relocation loans.

Subsecs. (g), (h). Pub. L. 99–121, § 201(a), added subsec. (g) and redesignated former subsec. (g) as (h).

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115–97, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–432, div. A, title IV, § 425(b), Dec. 20, 2006, 120 Stat. 2974, provided that: ''The amendment made by this section [amending this section] shall take effect as if included in section 209 of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109–222].''

Amendment by Pub. L. 109–222 applicable to calendar years beginning after Dec. 31, 2005, with respect to loans made before, on, or after such date, see section 209(c) of Pub. L. 109–222, set out as a note under section 142 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105–34, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1602(b)(7) of Pub. L. 104–188 applicable to loans made after Aug. 20, 1996, with exception and provisions relating to certain refinancings, see section 1602(c) of Pub. L. 104–188, set out as an Effective Date of Repeal note under former section 133 of this title.

Amendment by section 1906(c)(2) of Pub. L. 104–188 applicable to loans of cash or marketable securities made after Sept. 19, 1995, see section 1906(d)(3) of Pub. L. 104–188, set out as a note under section 643 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 511(d)(1) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 511(e) of Pub. L. 99–514, set out as a note under section 163 of this title.

Amendment by sections 1812(b)(2)–(4) and 1854(c)(2)(B) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–121, title II, § 204(a), (b), Oct. 11, 1985, 99 Stat. 514, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) SECTION 201.—

''(1) IN GENERAL.—The amendments made by section 201 [amending this section] shall apply with respect to loans made after the date of enactment of this Act [Oct. 11, 1985].

''(2) SECTION 7872 NOT TO APPLY TO CERTAIN LOANS.—Section 7872 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall not apply to loans made on or before the date of the enactment of this Act [Oct. 11, 1985] to any qualified continuing care facility pursuant to a continuing care contract. For purposes of this paragraph, the terms 'qualified continuing care facility' and 'continuing care contract' have the meanings given such terms by section 7872(g) of such Code (as added by section 201).

''(b) SECTION 202.—The amendment made by section 202 [amending this section] shall apply to contracts entered into after June 30, 1985, in taxable years ending after such date.''

EFFECTIVE DATE

Pub. L. 98–369, div. A, title I, §172(c), July 18, 1984, 98 Stat. 703, as amended by 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 this section [enacting this section] shall apply to—

''(A) term loans made after June 6, 1984, and

''(B) demand loans outstanding after June 6, 1984.

''(2) EXCEPTION FOR DEMAND LOANS OUTSTANDING ON JUNE 6, 1984, AND REPAID WITHIN 60 DAYS AFTER DATE OF ENACTMENT.—The amendments made by this section shall not apply to any demand loan which—

''(A) was outstanding on June 6, 1984, and

''(B) was repaid before the date 60 days after the date of the enactment of this Act [July 18, 1984].

''(3) EXCEPTION FOR CERTAIN EXISTING LOANS TO CONTINUING CARE FACILITIES.—Nothing in this subsection shall be construed to apply the amendments made by this section to any loan made before June 6, 1984, to a continuing care facility by a resident of such facility which is contingent on continued residence at such facility.

''(4) APPLICABLE FEDERAL RATE FOR PERIODS BEFORE JANUARY 1, 1985.—For periods before January 1, 1985, the applicable Federal rate under paragraph (2) of section 7872(f) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section, shall be 10 percent, compounded semiannually.

''(5) TREATMENT OF RENEGOTIATIONS, ETC.—For purposes of this subsection, any loan renegotiated, extended, or revised after June 6, 1984, shall be treated as a loan made after such date.

''(6) DEFINITION OF TERM AND DEMAND LOANS.—For purposes of this subsection, the terms 'demand loan' and 'term loan' have the respective meanings given such terms by paragraphs (5) and (6) of section 7872(f) of the Internal Revenue Code of 1986, as added by this section, but the second sentence of such paragraph (5) shall not apply.''

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1171–1177] or title XVIII [§§1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

CERTAIN ISRAEL OR POLISH BONDS NOT SUBJECT TO RULES RELATING TO BELOW-MARKET LOANS

Pub. L. 99–514, title XVIII, §1812(b)(5), Oct. 22, 1986, 100 Stat. 2834, as amended by Pub. L. 101–179, title III, §307(a), Nov. 28, 1989, 103 Stat. 1314, provided that: ''Section 7872 of the Internal Revenue Code of 1954 [now 1986] (relating to treatment of loans with below-market interest rates) shall not apply to any obligation issued by Israel or Poland if—

''(A) the obligation is payable in United States dollars, and

''(B) the obligation bears interest at an annual rate of not less than 4 percent.''

[Pub. L. 101–179, title III, §307(b), Nov. 28, 1989, 103 Stat. 1314, provided that: ''The amendments made by this section [amending section 1812(b)(5) of Pub. L. 99–514, set out above] shall apply to obligations issued after the date of the enactment of this Act [Nov. 28, 1989].'']

§ 7873. Income derived by Indians from exercise of fishing rights

(a) In general

(1) Income and self-employment taxes

No tax shall be imposed by subtitle A on income derived—

(A) by a member of an Indian tribe directly or through a qualified Indian entity, or

(B) by a qualified Indian entity,

from a fishing rights-related activity of such tribe.

(2) Employment taxes

No tax shall be imposed by subtitle C on remuneration paid for services performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.

(b) Definitions

For purposes of this section—

(1) Fishing rights-related activity

The term ''fishing rights-related activity'' means, with respect to an Indian tribe, any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling such fish but only if substantially all of such harvesting was performed by members of such tribe.

(2) Recognized fishing rights

The term ''recognized fishing rights'' means, with respect to an Indian tribe, fishing rights secured as of March 17, 1988, by a treaty between such tribe and the United States or by an Executive order or an Act of Congress.

(3) Qualified Indian entity

(A) In general

The term ''qualified Indian entity'' means, with respect to an Indian tribe, any entity if—

(i) such entity is engaged in a fishing rights-related activity of such tribe,

(ii) all of the equity interests in the entity are owned by qualified Indian tribes, members of such tribes, or their spouses,

(iii) except as provided in regulations, in the case of an entity which engages to any extent in any substantial processing or transporting of fish, 90 percent or more of the annual gross receipts of the entity is derived from fishing rights-related activities of one or more qualified Indian tribes each of which owns at least 10 percent of the equity interests in the entity, and