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Editorial Notes

AMENDMENTS

1976—Pub. L. 94-455, title II, §213(b)(2), title XIX, §1901(b)(23), Oct. 4, 1976, 90 Stat. 1547, 1798, struck out part IV “Effective date for subchapter” in table of parts of subchapter K of chapter 1 and added item 709.

§ 701. Partners, not partnership, subject to tax

A partnership as such shall not be subject to the income tax imposed by this chapter. Persons carrying on business as partners shall be liable for income tax only in their separate or individual capacities.

(Aug. 16, 1954, ch. 736, 68A Stat. 239.)

§ 702. Income and credits of partner

(a) General rule

In determining his income tax, each partner shall take into account separately his distributive share of the partnership's—

- (1) gains and losses from sales or exchanges of capital assets held for not more than 1 year,
- (2) gains and losses from sales or exchanges of capital assets held for more than 1 year,
- (3) gains and losses from sales or exchanges of property described in section 1231 (relating to certain property used in a trade or business and involuntary conversions),
- (4) charitable contributions (as defined in section 170(c)),
- (5) dividends with respect to which section 1(h)(1) or part VIII of subchapter B applies,
- (6) taxes, described in section 901, paid or accrued to foreign countries and to possessions of the United States,
- (7) other items of income, gain, loss, deduction, or credit, to the extent provided by regulations prescribed by the Secretary, and
- (8) taxable income or loss, exclusive of items requiring separate computation under other paragraphs of this subsection.

(b) Character of items constituting distributive share

The character of any item of income, gain, loss, deduction, or credit included in a partner's distributive share under paragraphs (1) through (7) of subsection (a) shall be determined as if such item were realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

(c) Gross income of a partner

In any case where it is necessary to determine the gross income of a partner for purposes of this title, such amount shall include his distributive share of the gross income of the partnership.

(d) Cross reference

For rules relating to procedures for determining the tax treatment of partnership items see subchapter C of chapter 63 (section 6221 and following).

(Aug. 16, 1954, ch. 736, 68A Stat. 239; Pub. L. 88-272, title II, §201(d)(7), Feb. 26, 1964, 78 Stat. 32; Pub. L. 94-455, title XIV, §1402(b)(1)(L), (2), title XIX, §§1901(b)(1)(I)(i), (ii), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1732, 1791, 1834; Pub. L. 96-223, title IV, §404(b)(5), Apr. 2, 1980, 94 Stat. 307; Pub. L. 97-34, title III, §301(b)(5), (6)(C), Aug. 13, 1981, 95 Stat. 270; Pub. L. 97-248, title IV, §402(c)(1), Sept. 3, 1982, 96 Stat. 667; Pub. L. 97-448, title I, §103(a)(4), Jan. 12, 1983, 96 Stat. 375; Pub. L. 98-369, div. A, title X, §1001(b)(9), (e), July 18, 1984, 98 Stat. 1011, 1012; Pub. L. 99-514, title VI, §612(b)(5), Oct. 22, 1986, 100 Stat. 2250; Pub. L. 108-27, title III, §302(e)(8), May 28, 2003, 117 Stat. 764.)

Editorial Notes

AMENDMENTS

2003—Subsec. (a)(5). Pub. L. 108-27 amended par. (5) generally. Prior to amendment, par. (5) read as follows: “dividends with respect to which there is a deduction under part VIII of subchapter B.”

1986—Subsec. (a)(5). Pub. L. 99-514 amended par. (5) generally. Prior to amendment, par. (5) read as follows: “dividends or interest with respect to which there is an exclusion under section 116 or 128, or a deduction under part VIII of subchapter B.”

1984—Subsec. (a)(1), (2). Pub. L. 98-369 substituted “6 months” for “1 year”, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

1983—Subsec. (a)(5). Pub. L. 97-448 substituted “an exclusion under section 116 or 128,” for “provided an exclusion under section 116 or 128.”

1982—Subsec. (d). Pub. L. 97-248 added subsec. (d).

1981—Subsec. (a)(5). Pub. L. 97-34, §301(b)(6)(C), inserted reference to “interest” in heading and text which continued the amendment made by Pub. L. 96-223.

Pub. L. 97-34, §301(b)(5), inserted “or 128” after “section 116”.

1980—Subsec. (a)(5). Pub. L. 96-223 inserted “or interest” after “dividends”.

1976—Subsec. (a)(1), (2). Pub. L. 94-455, §1402(b)(2), provided that “9 months” would be changed to “1 year”.

Pub. L. 94-455, §1402(b)(1)(L), provided that “6 months” would be changed to “9 months” for taxable years beginning in 1977.

Subsec. (a)(7) to (9). Pub. L. 94-455, §§1901(b)(1)(I)(i), 1906(b)(13)(A), redesignated pars. (8) and (9) as (7) and (8), respectively, and in par. (7), as so redesignated, struck out “or his delegate” after “Secretary”. Former par. (7), which related to partially tax-exempt interest on obligations of the United States or its instrumentalities, was struck out.

Subsec. (b). Pub. L. 94-455, §1901(b)(1)(I)(ii), substituted “paragraphs (1) through (7)” for “paragraphs (1) through (8)”.

1964—Subsec. (a)(5). Pub. L. 88-272 struck out “a credit under section 34,” before “an exclusion”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-27 applicable, except as otherwise provided, to taxable years beginning after Dec. 31, 2002, see section 302(f) of Pub. L. 108-27, set out as an Effective and Termination Dates of 2003 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 612(c) of