Public Law 594 CHAPTER 951

July 21, 1952
[H. R. 8271]

AN ACT

To amend sections 433 (b), 457, and 459 of the Internal Revenue Code, and for other purposes.

Internal Revenue Code, amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective with respect to taxable years ending after June 30, 1950, section 457 of the Internal Revenue Code, as added by section 101 of the Excess Profits Tax Act of 1950, is hereby amended by changing its heading to read "CORPORATIONS COMPLETING CONTRACTS OR MAKING DEPOSITS UNDER MERCHANT MARINE ACT" and by adding to said section 457 the following new subsection:

64 Stat. 1188.
26 USC 457.

"(c) BASE PERIOD EARNINGS CREDIT FOR DEPOSITS UNDER MERCHANT MARINE ACT, 1936.—The excess profits net income computed under section 433 (b) for any base period year shall be increased by the amount, if any, by which (1) the taxpayer's tax-deferred deposits of earnings, made in or accrued to reserve funds under section 607 of the Merchant Marine Act, 1936, in respect of such base period year, exceeds (2) the amount of such deposits of earnings for the taxable year. The Secretary shall provide, by regulation, for proper adjustment of the deposits made in or accrued to the reserve funds for any taxable year so as to exclude therefrom any amount payable for such year as reimbursement of operating-differential subsidy."

Post, p. 819.

49 Stat. 2005.
46 USC 1177.

65 Stat. 553-557.
26 USC 459.

SEC. 2. Section 459 of the Internal Revenue Code (miscellaneous provisions relating to the computation of average base period net income) is hereby amended by adding at the end thereof the following new subsection:

"(f) COMPANIES PRESERVING DEFENSE CAPACITY AND INCREASING CAPACITY FOR MANUFACTURING PEACETIME PRODUCTS FROM CERTAIN STRATEGIC AND CRITICAL METALS.—

"(1) ELIGIBILITY REQUIREMENT.—In the case of a taxpayer which commenced business on or prior to January 1, 1936, and since such date has been primarily engaged in manufacturing, if—

"(A) The percentage of the taxpayer's purchases of raw materials which were strategic and critical metals (as defined in paragraph (3)) was 80 per centum or more for each of the taxable years beginning with or within the taxpayer's base period;

"(B) The taxpayer's average monthly excess profits net income (computed in the manner provided in section 443 (e)) for the period comprising all taxable years ending with or within the first twenty-four months of its base period was 250 per centum or more of the average monthly excess profits net income (so computed) of the taxpayer for the period comprising all taxable years ending with or within the last twenty-four months of its base period;

26 USC 443.

"(C) The adjusted basis of the taxpayer's total facilities (as defined in section 444 (d)) as of the beginning of its base period (when added to the total facilities at such time of all corporations with which the taxpayer has the privilege under section 141 of filing a consolidated return for its first taxable year under this subchapter) did not exceed $10,000,000; and

26 USC 444.

26 USC 141.

"(D) The adjusted basis of the taxpayer's total facilities (as defined in section 444 (d)) on the last day of its base period was 180 per centum or more of the adjusted basis of its total facilities on the first day of its base period.

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the taxpayer's average base period net income determined under this subsection shall be the amount computed under paragraph (2).

"(2) COMPUTATION.—The average base period net income determined under this subsection for a taxpayer entitled to the benefits of this subsection shall be the amount computed under section 435 (e) (2) (E) and (F) except that there shall be substituted for the aggregate of the excess profits net income for each of the six months in the period beginning July 1, 1949, and ending December 31, 1949, an amount computed by multiplying the aggregate of the excess profits net income for each of the six months in the period beginning July 1, 1946 and ending December 31, 1946, by the per centum determined by dividing the adjusted basis of taxpayer's total facilities (as defined in section 444 (d)) on December 31, 1948, by the adjusted basis of its total facilities on the first day of its base period. The average base period net income computed under the preceding sentence shall not exceed 80 per centum of the excess profits tax net income for the taxpayer's first taxable year under this subchapter.

26 USC 435.

26 USC 444.

"(3) DEFINITION OF STRATEGIC AND CRITICAL METALS.—As used in this subsection, the term 'strategic and critical metals' means copper and zinc which on January 1, 1945, had been determined by proper authority to be strategic and critical under the provisions of the Strategic and Critical Stock Piling Act and shall include scrap containing such metals."

60 Stat. 596.
50 USC 98 note.

SEC. 3. The amendment made by section 2 shall be applicable with respect to all taxable years ending after June 30, 1950.

SEC. 4. Effective with respect to taxable years ending after June 30, 1950, section 433 (b) of the Internal Revenue Code (relating to the computation of average base period net income) is hereby amended by inserting at the end thereof two new paragraphs reading as follows:

65 Stat. 549.
26 USC 433.

"(18) ADJUSTMENT FOR BASE PERIOD LOSSES FROM BRANCH OPERATIONS.—In the case of a taxpayer which during two or more such taxable years operated a branch at a loss, the excess profits net income for each such taxable year (determined without regard to this paragraph) shall be increased by the amount of the excess of such loss above the loss, if any, incurred by such branch during the taxable year for which the tax under this subchapter is being computed. As used in this paragraph, the term 'branch' means a unit or subdivision of the taxpayer's business which was operated in a separate place from its other business and differed substantially from its other business with respect to character of products or services. A unit or subdivision of the taxpayer's business shall not be considered to differ substantially from the taxpayer's other business unless it is of a type classifiable by the Standard Industrial Classification Manual in a different major industry group or in a different subgroup of the taxpayer's major industry group than that in which its other business is so classifiable: *Provided, however*, That this paragraph shall not apply unless the sum of the net losses of such branch during the base period exceeded 15 per centum of the aggregate excess profits net income of the taxpayer during the base period. For the purposes of this paragraph, the aggregate excess profits net income of the taxpayer during the base period shall be the sum of its excess profits net income for all years in the base period, increased by the sum of the net losses of such branch during the base period.

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"(19) RULES FOR APPLICATION OF PARAGRAPH (18).—For the purposes of paragraph (18)—

"(A) A branch shall be deemed to have been operated at a loss during a taxable year if the portion of the deductions under section 23 for such year which is determined, under regulations prescribed by the Secretary, to be the portion thereof properly allocable to the operation of such branch exceeds the portion of the gross income during the taxable year which is determined under such regulations to be the portion thereof properly allocable to the operation of such branch; and the amount of the loss shall be an amount equal to such excess.

26 USC 23.

"(B) If the portion of the gross income determined to be properly allocable to the operation of the branch is a minus quantity, the amount of such excess shall be the sum of the deductions under section 23 determined to be properly allocable to the operation of the branch plus an amount equal to such minus quantity."

65 Stat. 497.
26 USC 114 note.

SEC. 5. Section 319 (c) of the Revenue Act of 1951 is amended to read as follows:

"(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after January 1, 1951."

Approved July 21, 1952.