

lations providing for the disallowance of interest deductions or other appropriate treatment (in lieu of reducing the dividend received deduction) where the obligor of the indebtedness is a person other than the person receiving the dividend.

(Added Pub. L. 98-369, div. A, title I, §51(a), July 18, 1984, 98 Stat. 562; amended Pub. L. 99-514, title VI, §611(a)(4), title XVIII, §1804(a), Oct. 22, 1986, 100 Stat. 2249, 2798; Pub. L. 100-203, title X, §10221(d)(2), Dec. 22, 1987, 101 Stat. 1330-409; Pub. L. 100-647, title I, §1012(l)(1), Nov. 10, 1988, 102 Stat. 3513; Pub. L. 108-311, title IV, §408(a)(9), Oct. 4, 2004, 118 Stat. 1191; Pub. L. 113-295, div. A, title II, §221(a)(41)(F), Dec. 19, 2014, 128 Stat. 4044; Pub. L. 115-97, title I, §13002(d), Dec. 22, 2017, 131 Stat. 2100; Pub. L. 115-141, div. U, title IV, §401(b)(17), Mar. 23, 2018, 132 Stat. 1202.)

Editorial Notes

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in subsec. (b)(2), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

Section 2(a) of the Bank Holding Company Act of 1956, referred to in subsec. (c)(3)(B)(ii), is classified to section 1841(a) of Title 12, Banks and Banking.

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115-141 struck out “with-out regard to section 243(d)(4)” after “section 243(b)”.

2017—Subsec. (a)(1). Pub. L. 115-97 substituted “50 percent” for “70 percent” and “65 percent” for “80 percent”.

2014—Subsecs. (a), (e). Pub. L. 113-295 struck out “, 244,” after “section 243”.

2004—Subsec. (b)(1). Pub. L. 108-311 substituted “section 243(d)(4)” for “section 243(c)(4)”.

1988—Subsec. (a). Pub. L. 100-647 struck out at end “The preceding sentence shall be applied before any determination of a ratio under paragraph (1) or (2) of section 245(a).”

1987—Subsec. (a)(1). Pub. L. 100-203 substituted “70 percent (80 percent in the case of any dividend from a 20-percent owned corporation as defined in section 243(c)(2))” for “80 percent”.

1986—Subsec. (a). Pub. L. 99-514, §1804(a), substituted “or 245(a)” for “or 245” and inserted “The preceding sentence shall be applied before any determination of a ratio under paragraph (1) or (2) of section 245(a).”

Subsec. (a)(1). Pub. L. 99-514, §611(a)(4), substituted “80 percent” for “85 percent”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13002(f) of Pub. L. 115-97, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 not applicable to preferred stock issued before Oct. 1, 1942 (determined in the same manner as under section 247 of this title as in effect before its repeal by Pub. L. 113-295), see section 221(a)(41)(K) of Pub. L. 113-295, set out as a note under section 172 of this title.

Except as otherwise provided in section 221(a) of Pub. L. 113-295, amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section

221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to dividends received or accrued after Dec. 31, 1987, in taxable years ending after such date, see section 10221(e)(1) of Pub. L. 100-203, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 611(a)(4) of Pub. L. 99-514 applicable to dividends received or accrued after Dec. 31, 1986, in taxable years ending after such date, see section 611(b) of Pub. L. 99-514, set out as a note under section 246 of this title.

Amendment by section 1804(a) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Pub. L. 98-369, div. A, title I, §51(c), July 18, 1984, 98 Stat. 564, provided that: “The amendments made by this section [enacting this section] shall apply with respect to stock the holding period for which begins after the date of the enactment of this Act [July 18, 1984] in taxable years ending after such date.”

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 247. Contributions to Alaska Native Settlement Trusts

(a) In general

In the case of a Native Corporation, there shall be allowed a deduction for any contributions made by such Native Corporation to a Settlement Trust (regardless of whether an election under section 646 is in effect for such Settlement Trust) for which the Native Corporation has made an annual election under subsection (e).

(b) Amount of deduction

The amount of the deduction under subsection (a) shall be equal to—

(1) in the case of a cash contribution (regardless of the method of payment, including currency, coins, money order, or check), the amount of such contribution, or

(2) in the case of a contribution not described in paragraph (1), the lesser of—

- (A) the Native Corporation's adjusted basis in the property contributed, or
- (B) the fair market value of the property contributed.

(c) Limitation and carryover

(1) In general

Subject to paragraph (2), the deduction allowed under subsection (a) for any taxable year shall not exceed the taxable income (as determined without regard to such deduction) of the Native Corporation for the taxable year in which the contribution was made.

(2) Carryover

If the aggregate amount of contributions described in subsection (a) for any taxable year exceeds the limitation under paragraph (1), such excess shall be treated as a contribution described in subsection (a) in each of the 15 succeeding years in order of time.

(d) Definitions

For purposes of this section, the terms "Native Corporation" and "Settlement Trust" have the same meaning given such terms under section 646(h).

(e) Manner of making election

(1) In general

For each taxable year, a Native Corporation may elect to have this section apply for such taxable year on the income tax return or an amendment or supplement to the return of the Native Corporation, with such election to have effect solely for such taxable year.

(2) Revocation

Any election made by a Native Corporation pursuant to this subsection may be revoked pursuant to a timely filed amendment or supplement to the income tax return of such Native Corporation.

(f) Additional rules

(1) Earnings and profits

Notwithstanding section 646(d)(2), in the case of a Native Corporation which claims a deduction under this section for any taxable year, the earnings and profits of such Native Corporation for such taxable year shall be reduced by the amount of such deduction.

(2) Gain or loss

No gain or loss shall be recognized by the Native Corporation with respect to a contribution of property for which a deduction is allowed under this section.

(3) Income

Subject to subsection (g), a Settlement Trust shall include in income the amount of any deduction allowed under this section in the taxable year in which the Settlement Trust actually receives such contribution.

(4) Period

The holding period under section 1223 of the Settlement Trust shall include the period the property was held by the Native Corporation.

(5) Basis

The basis that a Settlement Trust has for which a deduction is allowed under this section shall be equal to the lesser of—

(A) the adjusted basis of the Native Corporation in such property immediately before such contribution, or

(B) the fair market value of the property immediately before such contribution.

(6) Prohibition

No deduction shall be allowed under this section with respect to any contributions made to a Settlement Trust which are in violation of subsection (a)(2) or (c)(2) of section 39 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629e).

(g) Election by Settlement Trust to defer income recognition

(1) In general

In the case of a contribution which consists of property other than cash, a Settlement Trust may elect to defer recognition of any income related to such property until the sale or exchange of such property, in whole or in part, by the Settlement Trust.

(2) Treatment

In the case of property described in paragraph (1), any income or gain realized on the sale or exchange of such property shall be treated as—

(A) for such amount of the income or gain as is equal to or less than the amount of income which would be included in income at the time of contribution under subsection (f)(3) but for the taxpayer's election under this subsection, ordinary income, and

(B) for any amounts of the income or gain which are in excess of the amount of income which would be included in income at the time of contribution under subsection (f)(3) but for the taxpayer's election under this subsection, having the same character as if this subsection did not apply.

(3) Election

(A) In general

For each taxable year, a Settlement Trust may elect to apply this subsection for any property described in paragraph (1) which was contributed during such year. Any property to which the election applies shall be identified and described with reasonable particularity on the income tax return or an amendment or supplement to the return of the Settlement Trust, with such election to have effect solely for such taxable year.

(B) Revocation

Any election made by a Settlement Trust pursuant to this subsection may be revoked pursuant to a timely filed amendment or supplement to the income tax return of such Settlement Trust.

(C) Certain dispositions

(i) In general

In the case of any property for which an election is in effect under this subsection and which is disposed of within the first taxable year subsequent to the taxable year in which such property was contributed to the Settlement Trust—

(I) this section shall be applied as if the election under this subsection had not been made,

(II) any income or gain which would have been included in the year of contribution under subsection (f)(3) but for the taxpayer's election under this subsection shall be included in income for the taxable year of such contribution, and

(III) the Settlement Trust shall pay any increase in tax resulting from such inclusion, including any applicable interest, and increased by 10 percent of the amount of such increase with interest.

(ii) Assessment

Notwithstanding section 6501(a), any amount described in subclause (III) of clause (i) may be assessed, or a proceeding in court with respect to such amount may be initiated without assessment, within 4 years after the date on which the return making the election under this subsection for such property was filed.

(Added Pub. L. 115-97, title I, §13821(b)(1), Dec. 22, 2017, 131 Stat. 2179.)

Editorial Notes

PRIOR PROVISIONS

A prior section 247, Aug. 16, 1954, ch. 736, 68A Stat. 75; Pub. L. 94-455, title XIX, §1901(a)(35), Oct. 4, 1976, 90 Stat. 1770; Pub. L. 95-600, title III, §301(b)(4), Nov. 6, 1978, 92 Stat. 2820; Pub. L. 101-508, title XI, §11801(c)(8)(C), Nov. 5, 1990, 104 Stat. 1388-524; Pub. L. 104-188, title I, §1704(t)(49), Aug. 20, 1996, 110 Stat. 1890; Pub. L. 109-135, title IV, §402(a)(5), Dec. 21, 2005, 119 Stat. 2610, allowed to public utilities as a deduction a percentage of the amount of the lesser of dividends paid during the taxable year on its preferred stock or taxable income for the taxable year under certain conditions, prior to repeal by Pub. L. 113-295, div. A, title II, §221(a)(41)(A), Dec. 19, 2014, 128 Stat. 4043.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 115-97, title I, §13821(b)(3), Dec. 22, 2017, 131 Stat. 2181, provided that:

“(A) IN GENERAL.—The amendments made by this subsection [enacting this section] shall apply to taxable years for which the period of limitation on refund or credit under section 6511 of the Internal Revenue Code of 1986 has not expired.

“(B) ONE-YEAR WAIVER OF STATUTE OF LIMITATIONS.—If the period of limitation on a credit or refund resulting from the amendments made by paragraph (1) expires before the end of the 1-year period beginning on the date of the enactment of this Act [Dec. 22, 2017], refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.”

§ 248. Organizational expenditures

(a) Election to deduct

If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

(A) the amount of organizational expenditures with respect to the taxpayer, or

(B) \$5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed \$50,000, and

(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.

(b) Organizational expenditures defined

The term “organizational expenditures” means any expenditure which—

(1) is incident to the creation of the corporation;

(2) is chargeable to capital account; and

(3) is of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life.

(c) Time for and scope of election

The election provided by subsection (a) may be made for any taxable year but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The period so elected shall be adhered to in computing the taxable income of the corporation for the taxable year for which the election is made and all subsequent taxable years.

(Aug. 16, 1954, ch. 736, 68A Stat. 76; Pub. L. 94-455, title XIX, §§1901(a)(36), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1770, 1834; Pub. L. 108-357, title VIII, §902(b), Oct. 22, 2004, 118 Stat. 1651; Pub. L. 113-295, div. A, title II, §221(a)(42), Dec. 19, 2014, 128 Stat. 4044.)

Editorial Notes

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-295 struck out “beginning after December 31, 1953,” after “any taxable year” and “The election shall apply only with respect to expenditures paid or incurred on or after August 16, 1954.” at end.

2004—Subsec. (a). Pub. L. 108-357 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The organizational expenditures of a corporation may, at the election of the corporation (made in accordance with regulations prescribed by the Secretary, be treated as deferred expenses. In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the corporation (beginning with the month in which the corporation begins business).”

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §1901(a)(36), substituted “August 16, 1954” for “the date of enactment of this title”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to amounts paid or incurred after Oct. 22, 2004, see section 902(d) of Pub. L. 108-357, set out as a note under section 195 of this title.