

(B) the corporate partner establishes to the satisfaction of the Secretary that such distribution was not part of a plan or arrangement to acquire control of the distributed corporation.

(3) Limitations on basis reduction

(A) In general

The amount of the reduction under paragraph (1) shall not exceed the amount by which the sum of the aggregate adjusted bases of the property and the amount of money of the distributed corporation exceeds the corporate partner's adjusted basis in the stock of the distributed corporation.

(B) Reduction not to exceed adjusted basis of property

No reduction under paragraph (1) in the basis of any property shall exceed the adjusted basis of such property (determined without regard to such reduction).

(4) Gain recognition where reduction limited

If the amount of any reduction under paragraph (1) (determined after the application of paragraph (3)(A)) exceeds the aggregate adjusted bases of the property of the distributed corporation—

(A) such excess shall be recognized by the corporate partner as long-term capital gain, and

(B) the corporate partner's adjusted basis in the stock of the distributed corporation shall be increased by such excess.

(5) Control

For purposes of this subsection, the term "control" means ownership of stock meeting the requirements of section 1504(a)(2).

(6) Indirect distributions

For purposes of paragraph (1), if a corporation acquires (other than in a distribution from a partnership) stock the basis of which is determined (by reason of being distributed from a partnership) in whole or in part by reference to subsection (a)(2) or (b), the corporation shall be treated as receiving a distribution of such stock from a partnership.

(7) Special rule for stock in controlled corporation

If the property held by a distributed corporation is stock in a corporation which the distributed corporation controls, this subsection shall be applied to reduce the basis of the property of such controlled corporation. This subsection shall be reapplied to any property of any controlled corporation which is stock in a corporation which it controls.

(8) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to avoid double counting and to prevent the abuse of such purposes.

(Aug. 16, 1954, ch. 736, 68A Stat. 246; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title X, §§1061(a), 1062(b)(3), Aug. 5, 1997, 111 Stat. 945, 947; Pub. L. 106-170, title V, §538(a), Dec. 17, 1999, 113 Stat. 1939.)

AMENDMENTS

1999—Subsec. (f). Pub. L. 106-170 added subsec. (f).

1997—Subsec. (c). Pub. L. 105-34, §1061(a), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: "The basis of distributed properties to which subsection (a)(2) or subsection (b) is applicable shall be allocated—

"(1) first to any unrealized receivables (as defined in section 751(c)) and inventory items (as defined in section 751(d)(2)) in an amount equal to the adjusted basis of each such property to the partnership (or if the basis to be allocated is less than the sum of the adjusted bases of such properties to the partnership, in proportion to such bases), and

"(2) to the extent of any remaining basis, to any other distributed properties in proportion to their adjusted bases to the partnership."

Subsec. (c)(1)(A)(i). Pub. L. 105-34, §1062(b)(3), substituted "section 751(d)" for "section 751(d)(2)".

1976—Subsec. (d). Pub. L. 94-455 struck out "or his delegate" after "Secretary".

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title V, §538(b), Dec. 17, 1999, 113 Stat. 1940, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section [amending this section] shall apply to distributions made after July 14, 1999.

"(2) PARTNERSHIPS IN EXISTENCE ON JULY 14, 1999.—In the case of a corporation which is a partner in a partnership as of July 14, 1999, the amendment made by this section shall apply to any distribution made (or treated as made) to such partner from such partnership after June 30, 2001, except that this paragraph shall not apply to any distribution after the date of the enactment of this Act [Dec. 17, 1999] unless the partner makes an election to have this paragraph apply to such distribution on the partner's return of Federal income tax for the taxable year in which such distribution occurs."

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1061(b), Aug. 5, 1997, 111 Stat. 946, provided that: "The amendment made by subsection (a) [amending this section] shall apply to distributions after the date of the enactment of this Act [Aug. 5, 1997]."

Amendment by section 1062(b)(3) of Pub. L. 105-34 applicable to sales, exchanges, and distributions after Aug. 5, 1997, but not applicable to any sale or exchange pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before such sale or exchange, see section 1062(c) of Pub. L. 105-34, set out as a note under section 724 of this title.

§ 733. Basis of distributee partner's interest

In the case of a distribution by a partnership to a partner other than in liquidation of a partner's interest, the adjusted basis to such partner of his interest in the partnership shall be reduced (but not below zero) by—

(1) the amount of any money distributed to such partner, and

(2) the amount of the basis to such partner of distributed property other than money, as determined under section 732.

(Aug. 16, 1954, ch. 736, 68A Stat. 247.)

§ 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction

(a) General rule

The basis of partnership property shall not be adjusted as the result of a distribution of property to a partner unless the election, provided in

section 754 (relating to optional adjustment to basis of partnership property), is in effect with respect to such partnership or unless there is a substantial basis reduction with respect to such distribution.

(b) Method of adjustment

In the case of a distribution of property to a partner by a partnership with respect to which the election provided in section 754 is in effect or with respect to which there is a substantial basis reduction, the partnership shall—

(1) increase the adjusted basis of partnership property by—

(A) the amount of any gain recognized to the distributee partner with respect to such distribution under section 731(a)(1), and

(B) in the case of distributed property to which section 732(a)(2) or (b) applies, the excess of the adjusted basis of the distributed property to the partnership immediately before the distribution (as adjusted by section 732(d)) over the basis of the distributed property to the distributee, as determined under section 732, or

(2) decrease the adjusted basis of partnership property by—

(A) the amount of any loss recognized to the distributee partner with respect to such distribution under section 731(a)(2), and

(B) in the case of distributed property to which section 732(b) applies, the excess of the basis of the distributed property to the distributee, as determined under section 732, over the adjusted basis of the distributed property to the partnership immediately before such distribution (as adjusted by section 732(d)).

Paragraph (1)(B) shall not apply to any distributed property which is an interest in another partnership with respect to which the election provided in section 754 is not in effect.

(c) Allocation of basis

The allocation of basis among partnership properties where subsection (b) is applicable shall be made in accordance with the rules provided in section 755.

(d) Substantial basis reduction

(1) In general

For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds \$250,000.

(2) Regulations

For regulations to carry out this subsection, see section 743(d)(2).

(e) Exception for securitization partnerships

For purposes of this section, a securitization partnership (as defined in section 743(f)) shall not be treated as having a substantial basis reduction with respect to any distribution of property to a partner.

(Aug. 16, 1954, ch. 736, 68A Stat. 247; Pub. L. 98-369, div. A, title I, §78(a), July 18, 1984, 98 Stat. 597; Pub. L. 108-357, title VIII, §833(c)(1)-(5)(A), Oct. 22, 2004, 118 Stat. 1591, 1592;

Pub. L. 109-135, title IV, §403(bb), Dec. 21, 2005, 119 Stat. 2630.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-135, §403(bb)(1), inserted “with respect to such distribution” before period at end.

Subsec. (b). Pub. L. 109-135, §403(bb)(2), reenacted heading without change and amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “In the case of a distribution of property to a partner, a partnership, with respect to which the election provided in section 754 is in effect or unless there is a substantial basis reduction, shall—”.

2004—Pub. L. 108-357, §833(c)(5)(A), substituted “Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction” for “Optional adjustment to basis of undistributed partnership property” in section catchline.

Subsec. (a). Pub. L. 108-357, §833(c)(1), inserted “or unless there is a substantial basis reduction” before period at end.

Subsec. (b). Pub. L. 108-357, §833(c)(2), inserted “or unless there is a substantial basis reduction” after “section 754 is in effect” in introductory provisions.

Subsec. (d). Pub. L. 108-357, §833(c)(3), added subsec. (d).

Subsec. (e). Pub. L. 108-357, §833(c)(4), added subsec. (e).

1984—Subsec. (b). Pub. L. 98-369 inserted at end “Paragraph (1)(B) shall not apply to any distributed property which is an interest in another partnership with respect to which the election provided in section 754 is not in effect.”

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §833(d)(3), Oct. 22, 2004, 118 Stat. 1592, provided that: “The amendments made by subsection (c) [amending this section] shall apply to distributions after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §78(b), July 18, 1984, 98 Stat. 597, provided that: “The amendment made by subsection (a) [amending this section] shall apply to distributions after March 1, 1984, in taxable years ending after such date.”

§ 735. Character of gain or loss on disposition of distributed property

(a) Sale or exchange of certain distributed property

(1) Unrealized receivables

Gain or loss on the disposition by a distributee partner of unrealized receivables (as defined in section 751(c)) distributed by a partnership, shall be considered as ordinary income or as ordinary loss, as the case may be.

(2) Inventory items

Gain or loss on the sale or exchange by a distributee partner of inventory items (as defined in section 751(d)) distributed by a partnership shall, if sold or exchanged within 5 years from the date of the distribution, be considered as ordinary income or as ordinary loss, as the case may be.