

bond (as defined in subsection (b)(1)) primarily for sale to customers in the ordinary course of his trade or business—

(1) if the gross income of the taxpayer from such trade or business is computed by the use of inventories and his inventories are valued on any basis other than cost, the cost of securities sold (as defined in subsection (b)(2)) during such year shall be reduced by an amount equal to the amortizable bond premium which would be disallowed as a deduction for such year by section 171(a)(2) (relating to deduction for amortizable bond premium) if the definition in section 171(d) of the term "bond" did not exclude such municipal bond; or

(2) if the gross income of the taxpayer from such trade or business is computed without the use of inventories, or by use of inventories valued at cost, and the municipal bond is sold or otherwise disposed of during such year, the adjusted basis (computed without regard to this paragraph) of the municipal bond shall be reduced by the amount of the adjustment which would be required under section 1016(a)(5) (relating to adjustment to basis for amortizable bond premium) if the definition in section 171(d) of the term "bond" did not exclude such municipal bond.

Notwithstanding the provisions of paragraph (1), no reduction to the cost of securities sold during the taxable year shall be made in respect of any obligation described in subsection (b)(1)(A)(ii) which is held by the taxpayer at the close of the taxable year; but in the taxable year in which any such obligation is sold or otherwise disposed of, if such obligation is a municipal bond (as defined in subsection (b)(1)), the cost of securities sold during such year shall be reduced by an amount equal to the adjustment described in paragraph (2), without regard to the fact that the taxpayer values his inventories on any basis other than cost.

(b) Definitions

For purposes of subsection (a)—

(1) The term "municipal bond" means any obligation issued by a government or political subdivision thereof if the interest on such obligation is excludable from gross income; but such term does not include such an obligation if—

(A)(i) it is sold or otherwise disposed of by the taxpayer within 30 days after the date of its acquisition by him, or

(ii) its earliest maturity or call date is a date more than 5 years from the date on which it was acquired by the taxpayer; and

(B) when it is sold or otherwise disposed of by the taxpayer—

(i) in the case of a sale, the amount realized, or

(ii) in the case of any other disposition, its fair market value at the time of such disposition,

is higher than its adjusted basis (computed without regard to this section and section 1016(a)(6)).

Determinations under subparagraph (B) shall be exclusive of interest.

(2) The term "cost of securities sold" means the amount ascertained by subtracting the in-

ventory value of the closing inventory of a taxable year from the sum of—

(A) the inventory value of the opening inventory for such year, and

(B) the cost of securities and other property purchased during such year which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 25; Pub. L. 85-866, title I, §2(a), Sept. 2, 1958, 72 Stat. 1606.)

Editorial Notes

AMENDMENTS

1958—Subsec. (a). Pub. L. 85-866, §2(a)(2), (3), struck out "short-term" each place it appeared, and inserted sentence to provide that no reduction to cost of securities sold during taxable year shall be made in respect of subsec. (b)(1)(A)(ii) obligations held at close of year, and to permit reduction in cost of securities sold in taxable year sold if obligation is municipal bond.

Subsec. (b)(1). Pub. L. 85-866, §2(a)(1), substituted "municipal bond" for "short-term municipal bond", designated former subpars. (A) and (B) as (A)(i) and (ii), respectively, and added subpar. (B).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, §2(c), Sept. 2, 1958, 72 Stat. 1607, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1016 of this title] shall apply with respect to taxable years ending after December 31, 1957, but only with respect to obligations acquired after such date."

[§ 76. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(14), Oct. 4, 1976, 90 Stat. 1765]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 25, related to inclusion in gross of all income derived from mortgages made, or obligations issued, by a joint-stock land bank.

§ 77. Commodity credit loans

(a) Election to include loans in income

Amounts received as loans from the Commodity Credit Corporation shall, at the election of the taxpayer, be considered as income and shall be included in gross income for the taxable year in which received.

(b) Effect of election on adjustments for subsequent years

If a taxpayer exercises the election provided for in subsection (a) for any taxable year, then the method of computing income so adopted shall be adhered to with respect to all subsequent taxable years unless with the approval of the Secretary a change to a different method is authorized.

(Aug. 16, 1954, ch. 736, 68A Stat. 25; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

AMENDMENTS

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

§ 78. Gross up for deemed paid foreign tax credit

If a domestic corporation chooses to have the benefits of subpart A of part III of subchapter N

(relating to foreign tax credit) for any taxable year, an amount equal to the taxes deemed to be paid by such corporation under subsections (a), (b), and (d) of section 960 (determined without regard to the phrase “80 percent of” in subsection (d)(1) thereof) for such taxable year shall be treated for purposes of this title (other than sections 245 and 245A) as a dividend received by such domestic corporation from the foreign corporation.

(Added Pub. L. 87-834, §9(b), Oct. 16, 1962, 76 Stat. 1001; amended Pub. L. 94-455, title X, §1033(b)(1), Oct. 4, 1976, 90 Stat. 1628; Pub. L. 115-97, title I, §14301(c)(1), Dec. 22, 2017, 131 Stat. 2222.)

Editorial Notes

AMENDMENTS

2017—Pub. L. 115-97 amended section generally. Prior to amendment, text read as follows: “If a domestic corporation chooses to have the benefits of subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year, an amount equal to the taxes deemed to be paid by such corporation under section 902(a) (relating to credit for corporate stockholder in foreign corporation) or under section 960(a)(1) (relating to taxes paid by foreign corporation) for such taxable year shall be treated for purposes of this title (other than section 245) as a dividend received by such domestic corporation from the foreign corporation.”

1976—Pub. L. 94-455 substituted “section 902(a)” for “section 902(a)(1)” and “section 960(a)(1)” for “section 960(a)(1)(C)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §14301(d), Dec. 22, 2017, 131 Stat. 2225, provided that: “The amendments made by this section [amending this section and sections 245, 535, 545, 814, 865, 901, 904 to 909, 958 to 960, 1291, 1293, and 6038 of this title and repealing section 902 of this title] shall apply to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable on different dates depending on the date the distributions were received, see section 1033(c) of Pub. L. 94-455, set out as a note under section 960 of this title.

EFFECTIVE DATE

Pub. L. 87-834, §9(e), Oct. 16, 1962, 76 Stat. 1001, provided that: “The amendments made by this section [enacting this section and amending sections 535, 545, 861, 901, and 902 of this title] shall apply—

“(1) in respect of any distribution received by a domestic corporation after December 31, 1964, and

“(2) in respect of any distribution received by a domestic corporation before January 1, 1965, in a taxable year of such corporation beginning after December 31, 1962, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year (of such foreign corporation) beginning after December 31, 1962.

For purposes of paragraph (2), a distribution made by a foreign corporation out of its profits which are attributable to a distribution received from a foreign subsidiary to which [former] section 902(b) applies shall be treated as made out of the accumulated profits of a foreign corporation for a taxable year beginning before January 1, 1963, to the extent that such distribution was paid out of the accumulated profits of such foreign subsidiary for a taxable year beginning before January 1, 1963.”

§ 79. Group-term life insurance purchased for employees

(a) General rule

There shall be included in the gross income of an employee for the taxable year an amount equal to the cost of group-term life insurance on his life provided for part or all of such year under a policy (or policies) carried directly or indirectly by his employer (or employers); but only to the extent that such cost exceeds the sum of—

- (1) the cost of \$50,000 of such insurance, and
- (2) the amount (if any) paid by the employee toward the purchase of such insurance.

(b) Exceptions

Subsection (a) shall not apply to—

(1) the cost of group-term life insurance on the life of an individual which is provided under a policy carried directly or indirectly by an employer after such individual has terminated his employment with such employer and is disabled (within the meaning of section 72(m)(7)),

(2) the cost of any portion of the group-term life insurance on the life of an employee provided during part or all of the taxable year of the employee under which—

- (A) the employer is directly or indirectly the beneficiary, or
- (B) a person described in section 170(c) is the sole beneficiary,

for the entire period during such taxable year for which the employee receives such insurance, and

(3) the cost of any group-term life insurance which is provided under a contract to which section 72(m)(3) applies.

(c) Determination of cost of insurance

For purposes of this section and section 6052, the cost of group-term insurance on the life of an employee provided during any period shall be determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by regulations by the Secretary.

(d) Nondiscrimination requirements

(1) In general

In the case of a discriminatory group-term life insurance plan—

(A) subsection (a)(1) shall not apply with respect to any key employee, and

(B) the cost of group-term life insurance on the life of any key employee shall be the greater of—

- (i) such cost determined without regard to subsection (c), or
- (ii) such cost determined with regard to subsection (c).

(2) Discriminatory group-term life insurance plan

For purposes of this subsection, the term “discriminatory group-term life insurance plan” means any plan of an employer for providing group-term life insurance unless—

(A) the plan does not discriminate in favor of key employees as to eligibility to participate, and

(B) the type and amount of benefits available under the plan do not discriminate in favor of participants who are key employees.