

Pub. L. 94-455, title XI, §1101(g)(1), Oct. 4, 1976, 90 Stat. 1659, provided that: "The amendments made by subsections (a) and (e) [amending this section and section 996 of this title] shall apply to taxable years beginning after December 31, 1975."

Pub. L. 94-455, title XI, §1101(g)(4), Oct. 4, 1976, 90 Stat. 1659, as amended by Pub. L. 95-600, title VII, §701(u)(12)(A), Nov. 6, 1978, 92 Stat. 2918, provided that: "The amendments made by subsection (d) [amending this section and section 751 of this title] shall apply to sales, exchanges, or other dispositions after December 31, 1976, in taxable years ending after such date."

Amendment by section 1901(b)(3)(K) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 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.

PRORATION OF BASE PERIOD IN CASE OF FIXED
CONTRACTS

Pub. L. 94-455, title XI, §1101(g)(5), Oct. 4, 1976, 90 Stat. 1659, as amended by Pub. L. 95-600, title VII, §703(i)(4), Nov. 6, 1978, 92 Stat. 2940; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "For purposes of determining adjusted base period export gross receipts (under section 995(e)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this section), if any DISC has export gross receipts from export property by reason of paragraph (2) of section 603(b) of the Tax Reduction Act of 1975, [set out as an Effective Date of 1975 Amendment note under section 993 of this title], then the export gross receipts of such DISC for the taxable years of the base period shall be increased by an amount equal to the amount of gross receipts which were excluded from export gross receipts during each taxable year of the base period by reason of the last sentence of section 995(e)(3) of such Code multiplied by a fraction, the numerator of which is the amount of the gross receipts in the taxable year which are export gross receipts by reason of paragraph (2) of section 603(b) of the Tax Reduction Act of 1975 and the denominator of which is the amount of total gross receipts which are excluded from export gross receipts in the taxable year by reason of subparagraph (C) or (D) of paragraph (2) of section 993(c) (determined without regard to paragraph (2) of section 603(b) of the Tax Reduction Act of 1975)."

§ 996. Rules for allocation in the case of distributions and losses

(a) Rules for actual distributions and certain deemed distributions

(1) In general

Any actual distribution (other than a distribution described in paragraph (2) or to which section 995(c) applies) to a shareholder by a DISC (or former DISC) which is made out of earnings and profits shall be treated as made—

(A) first, out of previously taxed income, to the extent thereof,

(B) second, out of accumulated DISC income, to the extent thereof, and

(C) finally, out of other earnings and profits.

(2) Qualifying distributions

Any actual distribution made pursuant to section 992(c) (relating to distributions to meet qualification requirements), and any deemed distribution pursuant to section 995(b)(1)(G) (relating to foreign investment attributable to producer's loans), shall be treated as made—

(A) first, out of accumulated DISC income, to the extent thereof,

(B) second, out of the earnings and profits described in paragraph (1)(C), to the extent thereof, and

(C) finally, out of previously taxed income.

In the case of any amount of any actual distribution to a C corporation made pursuant to section 992(c) which is required to satisfy the condition of section 992(a)(1)(A), the preceding sentence shall apply to 16/17ths of such amount and paragraph (1) shall apply to the remaining 1/17th of such amount.

(3) Exclusion from gross income

Amounts distributed out of previously taxed income shall be excluded by the distributee from gross income except for gains described in subsection (e)(2), and shall reduce the amount of the previously taxed income.

(b) Ordering rules for losses

If for any taxable year a DISC, or a former DISC, incurs a deficit in earnings and profits, such deficit shall be chargeable—

(1) first, to earnings and profits described in subsection (a)(1)(C), to the extent thereof,

(2) second, to accumulated DISC income, to the extent thereof, and

(3) finally, to previously taxed income, except that a deficit in earnings and profits shall not be applied against accumulated DISC income which has been determined is to be deemed distributed to the shareholders (pursuant to section 995(b)(2)(A)) as a result of a revocation of election or other disqualification.

(c) Priority of distributions

Any actual distribution made during a taxable year shall be treated as being made subsequent to any deemed distribution made during such year. Any actual distribution made pursuant to section 992(c) (relating to distributions to meet qualification requirements) shall be treated as being made before any other actual distributions during the taxable year.

(d) Subsequent effect of previous disposition of DISC stock

(1) Shareholder previously taxed income adjustment

If—

(A) gain with respect to a share of stock of a DISC or former DISC is treated under section 995(c) as a dividend or as ordinary income, and

(B) any person subsequently receives an actual distribution made out of accumulated DISC income, or a deemed distribution made pursuant to section 995(b)(2), with respect to such share,

such person shall treat such distribution in the same manner as a distribution from pre-

viously taxed income to the extent that (i) the gain referred to in subparagraph (A), exceeds (ii) any other amounts with respect to such share which were treated under this paragraph as made from previously taxed income. In applying this paragraph with respect to a share of stock in a DISC or former DISC, gain on the acquisition of such share by the DISC or former DISC or gain on a transaction prior to such acquisition shall not be considered gain referred to in subparagraph (A).

(2) Corporate adjustment upon redemption

If section 995(c) applies to a redemption of stock in a DISC or former DISC, the accumulated DISC income shall be reduced by an amount equal to the gain described in section 995(c) with respect to such stock which is (or has been) treated as ordinary income, except to the extent distributions with respect to such stock have been treated under paragraph (1).

(e) Adjustment to basis

(1) Additions to basis

Amounts representing deemed distributions as provided in section 995(b) shall increase the basis of the stock with respect to which the distribution is made.

(2) Reductions of basis

The portion of an actual distribution made out of previously taxed income shall reduce the basis of the stock with respect to which it is made, and to the extent that it exceeds the adjusted basis of such stock, shall be treated as gain from the sale or exchange of property. In the case of stock includible in the gross estate of a decedent for which an election is made under section 2032 (relating to alternate valuation), this paragraph shall not apply to any distribution made after the date of the decedent's death and before the alternate valuation date provided by section 2032.

(f) Definition of divisions of earnings and profits

For purposes of this part:

(1) DISC income

The earnings and profits derived by a corporation during a taxable year in which such corporation is a DISC, before reduction for any distributions during the year, but reduced by amounts deemed distributed under section 995(b)(1), shall constitute the DISC income for such year. The earnings and profits of a DISC for a taxable year include any amounts includible in such DISC's gross income pursuant to section 951(a) for such year. Accumulated DISC income shall be reduced by deemed distributions under section 995(b)(2).

(2) Previously taxed income

Earnings and profits deemed distributed under section 995(b) for a taxable year shall constitute previously taxed income for such year.

(3) Other earnings and profits

The earnings and profits for a taxable year which are described in neither paragraph (1) nor (2) shall constitute the other earnings and profits for such year.

(g) Effectively connected income

In the case of a shareholder who is a non-resident alien individual or a foreign corporation, trust, or estate, gains referred to in section 995(c) and all distributions out of accumulated DISC income including deemed distributions shall be treated as gains and distributions which are effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States and which are derived from sources within the United States.

(Added Pub. L. 92-178, title V, §501 Dec. 10, 1971, 85 Stat. 547; amended Pub. L. 94-455, title XI, §1101(e), title XIX, §§1901(b)(3)(I), Oct. 4, 1976, 90 Stat. 1659, 1793; Pub. L. 95-600, title VII, §703(i)(3), Nov. 6, 1978, 92 Stat. 2940; Pub. L. 98-369, div. A, title VIII, §801(d)(10), July 18, 1984, 98 Stat. 997; Pub. L. 99-514, title XVIII, §1876(k), Oct. 22, 1986, 100 Stat. 2900.)

Editorial Notes

AMENDMENTS

1986—Subsec. (a)(2). Pub. L. 99-514 inserted last sentence and struck out former last sentence which read as follows: "In the case of any amount of any actual distribution made pursuant to section 992(c) which is required to satisfy the condition of section 992(a)(1)(A), the preceding sentence shall apply to one-half of such amount, and paragraph (1) shall apply to the remaining one-half of such amount."

1984—Subsec. (g). Pub. L. 98-369 inserted "and which are derived from sources within the United States".

1978—Subsec. (a)(2). Pub. L. 95-600 substituted "section (b)(1)(G)" for "section (b)(1)(E)".

1976—Subsec. (a)(2). Pub. L. 94-455, §1101(e), inserted at end "In the case of any amount of any actual distribution made pursuant to section 992(c) which is required to satisfy the condition of section 992(a)(1)(A), the preceding sentence shall apply to one-half of such amount, and paragraph (1) shall apply to the remaining one-half of such amount."

Subsec. (d). Pub. L. 94-455, §1901(b)(3)(I), substituted "ordinary income" for "gain from the sale or exchange of property which is not a capital asset" in par. (1)(A) after "dividend or as" and, in par. (2), after "treated as".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by 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 OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to distributions on or after June 22, 1984, see section 805(a)(3) of Pub. L. 98-369, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective on Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1101(e) of Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1975, see section 1101(g)(1) of Pub. L. 94-455, set out as a note under section 905 of this title.

Amendment by section 1901(b)(3)(I) of Pub. L. 94-455 applicable with respect to taxable years beginning after

Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 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.

§ 997. Special subchapter C rules

For purposes of applying the provisions of subchapter C of chapter 1, any distribution in property to a corporation by a DISC or former DISC which is made out of previously taxed income or accumulated DISC income shall—

- (1) be treated as a distribution in the same amount as if such distribution of property were made to an individual, and
- (2) have a basis, in the hands of the recipient corporation, equal to the amount determined under paragraph (1).

(Added Pub. L. 92-178, title V, § 501, Dec. 10, 1971, 85 Stat. 549.)

PART V—INTERNATIONAL BOYCOTT
DETERMINATIONS

Sec.	
999.	Reports by taxpayers; determinations.
[1000.	Reserved.]

Editorial Notes

AMENDMENTS

1976—Pub. L. 94-455, title X, § 1064(a), Oct. 4, 1976, 90 Stat. 1650, added part heading and analysis of sections.

§ 999. Reports by taxpayers; determinations

(a) International boycott reports by taxpayers

(1) Report required

If any person, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes that person, has operations in, or related to—

(A) a country (or with the government, a company, or a national of a country) which is on the list maintained by the Secretary under paragraph (3), or

(B) any other country (or with the government, a company, or a national of that country) in which such person or such member had operations during the taxable year if such person (or, if such person is a foreign corporation, any United States shareholder of that corporation) knows or has reason to know that participation in or co-operation with an international boycott is required as a condition of doing business within such country or with such government, company, or national,

that person or shareholder (within the meaning of section 951(b)) shall report such operations to the Secretary at such time and in such manner as the Secretary prescribes, except that in the case of a foreign corporation such report shall be required only of a United

States shareholder (within the meaning of such section) of such corporation.

(2) Participation and cooperation; request therefor

A taxpayer shall report whether he, a foreign corporation of which he is a United States shareholder, or any member of a controlled group which includes the taxpayer or such foreign corporation has participated in or cooperated with an international boycott at any time during the taxable year, or has been requested to participate in or cooperate with such a boycott, and, if so, the nature of any operation in connection with which there was participation in or cooperation with such boycott (or there was a request to participate or cooperate).

(3) List to be maintained

The Secretary shall maintain and publish not less frequently than quarterly a current list of countries which require or may require participation in or cooperation with an international boycott (within the meaning of subsection (b)(3)).

(b) Participation in or cooperation with an international boycott

(1) General rule

If the person or a member of a controlled group (within the meaning of section 993(a)(3)) which includes the person participates in or cooperates with an international boycott in the taxable year, all operations of the taxpayer or such group in that country and in any other country which requires participation in or cooperation with the boycott as a condition of doing business within that country, or with the government, a company, or a national of that country, shall be treated as operations in connection with which such participation or cooperation occurred, except to the extent that the person can clearly demonstrate that a particular operation is a clearly separate and identifiable operation in connection with which there was no participation in or cooperation with an international boycott.

(2) Special rule

(A) Nonboycott operations

A clearly separate and identifiable operation of a person, or of a member of the controlled group (within the meaning of section 993(a)(3)) which includes that person, in or related to any country within the group of countries referred to in paragraph (1) shall not be treated as an operation in or related to a group of countries associated in carrying out an international boycott if the person can clearly demonstrate that he, or that such member, did not participate in or cooperate with the international boycott in connection with that operation.

(B) Separate and identifiable operations

A taxpayer may show that different operations within the same country, or operations in different countries, are clearly separate and identifiable operations.