

“(A) LIMITATIONS ON CARRYOVERS OR CARRYBACKS FOR GROUPS ELECTING UNDER SECTION 1504(c)(2).—If an affiliated group elects to file a consolidated return pursuant to section 1501(c)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] a carryover of a loss or credit from a taxable year ending before January 1, 1981, and losses or credits which may be carried back to taxable years ending before such date, shall be taken into account as if this section had not been enacted.

“(B) NONTERMINATION OF AFFILIATED GROUP.—The mere election to file a consolidated return pursuant to such section 1504(c)(2) shall not cause the termination of an affiliated group filing consolidated returns.”

### § 1505. Cross references

(1) For suspension of running of statute of limitations when notice in respect of a deficiency is mailed to one corporation, see section 6503(a)(1).

(2) For allocation of income and deductions of related trades or businesses, see section 482.

(Aug. 16, 1954, ch. 736, 68A Stat. 370.)

### Subchapter B—Related Rules

Part		Sec. <sup>1</sup>
I.	In general .....	1551
II.	Certain controlled corporations .....	1561

### PART I—IN GENERAL

Sec.	
[1551.	Repealed.]
1552.	Earnings and profits.

### Editorial Notes

#### AMENDMENTS

2017—Pub. L. 115-97, title I, §13001(b)(5)(A), Dec. 22, 2017, 131 Stat. 2098, which directed amendment of the table of sections for part I of subchapter B of chapter 5 by striking out item 1551 “Disallowance of the benefits of the graduated corporate rates and accumulated earnings credit”, was executed to the table of sections for part I of subchapter B of this chapter to reflect the probable intent of Congress.

1978—Pub. L. 95-600, title III, §301(b)(18)(C), Nov. 6, 1978, 92 Stat. 2823, in item 1551 substituted “the benefits of the graduated corporate rates” for “surtax exemption”.

1964—Pub. L. 88-272, title II, §235(c)(4), Feb. 26, 1964, 78 Stat. 127, inserted table of parts, and heading for part I.

### [§ 1551. Repealed. Pub. L. 115-97, title I, § 13001(b)(5)(A), Dec. 22, 2017, 131 Stat. 2098]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 371; Pub. L. 85-866, title II, §205(a), Sept. 2, 1958, 72 Stat. 1680; Pub. L. 88-272, title II, §235(b), Feb. 26, 1964, 78 Stat. 125; Pub. L. 94-12, title III, §304(b), Mar. 29, 1975, 89 Stat. 45; Pub. L. 94-455, title XIX, §§1901(a)(158), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1790, 1834; Pub. L. 95-600, title III, §301(b)(18)(A), (B), Nov. 6, 1978, 92 Stat. 2823; Pub. L. 97-34, title II, §232(b)(2), Aug. 13, 1981, 95 Stat. 250; Pub. L. 99-514, title XVIII, §1899A(36), Oct. 22, 1986, 100 Stat. 2960; Pub. L. 113-295, div. A, title II, §221(a)(94), Dec. 19, 2014, 128 Stat. 4051, related to disallowance of the benefits of the graduated corporate rates and accumulated earnings credit. Repeal was executed to this section, which is in part I of subchapter B of chapter 6, to reflect the probable intent of Congress, notwithstanding directory language of Pub. L. 115-97, which repealed section 1551 in part I of subchapter B of chapter 5.

<sup>1</sup> Section numbers editorially supplied.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 2017, see section 13001(c)(1) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 11 of this title.

### § 1552. Earnings and profits

#### (a) General rule

Pursuant to regulations prescribed by the Secretary the earnings and profits of each member of an affiliated group required to be included in a consolidated return for such group filed for a taxable year shall be determined by allocating the tax liability of the group for such year among the members of the group in accord with whichever of the following methods the group shall elect in its first consolidated return filed for such a taxable year:

(1) The tax liability shall be apportioned among the members of the group in accordance with the ratio which that portion of the consolidated taxable income attributable to each member of the group having taxable income bears to the consolidated taxable income.

(2) The tax liability of the group shall be allocated to the several members of the group on the basis of the percentage of the total tax which the tax of such member if computed on a separate return would bear to the total amount of the taxes for all members of the group so computed.

(3) The tax liability of the group (excluding the tax increases arising from the consolidation) shall be allocated on the basis of the contribution of each member of the group to the consolidated taxable income of the group. Any tax increases arising from the consolidation shall be distributed to the several members in direct proportion to the reduction in tax liability resulting to such members from the filing of the consolidated return as measured by the difference between their tax liabilities determined on a separate return basis and their tax liabilities based on their contributions to the consolidated taxable income.

(4) The tax liability of the group shall be allocated in accord with any other method selected by the group with the approval of the Secretary.

#### (b) Failure to elect

If no election is made in such first return, the tax liability shall be allocated among the several members of the group pursuant to the method prescribed in subsection (a)(1).

(Aug. 16, 1954, ch. 736, 68A Stat. 371; Pub. L. 88-272, title II, §234(b)(8), Feb. 26, 1964, 78 Stat. 116; Pub. L. 94-455, title XIX, §§1901(a)(159), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1790, 1834.)

### Editorial Notes

#### AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §§1901(a)(159), 1906(b)(13)(A), struck out “beginning after December 31, 1953, and ending after the date of enactment of this title” after “group filed for a taxable year”, and “or his delegate” after “Secretary” in two places.