

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

(g) Deduction denied in case of fraud, etc.

No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of the deficiency is due to fraud with intent to evade tax, or to wilful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

(Aug. 16, 1954, ch. 736, 68A Stat. 191; Pub. L. 94-455, title XIX, §§ 1901(a)(78), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1777, 1834.)

AMENDMENTS

1976—Subsecs. (c)(3), (e), (g). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (h). Pub. L. 94-455, § 1901(a)(78), struck out subsec. (h) relating to the effective date of provisions concerning deduction of deficiency dividends.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(78) 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.

[PART III—REPEALED]

§§ 551 to 558. Repealed. Pub. L. 108-357, title IV, § 413(a)(1), Oct. 22, 2004, 118 Stat. 1506]

Section 551, acts Aug. 16, 1954, ch. 736, 68A Stat. 193; Pub. L. 88-272, title II, § 225(f)(4), Feb. 26, 1964, 78 Stat. 88; Pub. L. 94-455, title XIX, § 1901(a)(79), (b)(1)(F)(1), (12)(A), Oct. 4, 1976, 90 Stat. 1777, 1790, 1795; Pub. L. 98-369, div. A, title I, § 132(b), July 18, 1984, 98 Stat. 666; Pub. L. 99-514, title XII, § 1235(e), title XVIII, § 1810(h)(2), Oct. 22, 1986, 100 Stat. 2575, 2829; Pub. L. 100-647, title I, § 1012(bb)(1)(A), (B), Nov. 10, 1988, 102 Stat. 3533; Pub. L. 105-34, title XI, § 1122(d)(2), Aug. 5, 1997, 111 Stat. 977, provided for taxation of foreign personal holding company income to United States shareholders.

Section 552, acts Aug. 16, 1954, ch. 736, 68A Stat. 195; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, § 132(c)(2), July 18, 1984, 98 Stat. 666; Pub. L. 99-514, title XII, § 1222(b), title XVIII, § 1810(h)(1), Oct. 22, 1986, 100 Stat. 2557, 2829; Pub. L. 100-647, title I, § 1012(bb)(1)(C), Nov. 10, 1988, 102 Stat. 3533, defined “foreign personal holding company”.

Section 553, acts Aug. 16, 1954, ch. 736, 68A Stat. 195; Pub. L. 86-435, § 1(e), Apr. 22, 1960, 74 Stat. 78; Pub. L. 88-272, title II, § 225(e), Feb. 26, 1964, 78 Stat. 85; Pub. L. 94-455, title XIX, § 1901(b)(32)(F), Oct. 4, 1976, 90 Stat. 1800; Pub. L. 99-514, title VI, § 645(a)(3), Oct. 22, 1986, 100 Stat. 2291, related to determination of foreign personal holding company income.

Section 554, acts Aug. 16, 1954, ch. 736, 68A Stat. 196; Pub. L. 88-272, title II, § 225(e), Feb. 26, 1964, 78 Stat. 86; Pub. L. 98-369, div. A, title I, § 132(a), July 18, 1984, 98 Stat. 665, related to constructive ownership of stock and treatment of convertible securities as outstanding stock.

Section 555, act Aug. 16, 1954, ch. 736, 68A Stat. 196, related to determination of gross income of foreign personal holding companies.

Section 556, acts Aug. 16, 1954, ch. 736, 68A Stat. 196; Pub. L. 85-866, title I, § 33(a), (b)(1), (c)(1), Sept. 2, 1958, 72 Stat. 1632; Pub. L. 87-403, § 3(e), Feb. 2, 1962, 76 Stat. 7; Pub. L. 88-272, title II, §§ 207(b)(6), 209(c)(2), Feb. 26, 1964, 78 Stat. 42, 46; Pub. L. 91-172, title II, § 201(a)(2)(B),

Dec. 30, 1969, 83 Stat. 558; Pub. L. 94-455, title XIX, §§ 1901(a)(80), (b)(32)(G), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1778, 1800, 1834; Pub. L. 97-448, title I, § 102(m)(2), Jan. 12, 1983, 96 Stat. 2374; Pub. L. 101-508, title XI, § 11802(d)(1), Nov. 5, 1990, 104 Stat. 1388-529, related to undistributed foreign personal holding company income.

Section 557, act Aug. 16, 1954, ch. 736, 68A Stat. 198, related to inapplicability of section 443(b) of this title in the computation of income.

Section 558, added Pub. L. 85-866, title I, § 33(d)(1), Sept. 2, 1958, 72 Stat. 1632, related to returns of officers, directors, and shareholders of foreign personal holding companies.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

PART IV—DEDUCTION FOR DIVIDENDS PAID

- Sec. 561. Definition of deduction for dividends paid.
- 562. Rules applicable in determining dividends eligible for dividends paid deduction.
- 563. Rules relating to dividends paid after close of taxable year.
- 564. Dividend carryover.
- 565. Consent dividends.

§ 561. Definition of deduction for dividends paid

(a) General rule

The deduction for dividends paid shall be the sum of—

- (1) the dividends paid during the taxable year,
- (2) the consent dividends for the taxable year (determined under section 565), and
- (3) in the case of a personal holding company, the dividend carryover described in section 564.

(b) Special rules applicable

In determining the deduction for dividends paid, the rules provided in section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) and section 563 (relating to dividends paid after the close of the taxable year) shall be applicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 198; Pub. L. 87-403, § 3(f), Feb. 2, 1962, 76 Stat. 8; Pub. L. 94-455, title XIX, § 1901(b)(32)(H), Oct. 4, 1976, 90 Stat. 1800.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 redesignated existing provisions of par. (1) as subsec. (b) and struck out par. (2) relating to special adjustment on disposition of antitrust stock as a dividend.

1962—Subsec. (b). Pub. L. 87-403 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by 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 1962 AMENDMENT

Amendment by Pub. L. 87-403 applicable only with respect to distributions made after Feb. 2, 1962, see sec-

tion 3(g) of Pub. L. 87-403, set out as a note under section 312 of this title.

§ 562. Rules applicable in determining dividends eligible for dividends paid deduction

(a) General rule

For purposes of this part, the term “dividend” shall, except as otherwise provided in this section, include only dividends described in section 316 (relating to definition of dividends for purposes of corporate distributions).

(b) Distributions in liquidation

(1) Except in the case of a personal holding company described in section 542—

(A) in the case of amounts distributed in liquidation, the part of such distribution which is properly chargeable to earnings and profits accumulated after February 28, 1913, shall be treated as a dividend for purposes of computing the dividends paid deduction, and

(B) in the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.

For purposes of subparagraph (A), a liquidation includes a redemption of stock to which section 302 applies. Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company.

(2) In the case of a complete liquidation of a personal holding company, occurring within 24 months after the adoption of a plan of liquidation, the amount of any distribution within such period pursuant to such plan shall be treated as a dividend for purposes of computing the dividends paid deduction, to the extent that such amount is distributed to corporate distributees and represents such corporate distributees' allocable share of the undistributed personal holding company income for the taxable year of such distribution computed without regard to this paragraph and without regard to subparagraph (B) of section 316(b)(2).

(c) Preferential dividends

(1) In general

Except in the case of a publicly offered regulated investment company (as defined in section 67(c)(2)(B)) or a publicly offered REIT, the amount of any distribution shall not be considered as a dividend for purposes of computing the dividends paid deduction, unless such distribution is pro rata, with no preference to any share of stock as compared with other shares of the same class, and with no preference to one class of stock as compared with another class except to the extent that the former is entitled (without reference to waivers of their rights by shareholders) to such preference. In the case of a distribution

by a regulated investment company (other than a publicly offered regulated investment company (as so defined)) to a shareholder who made an initial investment of at least \$10,000,000 in such company, such distribution shall not be treated as not being pro rata or as being preferential solely by reason of an increase in the distribution by reason of reductions in administrative expenses of the company.

(2) Publicly offered REIT

For purposes of this subsection, the term “publicly offered REIT” means a real estate investment trust which is required to file annual and periodic reports with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

(d) Distributions by a member of an affiliated group

In the case where a corporation which is a member of an affiliated group of corporations filing or required to file a consolidated return for a taxable year is required to file a separate personal holding company schedule for such taxable year, a distribution by such corporation to another member of the affiliated group shall be considered as a dividend for purposes of computing the dividends paid deduction if such distribution would constitute a dividend under the other provisions of this section to a recipient which is not a member of an affiliated group.

(e) Special rules for real estate investment trusts

(1) Determination of earnings and profits for purposes of dividends paid deduction

In the case of a real estate investment trust, in determining the amount of dividends under section 316 for purposes of computing the dividends paid deduction—

(A) the earnings and profits of such trust for any taxable year (but not its accumulated earnings) shall be increased by the amount of gain (if any) on the sale or exchange of real property which is taken into account in determining the taxable income of such trust for such taxable year (and not otherwise taken into account in determining such earnings and profits), and

(B) section 857(d)(1) shall be applied without regard to subparagraph (B) thereof.

(2) Authority to provide alternative remedies for certain failures

In the case of a failure of a distribution by a real estate investment trust to comply with the requirements of subsection (c), the Secretary may provide an appropriate remedy to cure such failure in lieu of not considering the distribution to be a dividend for purposes of computing the dividends paid deduction if—

(A) the Secretary determines that such failure is inadvertent or is due to reasonable cause and not due to willful neglect, or

(B) such failure is of a type of failure which the Secretary has identified for purposes of this paragraph as being described in subparagraph (A).

(Aug. 16, 1954, ch. 736, 68A Stat. 198; Pub. L. 88-272, title II, § 225(f)(3), Feb. 26, 1964, 78 Stat. 88; Pub. L. 97-248, title II, § 222(e)(7), Sept. 3, 1982, 96