(c) Confidentiality of information

(1) In general

For purposes of this chapter, rules similar to the rules of section 3406(f) shall apply.

(2) Disclosure of list of participating foreign financial institutions permitted

The identity of a foreign financial institution which meets the requirements of section 1471(b) shall not be treated as return information for purposes of section 6103.

(d) Coordination with other withholding provisions

The Secretary shall provide for the coordination of this chapter with other withholding provisions under this title, including providing for the proper crediting of amounts deducted and withheld under this chapter against amounts required to be deducted and withheld under such other provisions.

(e) Treatment of withholding under agreements

Any tax deducted and withheld pursuant to an agreement described in section 1471(b) shall be treated for purposes of this title as a tax deducted and withheld by a withholding agent under section 1471(a).

(f) Regulations

The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of, and prevent the avoidance of, this chapter.

(Added Pub. L. 111–147, title V, §501(a), Mar. 18, 2010, 124 Stat. 104.)

Editorial Notes

PRIOR PROVISIONS

For prior sections 1481 and 1482, see Prior Provisions note preceding section 1471 of this title.

[CHAPTER 5—REPEALED]

[§§ 1491, 1492. Repealed. Pub. L. 105–34, title XI, § 1131(a), Aug. 5, 1997, 111 Stat. 978]

Section 1491, acts Aug. 16, 1954, ch. 736, 68A Stat. 365; Oct. 4, 1976, Pub. L. 94–455, title X, §1015(a), 90 Stat. 1617; Nov. 6, 1978, Pub. L. 95–600, title VII, §701(u)(14)(A), 92 Stat. 2919; Aug. 20, 1996, Pub. L. 104–188, title I, §1907(b)(1), 110 Stat. 1916, imposed tax on transfers to avoid income tax.

Section 1492, acts Aug. 16, 1954, ch. 736, 68A Stat. 365; Jan. 12, 1971, Pub. L. 91–681, §1(b), 84 Stat. 2066; Oct. 4, 1976, Pub. L. 94–455, title X, §1015(b), title XIX, §1906(b)(13)(A), 90 Stat. 1618, 1834; Nov. 6, 1978, Pub. L. 95–600, title VII, §701(u)(14)(B), 92 Stat. 2919; July 18, 1984, Pub. L. 98–369, div. A, title I, §131(f)(1), 98 Stat. 665, related to nontaxable transfers.

[§ 1493. Repealed. Pub. L. 89–809, title I, § 103(*l*)(2), Nov. 13, 1966, 80 Stat. 1554]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 365, defined foreign trust.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1966, see section 103(n)(1) of Pub. L. 89–809, set out as an Effective Date of 1966 Amendment note under section 871 of this title.

[§ 1494. Repealed. Pub. L. 105–34, title XI, § 1131(a), Aug. 5, 1997, 111 Stat. 978]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 365; Oct. 4, 1976, Pub. L. 94–455, title XIX, §1906 (b)(13)(A), 90 Stat. 1834; July 18, 1984, Pub. L. 98–369, div. A, title I, §131(f)(2), 98 Stat. 665; Aug. 20, 1996, Pub. L. 104–188, title I, §1902(a), 110 Stat. 1909, provided for payment and collection of the tax imposed under section 1491 of this title.

CHAPTER 6—CONSOLIDATED RETURNS

Subchapter A—Returns and Payment of Tax

§ 1501. Privilege to file consolidated returns

An affiliated group of corporations shall, subject to the provisions of this chapter, have the privilege of making a consolidated return with respect to the income tax imposed by chapter 1 for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the condition that all corporations which at any time during the taxable year have been members of the affiliated group consent to all the consolidated return regulations prescribed under section 1502 prior to the last day prescribed by law for the filing of such return. The making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year, the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(Aug. 16, 1954, ch. 736, 68A Stat. 367.)

§ 1502. Regulations

The Secretary shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the income-tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability. In carrying out the preceding sentence, the Secretary may prescribe rules that are different from the provisions of chapter 1 that would apply if such corporations filed separate returns.

(Aug. 16, 1954, ch. 736, 68A Stat. 367; Pub. L. 94–455, title XIX, §1906(b) (13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 108–357, title VIII, §844(a), Oct. 22, 2004, 118 Stat. 1600.)

[1] Section numbers editorially supplied.

Editorial Notes

AMENDMENTS

2004—Pub. L. 108–357 inserted at end ''In carrying out the preceding sentence, the Secretary may prescribe rules that are different from the provisions of chapter 1 that would apply if such corporations filed separate returns.''

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VIII, § 844(c), Oct. 22, 2004, 118 Stat. 1600, provided that: ''This section [amending this section], and the amendment made by this section, shall apply to taxable years beginning before, on, or after the date of the enactment of this Act [Oct. 22, 2004].''

DUAL RESIDENT COMPANIES

Pub. L. 100–647, title VI, § 6126, Nov. 10, 1988, 102 Stat. 3713, provided that:

''(a) GENERAL RULE.—In the case of a transaction which—

''(1) involves the transfer after the date of the enactment of this Act [Nov. 10, 1988] by a domestic corporation, with respect to which there is a qualified excess loss account, of its assets and liabilities to a foreign corporation in exchange for all of the stock of such foreign corporation, followed by the complete liquidation of the domestic corporation into the common parent, and

''(2) qualifies, pursuant to Revenue Ruling 87–27, as a reorganization which is described in section 368(a)(1)(F) of the 1986 Code,

then, solely for purposes of applying Treasury Regulation section 1.1502–19 to such qualified excess loss account, such foreign corporation shall be treated as a domestic corporation in determining whether such foreign corporation is a member of the affiliated group of the common parent.

''(b) TREATMENT OF INCOME OF NEW FOREIGN CORPORATION.—

''(1) IN GENERAL.—In any case to which subsection (a) applies, for purposes of the 1986 Code—

''(A) the source and character of any item of income of the foreign corporation referred to in subsection (a) shall be determined as if such foreign corporation were a domestic corporation,

''(B) the net amount of any such income shall be treated as subpart F income (without regard to section 952(c) of the 1986 Code), and

''(C) the amount in the qualified excess loss account referred to in subsection (a) shall—

''(i) be reduced by the net amount of any such income, and

''(ii) be increased by the amount of any such income distributed directly or indirectly to the common parent described in subsection (a).

''(2) LIMITATION.—Paragraph (1) shall apply to any item of income only to the extent that the net amount of such income does not exceed the amount in the qualified excess loss account after being reduced under paragraph (1)(C) for prior income.

''(3) BASIS ADJUSTMENTS NOT APPLICABLE.—To the extent paragraph (1) applies to any item of income, there shall be no increase in basis under section 961(a) of such Code on account of such income (and there shall be no reduction in basis under section 961(b) of such Code on account of an exclusion attributable to the inclusion of such income).

''(4) RECOGNITION OF GAIN.—For purposes of paragraph (1), if the foreign corporation referred to in subsection (a) transfers any property acquired by such foreign corporation in the transaction referred to in subsection (a) (or transfers any other property the basis of which is determined in whole or in part by reference to the basis of property so acquired) and (but for this paragraph) there is not full recognition of gain on such transfer, the excess (if any) of—

''(A) the fair market value of the property transferred, over

''(B) its adjusted basis,

shall be treated as gain from the sale or exchange of such property and shall be recognized notwithstanding any other provision of law. Proper adjustment shall be made to the basis of any such property for gain recognized under the preceding sentence.

''(c) DEFINITIONS.—For purposes of this section—

''(1) COMMON PARENT.—The term 'common parent' means the common parent of the affiliated group which included the domestic corporation referred to in subsection (a)(1).

''(2) QUALIFIED EXCESS LOSS ACCOUNT.—The term 'qualified excess loss account' means any excess loss account (within the meaning of the consolidated return regulations) to the extent such account is attributable—

''(A) to taxable years beginning before January 1, 1988, and

''(B) to periods during which the domestic corporation was subject to an income tax of a foreign country on its income on a residence basis or without regard to whether such income is from sources in or outside of such foreign country.

The amount of such account shall be determined as of immediately after the transaction referred to in subsection (a) and without, except as provided in subsection (b), diminution for any future adjustment.

''(3) NET AMOUNT.—The net amount of any item of income is the amount of such income reduced by allocable deductions as determined under the rules of section 954(b)(5) of the 1986 Code.

''(4) SECOND SAME COUNTRY CORPORATION MAY BE TREATED AS DOMESTIC CORPORATION IN CERTAIN CASES.—If—

''(A) another foreign corporation acquires from the common parent stock of the foreign corporation referred to in subsection (a) after the transaction referred to in subsection (a),

''(B) both of such foreign corporations are subject to the income tax of the same foreign country on a residence basis, and

''(C) such common parent complies with such reporting requirements as the Secretary of the Treasury or his delegate may prescribe for purposes of this paragraph,

such other foreign corporation shall be treated as a domestic corporation in determining whether the foreign corporation referred to in subsection (a) is a member of the affiliated group referred to in subsection (a) (and the rules of subsection (b) shall apply (i) to any gain of such other foreign corporation on any disposition of such stock, and (ii) to any other income of such other foreign corporation except to the extent it establishes to the satisfaction of the Secretary of the Treasury or his delegate that such income is not attributable to property acquired from the foreign corporation referred to in subsection (a)).''

SPECIAL RULE FOR DISPOSITION OF STOCK OF SUBSIDIARY

Pub. L. 99–514, title VI, § 647, Oct. 22, 1986, 100 Stat. 2294, provided that: ''If for a taxable year of an affiliated group filing a consolidated return ending on or before December 31, 1987, there is a disposition of stock of a subsidiary (within the meaning of Treasury Regulation section 1.1502–19), the amount required to be included in income with respect to such disposition under Treasury Regulation section 1.1502–19(a) shall, notwithstanding such section, be included in income ratably over the 15-year period beginning with the taxable year in which the disposition occurs. The preceding sentence shall apply only if such subsidiary was incorporated on December 24, 1969, and is a participant in a mineral joint venture with a corporation organized under the

laws of the foreign country in which the joint venture mineral project is located.''

§ 1503. Computation and payment of tax

(a) [General rule] [1]

In any case in which a consolidated return is made or is required to be made, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under section 1502 prescribed before the last day prescribed by law for the filing of such return.

[(b) Repealed. Pub. L. 94–455, title X, § 1052(c)(5), Oct. 4, 1976, 90 Stat. 1648]

(c) Special rule for application of certain losses against income of insurance companies taxed under section 801

(1) In general

If an election under section 1504(c)(2) is in effect for the taxable year and the consolidated taxable income of the members of the group not taxed under section 801 results in a consolidated net operating loss for such taxable year, then under regulations prescribed by the Secretary, the amount of such loss which cannot be absorbed in the applicable carry-back periods against the taxable income of such members not taxed under section 801 shall be taken into account in determining the consolidated taxable income of the affiliated group for such taxable year to the extent of 35 percent of such loss or 35 percent of the taxable income of the members taxed under section 801, whichever is less. The unused portion of such loss shall be available as a carryover, subject to the same limitations (applicable to the sum of the loss for the carryover year and the loss (or losses) carried over to such year), in applicable carryover years.

(2) Losses of recent nonlife affiliates

Notwithstanding the provisions of paragraph (1), a net operating loss for a taxable year of a member of the group not taxed under section 801 shall not be taken into account in determining the taxable income of a member taxed under section 801 (either for the taxable year or as a carryover or carryback) if such taxable year precedes the sixth taxable year such members have been members of the same affiliated group (determined without regard to section 1504(b)(2)).

(d) Dual consolidated loss

(1) In general

The dual consolidated loss for any taxable year of any corporation shall not be allowed to reduce the taxable income of any other member of the affiliated group for the taxable year or any other taxable year.

(2) Dual consolidated loss

For purposes of this section—

(A) In general

Except as provided in subparagraph (B), the term ''dual consolidated loss'' means any net operating loss of a domestic corporation which is subject to an income tax of a foreign country on its income without regard to whether such income is from sources in or outside of such foreign country, or is subject to such a tax on a residence basis.

(B) Special rule where loss not used under foreign law

To the extent provided in regulations, the term ''dual consolidated loss'' shall not include any loss which, under the foreign income tax law, does not offset the income of any foreign corporation.

(3) Treatment of losses of separate business units

To the extent provided in regulations, any loss of a separate unit of a domestic corporation shall be subject to the limitations of this subsection in the same manner as if such unit were a wholly owned subsidiary of such corporation.

(4) Income on assets acquired after the loss

The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this subsection by contributing assets to the corporation with the dual consolidated loss after such loss was sustained.

(e) Special rule for determining adjustments to basis

(1) In general

Solely for purposes of determining gain or loss on the disposition of intragroup stock and the amount of any inclusion by reason of an excess loss account, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year (and in determining the amount in such account)—

(A) such earnings and profits shall be determined as if section 312 were applied for such taxable year (and all preceding consolidated years of the member with respect to such group) without regard to subsections (k) and (n) thereof, and

(B) earnings and profits shall not include any amount excluded from gross income under section 108 to the extent the amount so excluded was not applied to reduce tax attributes (other than basis in property).

(2) Definitions

For purposes of this subsection—

(A) Intragroup stock

The term ''intragroup stock'' means any stock which—

(i) is in a corporation which is or was a member of an affiliated group of corporations, and

(ii) is held by another corporation which is or was a member of such group.

Such term includes any other property the basis of which is determined (in whole or in part) by reference to the basis of stock described in the preceding sentence.

(B) Consolidated year

The term ''consolidated year'' means any taxable year for which the affiliated group makes a consolidated return.

[1] Subsec. (a) heading editorially supplied.