

SEC. 3. The Internal Revenue Code of 1954 is amended by adding a new section to chapter 1 of subtitle A immediately following section 1341 to read as follows:

“SEC. 1342. COMPUTATION OF TAX WHERE TAXPAYER RECOVERS SUBSTANTIAL AMOUNT HELD BY ANOTHER UNDER CLAIM OF RIGHT.

“(a) GENERAL RULE.—If—

“(1) an item was deducted from gross income for a prior taxable year (or years) because it appeared that another person held an unrestricted right to such item as a result of a court decision in a patent infringement suit (whether or not the taxpayer is a party to such suit); and

“(2) gross income is increased for the taxable year because it was established after the close of such prior taxable year (or years) that such other person did not have an unrestricted right to such item or to a portion of such item because of the subsequent reversal of such court decision on the ground that such decision was induced by fraud or undue influence; and

“(3) the amount of such increase in gross income exceeds \$3,000, then the tax imposed by this chapter for the taxable year shall be the lesser of the following:

“(4) the tax for the taxable year computed with the gross income so increased; or

“(5) an amount equal to—

“(A) the tax for the taxable year computed without such increase in gross income, plus

“(B) the increase in tax (including interest) under this chapter (or the corresponding provisions of prior revenue laws) for the prior taxable year (or years) which would result solely from the elimination of such item (or portion thereof) as a deduction from gross income for such prior taxable year (or years).

“(b) SPECIAL RULE.—For purposes of subsection (a) (5) (B) interest shall be computed from the due date of the return for such prior taxable year to the due date of the return for the taxable year.”

SEC. 4. The amendment made by section 3 of this Act shall apply with respect to taxable years beginning after December 31, 1954.

Approved August 12, 1955.

Applicability.

Public Law 385

CHAPTER 871

AN ACT

To amend section 1233 and section 542 (a) (2) of the Internal Revenue Code of 1954.

August 12, 1955
[H. R. 6263]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1233 of the Internal Revenue Code of 1954 is amended by adding at the end thereof a new subsection as follows:

“(f) ARBITRAGE OPERATIONS IN SECURITIES.—In the case of a short sale which had been entered into as an arbitrage operation, to which sale the rule of subsection (b) (2) would apply except as otherwise provided in this subsection—

“(1) subsection (b) (2) shall apply first to substantially identical assets acquired for arbitrage operations held at the close

Income taxes.
68A Stat. 327,
26 USC 1233.

Capital gains and
losses.
Short sales.

of business on the day such sale is made, and only to the extent that the quantity sold short exceeds the substantially identical assets acquired for arbitrage operations held at the close of business on the day such sale is made, shall the holding period of any other such identical assets held by the taxpayer be affected;

“(2) in the event that assets acquired for arbitrage operations are disposed of in such manner as to create a net short position in assets acquired for arbitrage operations, such net short position shall be deemed to constitute a short sale made on that day;

“(3) for the purpose of paragraphs (1) and (2) of this subsection the taxpayer will be deemed as of the close of any business day to hold property which he is or will be entitled to receive or acquire by virtue of any other asset acquired for arbitrage operations or by virtue of any contract he has entered into in an arbitrage operation; and

“(4) for the purpose of this subsection arbitrage operations are transactions involving the purchase and sale of assets for the purpose of profiting from a current difference between the price of the asset purchased and the price of the asset sold, and in which the asset purchased, if not identical to the asset sold, is such that by virtue thereof the taxpayer is, or will be, entitled to acquire assets identical to the assets sold. Such operations must be clearly identified by the taxpayer in his records as arbitrage operations on the day of the transaction or as soon thereafter as may be practicable. Assets acquired for arbitrage operations will include stocks and securities and the right to acquire stocks and securities.”

Applicability.

SEC. 2. The amendment made by the first section of this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act and only in the case of a short sale of property made by the taxpayer after such date.

Personal holding company.
Stock ownership requirement.
68A Stat. 182.
26 USC 542 (a) (2).

SEC. 3. Section 452 (a) (2) of the Internal Revenue Code of 1954 (defining the term “personal holding company”) is hereby amended by adding at the end thereof the following new sentence: “The preceding sentence shall not apply in the case of an organization or trust organized or created before July 1, 1950, if at all times on or after July 1, 1950, and before the close of the taxable year such organization or trust has owned all of the common stock and at least 80 percent of the total number of shares of all other classes of stock of the corporation, but only if such organization or trust is not denied exemption under section 504 or an unlimited charitable deduction is not denied under section 681 (c) and, for this purpose—

68A Stat. 168.
26 USC 504.
68A Stat. 233.
26 USC 681 (c).

“(A) all income of the corporation which is available for distribution as dividends to its shareholders at the close of any taxable year shall be deemed to have been distributed at the close of such year whether or not any portion of such income was in fact distributed; and

68A Stat. 168,
233.
26 USC 504 (a) (1), 681 (c) (1).

“(B) section 504 (a) (1) and section 681 (c) (1) shall also not apply to income attributable to property of a decedent dying before January 1, 1951, which was transferred during his lifetime to a trust or property that was transferred under his will to such trust.”

Applicability.

SEC. 4. The amendment made by section 3 of this Act shall apply only with respect to taxable years beginning after December 31, 1954.
Approved August 12, 1955.