

Subsec. (f). Pub. L. 91-172, §231(c)(2), added subsec. (f).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to expenses incurred after Dec. 31, 1993, see section 13213(e) of Pub. L. 103-66 set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transfers after July 18, 1984, in taxable years ending after such date, subject to election to have amendment apply to transfers after 1983 or to transfers pursuant to existing decrees, see section 421(d) of Pub. L. 98-369, set out as an Effective Date note under section 1041 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT AND REVIVAL OF PRIOR LAW

Amendment by Pub. L. 96-223 (repealing section 702(c)(9) of Pub. L. 95-600 and the amendment made thereby, which had amended this section) applicable in respect of decedents dying after Dec. 31, 1976, and except for certain elections, this title to be applied and administered as if those repealed provisions had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as a note under section 1023 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective as if included in the amendments and additions made by, and the appropriate provisions of Pub. L. 94-455, see section 702(c)(10) of Pub. L. 95-600, set out as a note under section 1014 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective for 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.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 231(c)(2) of Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 231(d) of Pub. L. 91-172, set out as a note under section 217 of this title.

Section 516(d) of Pub. L. 91-172, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) The amendment made by subsection (a) [amending this section] shall apply to sales or other dispositions after October 9, 1969.

“(2) The amendment made by subsection (b) [amending section 1231 of this title] shall apply to taxable years beginning after December 31, 1969.

“(3) The amendments made by subsection (c) [enacting section 1253 and amending sections 162 and 1016 of this title] shall apply to transfers after December 31, 1969, except that section 1253(d)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (c) shall, at the election of the taxpayer (made at such time and in such manner as the Secretary or his delegate may by regulations prescribe), apply to transfers before January 1, 1970, but only with respect to payments made in taxable years ending after December 31, 1969, and beginning before January 1, 1980.”

REPEALS

Pub. L. 95-600, §702(c)(9), cited as a credit to this section, and the amendment made thereby, were repealed by Pub. L. 96-223, title IV, §401(a), 94 Stat. 299, resulting in the text of this section reading as it read prior to enactment of section 702(c)(9). See Effective Date of 1980 Amendment and Revival of Prior Law note set out above.

[§ 1002. Repealed. Pub. L. 94-455, title XIX, § 1901(b)(28)(B)(i), Oct. 4, 1976, 90 Stat. 1799]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 295, related to the recognition of the entire amount of gain or

loss determined under section 1001 on the sale or exchange of property.

EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

PART II—BASIS RULES OF GENERAL APPLICATION

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1011.	Adjusted basis for determining gain or loss.
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[1018.]	Repealed.]
1019.	Property on which lessee has made improvements.
[1020.]	Repealed.]
1021.	Sale of annuities.
[1022.]	Repealed.]
1023.	Cross references.
[1024.]	Renumbered.]

AMENDMENT OF ANALYSIS

For termination of amendment by section 304 of Pub. L. 111-312, see Effective and Termination Dates of 2010 Amendment note set out under section 121 of this title.

For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note set out under section 1 of this title.

AMENDMENTS

2010—Pub. L. 111-312, title III, §§301(a), 304, Dec. 17, 2010, 124 Stat. 3300, 3304, temporarily amended analysis to read as if amendment by Pub. L. 107-16, §542(e)(6), had never been enacted. See 2001 Amendment note below.

2001—Pub. L. 107-16, title V, §542(e)(6), title IX, §901, June 7, 2001, 115 Stat. 86, 150, temporarily added item 1022.

1980—Pub. L. 96-589, §6(h)(2), Dec. 24, 1980, 94 Stat. 3410, struck out item 1018 “Adjustments of capital structure before September 22, 1938”.

Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299, repealed section 2005(e)(1) of Pub. L. 94-455 and the amendment made thereby. See 1986 Amendment note below.

1978—Pub. L. 95-600, title V, §515(5), Nov. 6, 1978, 92 Stat. 2884, substituted “December 31, 1979” for “December 31, 1976” in item 1023.

1976—Pub. L. 94-455, title XX, §2005(e)(1), Oct. 4, 1976, 90 Stat. 1878, which added item 1023 and redesignated former item 1023 as 1024, was repealed by Pub. L. 96-223, §401(a). See section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendments and Revival of Prior Law note under section 1023 of this title.

Pub. L. 94-455, title XIX, §1901(b)(29)(B), (30)(C), Oct. 4, 1976, 90 Stat. 1799, struck out item 1020 “Election in respect of depreciation, etc., allowed before 1952”, and item 1022 “Increase in basis with respect to certain foreign personal holding company stock or securities”.

1964—Pub. L. 88-272, title II, §225(j)(3), Feb. 26, 1964, 78 Stat. 93, added item 1022 and redesignated former item 1022 as 1023.

§ 1011. Adjusted basis for determining gain or loss

(a) General rule

The adjusted basis for determining the gain or loss from the sale or other disposition of prop-

erty, whenever acquired, shall be the basis (determined under section 1012 or other applicable sections of this subchapter and subchapters C (relating to corporate distributions and adjustments), K (relating to partners and partnerships), and P (relating to capital gains and losses)), adjusted as provided in section 1016.

(b) Bargain sale to a charitable organization

If a deduction is allowable under section 170 (relating to charitable contributions) by reason of a sale, then the adjusted basis for determining the gain from such sale shall be that portion of the adjusted basis which bears the same ratio to the adjusted basis as the amount realized bears to the fair market value of the property. (Aug. 16, 1954, ch. 736, 68A Stat. 296; Pub. L. 91-172, title II, § 201(f), Dec. 30, 1969, 83 Stat. 564.)

AMENDMENTS

1969—Pub. L. 91-172 redesignated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to sales made after Dec. 19, 1969, see section 201(g)(6) of Pub. L. 91-172, set out as a note under section 170 of this title.

§ 1012. Basis of property—cost

(a) In general

The basis of property shall be the cost of such property, except as otherwise provided in this subchapter and subchapters C (relating to corporate distributions and adjustments), K (relating to partners and partnerships), and P (relating to capital gains and losses).

(b) Special rule for apportioned real estate taxes

The cost of real property shall not include any amount in respect of real property taxes which are treated under section 164(d) as imposed on the taxpayer.

(c) Determinations by account

(1) In general

In the case of the sale, exchange, or other disposition of a specified security on or after the applicable date, the conventions prescribed by regulations under this section shall be applied on an account by account basis.

(2) Application to certain funds

(A) In general

Except as provided in subparagraph (B), any stock for which an average basis method is permissible under section 1012 which is acquired before January 1, 2012, shall be treated as a separate account from any such stock acquired on or after such date.

(B) Election fund for treatment as single account

If a fund described in subparagraph (A) elects to have this subparagraph apply with respect to one or more of its stockholders—

(i) subparagraph (A) shall not apply with respect to any stock in such fund held by such stockholders, and

(ii) all stock in such fund which is held by such stockholders shall be treated as covered securities described in section

6045(g)(3) without regard to the date of the acquisition of such stock.

A rule similar to the rule of the preceding sentence shall apply with respect to a broker holding such stock as a nominee.

(3) Definitions

For purposes of this section, the terms “specified security” and “applicable date” shall have the meaning given such terms in section 6045(g).

(d) Average basis for stock acquired pursuant to a dividend reinvestment plan

(1) In general

In the case of any stock acquired after December 31, 2010, in connection with a dividend reinvestment plan, the basis of such stock while held as part of such plan shall be determined using one of the methods which may be used for determining the basis of stock in an open-end fund.

(2) Treatment after transfer

In the case of the transfer to another account of stock to which paragraph (1) applies, such stock shall have a cost basis in such other account equal to its basis in the dividend reinvestment plan immediately before such transfer (properly adjusted for any fees or other charges taken into account in connection with such transfer).

(3) Separate accounts; election for treatment as single account

Rules similar to the rules of subsection (c)(2) shall apply for purposes of this subsection.

(4) Dividend reinvestment plan

For purposes of this subsection—

(A) In general

The term “dividend reinvestment plan” means any arrangement under which dividends on any stock are reinvested in stock identical to the stock with respect to which the dividends are paid.

(B) Initial stock acquisition treated as acquired in connection with plan

Stock shall be treated as acquired in connection with a dividend reinvestment plan if such stock is acquired pursuant to such plan or if the dividends paid on such stock are subject to such plan.

(Aug. 16, 1954, ch. 736, 68A Stat. 296; Pub. L. 110-343, div. B, title IV, § 403(b), Oct. 3, 2008, 122 Stat. 3857.)

AMENDMENTS

2008—Pub. L. 110-343 designated first sentence as subsec. (a) and second sentence as subsec. (b), inserted headings, and added subsecs. (c) and (d).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title IV, § 403(e), Oct. 3, 2008, 122 Stat. 3860, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting sections 6045A and 6045B of this title and amending this section and sections 6045 and 6724 of this title] shall take effect on January 1, 2011.

“(2) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—The amendments made by subsection

(a)(3) [amending section 6045 of this title] shall apply to statements required to be furnished after December 31, 2008.”

§ 1013. Basis of property included in inventory

If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(Aug. 16, 1954, ch. 736, 68A Stat. 296.)

§ 1014. Basis of property acquired from a decedent

(a) In general

Except as otherwise provided in this section, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged, or otherwise disposed of before the decedent's death by such person, be—

(1) the fair market value of the property at the date of the decedent's death,

(2) in the case of an election under either section 2032 or section 811(j) of the Internal Revenue Code of 1939 where the decedent died after October 21, 1942, its value at the applicable valuation date prescribed by those sections,

(3) in the case of an election under section 2032A, its value determined under such section, or

(4) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent.

(b) Property acquired from the decedent

For purposes of subsection (a), the following property shall be considered to have been acquired from or to have passed from the decedent:

(1) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent;

(2) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust;

(3) In the case of decedents dying after December 31, 1951, property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust;

(4) Property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will;

(5) In the case of decedents dying after August 26, 1937, and before January 1, 2005, property acquired by bequest, devise, or inheritance or by the decedent's estate from the decedent, if the property consists of stock or securities of a foreign corporation, which with respect to its taxable year next preceding the date of the decedent's death was, under the law applicable to such year, a foreign personal holding company. In such case, the basis shall

be the fair market value of such property at the date of the decedent's death or the basis in the hands of the decedent, whichever is lower;

(6) In the case of decedents dying after December 31, 1947, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any State, or possession of the United States or any foreign country, if at least one-half of the whole of the community interest in such property was includible in determining the value of the decedent's gross estate under chapter 11 of subtitle B (section 2001 and following, relating to estate tax) or section 811 of the Internal Revenue Code of 1939;

(7) In the case of decedents dying after October 21, 1942, and on or before December 31, 1947, such part of any property, representing the surviving spouse's one-half share of property held by a decedent and the surviving spouse under the community property laws of any State, or possession of the United States or any foreign country, as was included in determining the value of the gross estate of the decedent, if a tax under chapter 3 of the Internal Revenue Code of 1939 was payable on the transfer of the net estate of the decedent. In such case, nothing in this paragraph shall reduce the basis below that which would exist if the Revenue Act of 1948 had not been enacted;

(8) In the case of decedents dying after December 31, 1950, and before January 1, 1954, property which represents the survivor's interest in a joint and survivor's annuity if the value of any part of such interest was required to be included in determining the value of decedent's gross estate under section 811 of the Internal Revenue Code of 1939;

(9) In the case of decedents dying after December 31, 1953, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or non-exercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's gross estate under chapter 11 of subtitle B or under the Internal Revenue Code of 1939. In such case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under subsection (a) reduced by the amount allowed to the taxpayer as deductions in computing taxable income under this subtitle or prior income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death of the decedent. Such basis shall be applicable to the property commencing on the death of the decedent. This paragraph shall not apply to—

(A) annuities described in section 72;

(B) property to which paragraph (5) would apply if the property had been acquired by bequest; and

(C) property described in any other paragraph of this subsection.

(10) Property includible in the gross estate of the decedent under section 2044 (relating to certain property for which marital deduction

was previously allowed). In any such case, the last 3 sentences of paragraph (9) shall apply as if such property were described in the first sentence of paragraph (9).

(c) Property representing income in respect of a decedent

This section shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 691.

(d) Special rule with respect to DISC stock

If stock owned by a decedent in a DISC or former DISC (as defined in section 992(a)) acquires a new basis under subsection (a), such basis (determined before the application of this subsection) shall be reduced by the amount (if any) which would have been included in gross income under section 995(c) as a dividend if the decedent had lived and sold the stock at its fair market value on the estate tax valuation date. In computing the gain the decedent would have had if he had lived and sold the stock, his basis shall be determined without regard to the last sentence of section 996(e)(2) (relating to reductions of basis of DISC stock). For purposes of this subsection, the estate tax valuation date is the date of the decedent's death or, in the case of an election under section 2032, the applicable valuation date prescribed by that section.

(e) Appreciated property acquired by decedent by gift within 1 year of death

(1) In general

In the case of a decedent dying after December 31, 1981, if—

(A) appreciated property was acquired by the decedent by gift during the 1-year period ending on the date of the decedent's death, and

(B) such property is acquired from the decedent by (or passes from the decedent to) the donor of such property (or the spouse of such donor),

the basis of such property in the hands of such donor (or spouse) shall be the adjusted basis of such property in the hands of the decedent immediately before the death of the decedent.

(2) Definitions

For purposes of paragraph (1)—

(A) Appreciated property

The term “appreciated property” means any property if the fair market value of such property on the day it was transferred to the decedent by gift exceeds its adjusted basis.

(B) Treatment of certain property sold by estate

In the case of any appreciated property described in subparagraph (A) of paragraph (1) sold by the estate of the decedent or by a trust of which the decedent was the grantor, rules similar to the rules of paragraph (1) shall apply to the extent the donor of such property (or the spouse of such donor) is entitled to the proceeds from such sale.

(Aug. 16, 1954, ch. 736, 68A Stat. 296; Pub. L. 85-320, § 2, Feb. 11, 1958, 72 Stat. 5; Pub. L. 92-178, title V, § 502(f), Dec. 10, 1971, 85 Stat. 550; Pub. L. 94-455, title XIX, § 1901(c)(8), title XX, § 2005(a)(1),

Oct. 4, 1976, 90 Stat. 1803, 1872; Pub. L. 95-600, title V, § 515(1), title VII, § 702(c)(1)(A), Nov. 6, 1978, 92 Stat. 2884, 2926; Pub. L. 96-222, title I, § 107(a)(2)(A), Apr. 1, 1980, 94 Stat. 222; Pub. L. 96-223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299; Pub. L. 97-34, title IV, § 425(a), Aug. 13, 1981, 95 Stat. 318; Pub. L. 97-448, title I, § 104(a)(1)(A), Jan. 12, 1983, 96 Stat. 2379; Pub. L. 105-34, title V, § 508(b), Aug. 5, 1997, 111 Stat. 860; Pub. L. 107-16, title V, § 541, June 7, 2001, 115 Stat. 76; Pub. L. 108-357, title IV, § 413(c)(18), Oct. 22, 2004, 118 Stat. 1508; Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300.)

AMENDMENT OF SECTION

For termination of amendment by section 304 of Pub. L. 111-312, see Effective and Termination Dates of 2010 Amendment note below.

For termination of amendment by section 901 of Pub. L. 107-16, see Termination Date of 2001 Amendment note below.

REFERENCES IN TEXT

Section 811 of the Internal Revenue Code of 1939, referred to in subsecs. (a)(2) and (b)(6), (8), was classified to section 811 of former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See, also, section 7851(e) of this title for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

Chapter 3 of the Internal Revenue Code of 1939, referred to in subsec. (b)(7), was comprised of sections 800 to 951 of former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See also section 7851(a)(2)(A) of this title for applicability of chapter 3 of former title 26. See also section 7851(e) of this title for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

Revenue Act of 1948, referred to in subsec. (b)(7), is act Apr. 2, 1948, ch. 168, 62 Stat. 110. For complete classification of this Act to the Code, see Tables.

The Internal Revenue Code of 1939, referred to in subsec. (b)(9), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

AMENDMENTS

2010—Subsec. (f). Pub. L. 111-312, §§ 301(a), 304, temporarily amended section to read as if amendment by Pub. L. 107-16, § 541, had never been enacted. See 2001 Amendment note and Effective and Termination Dates of 2010 Amendment note below. Prior to amendment, text of subsec. (f) read as follows: “This section shall not apply with respect to decedents dying after December 31, 2009.”

2004—Subsec. (b)(5). Pub. L. 108-357 inserted “and before January 1, 2005,” after “August 26, 1997.”

2001—Subsec. (f). Pub. L. 107-16, §§ 541, 901, temporarily added subsec. (f). See Termination Date of 2001 Amendment note below.

1997—Subsec. (a). Pub. L. 105-34 struck out “or” at end of pars. (1) and (2), struck out the period at end of par. (3) and inserted “, or”, and added par. (4).

1983—Subsec. (b)(10). Pub. L. 97-448 added par. (10).

1981—Subsec. (e). Pub. L. 97-34 added subsec. (e).

1980—Subsec. (a)(3). Pub. L. 96-222 substituted “section 2032A” for “section 2032.1”.

Subsec. (d). Pub. L. 96-223 repealed the amendment made by Pub. L. 94-455, § 2005(a)(1). See 1976 Amendment note below.

1978—Subsec. (a). Pub. L. 95-600, § 702(c)(1)(A), designated existing provisions as pars. (1) and (2) and added par. (3).

Subsec. (d). Pub. L. 95-600, § 515(1), substituted “December 31, 1979” for “December 31, 1976” in heading and text.

1976—Subsec. (b)(6), (7). Pub. L. 94-455, § 1901(c)(8), struck out “Territory,” after “under the community property laws of any State,”.

Subsec. (d). Pub. L. 94-455, § 2005(a)(1), substituted provision relating to the applicability of this section to decedents dying after 1976 for provision relating to a special rule with respect to DISC stock. See Repeals note below.

1971—Subsec. (d). Pub. L. 92-178 added subsec. (d).

1958—Subsec. (d). Pub. L. 85-320 repealed subsec. (d) which made section inapplicable to restricted stock options described in section 421 which the employee has not exercised at death.

EFFECTIVE AND TERMINATION DATES OF 2010 AMENDMENT

Amendment by Pub. L. 111-312 applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as a note under section 121 of this title.

Section 901 of Pub. L. 107-16 applicable to amendments by section 301(a) of Pub. L. 111-312, see section 304 of Pub. L. 111-312, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

TERMINATION DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 inapplicable to estates of decedents dying, gifts made, or generation skipping transfers, after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such estates, gifts, and transfers as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 508(e)(1) of Pub. L. 105-34 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 2031 of this title] shall apply to estates of decedents dying after December 31, 1997.”

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 425(b) of Pub. L. 97-34 provided that: “The amendment made by subsection (a) [amending this section] shall apply to property acquired after the date of the enactment of this Act [Aug. 13, 1981] by decedents dying after December 31, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENTS AND REVIVAL OF PRIOR LAW

Amendment by Pub. L. 96-223 (repealing section 2005(a)(1) of Pub. L. 94-455 and the amendment made thereby, which had amended this section) applicable in respect of decedents dying after Dec. 31, 1976, and ex-

cept for certain elections, this title to be applied and administered as if those repealed provisions had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as a note under section 1023 of this title.

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as an Effective Date of 1980 Amendment note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 702(c)(10) of Pub. L. 95-600 provided that: “The amendments made by this subsection [amending this section and sections 1001, 1223, and 2614 of this title] shall take effect as if included in the amendments and additions made by, and the appropriate provisions of the Tax Reform Act of 1976 [Pub. L. 94-455, Oct. 4, 1976, 90 Stat 1525].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(c)(8) 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.

Amendment by section 2005(a)(1) of Pub. L. 94-455 applicable in respect of decedents dying after Dec. 31, 1976, see section 2005(f) of Pub. L. 94-455, set out as an Effective Date note under section 1015 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-178 applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1972, see section 507 of Pub. L. 92-178, set out as a note under section 991 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-320 applicable with respect to taxable years ending after Dec. 31, 1956, but only in the case of employees dying after such date, see section 3 of Pub. L. 85-320, set out as a note under section 421 of this title.

REPEALS

Pub. L. 94-455, § 2005(a)(1), cited as a credit to this section, and the amendment made thereby, were repealed by Pub. L. 96-223, title IV, § 401(a), 94 Stat. 299, resulting in the text of this section reading as it read prior to enactment of section 2005(a)(1). See Effective Date of 1980 Amendments and Revival of Prior Law note above.

ELECTION OF CARRYOVER BASIS RULES BY CERTAIN ESTATES

Pub. L. 96-223, title IV, § 401(d), Apr. 2, 1980, 94 Stat. 300, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Notwithstanding any other provision of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) of such decedent’s estate may irrevocably elect, within 120 days following the date of enactment of this Act [Apr. 2, 1980] and in such manner as the Secretary of the Treasury or his delegate shall prescribe, to have the basis of all property acquired from or passing from the decedent (within the meaning of section 1014(b) of the Internal Revenue Code of 1986) determined for all purposes under such Code as though the provisions of section 2005 of the Tax Reform Act of 1976 [Pub. L. 94-455] (as amended by the provisions of section 702(c) of the Revenue Act of 1978 [Pub. L. 95-600]) applied to such property acquired or passing from such decedent.”

§ 1015. Basis of property acquired by gifts and transfers in trust

(a) Gifts after December 31, 1920

If the property was acquired by gift after December 31, 1920, the basis shall be the same as it

would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis (adjusted for the period before the date of the gift as provided in section 1016) is greater than the fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the Secretary shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the Secretary finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the Secretary as of the date or approximate date at which, according to the best information that the Secretary is able to obtain, such property was acquired by such donor or last preceding owner.

(b) Transfer in trust after December 31, 1920

If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a gift, bequest, or devise), the basis shall be the same as it would be in the hands of the grantor increased in the amount of gain or decreased in the amount of loss recognized to the grantor on such transfer under the law applicable to the year in which the transfer was made.

(c) Gift or transfer in trust before January 1, 1921

If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition.

(d) Increased basis for gift tax paid

(1) In general

If—

(A) the property is acquired by gift on or after September 2, 1958, the basis shall be the basis determined under subsection (a), increased (but not above the fair market value of the property at the time of the gift) by the amount of gift tax paid with respect to such gift, or

(B) the property was acquired by gift before September 2, 1958, and has not been sold, exchanged, or otherwise disposed of before such date, the basis of the property shall be increased on such date by the amount of gift tax paid with respect to such gift, but such increase shall not exceed an amount equal to the amount by which the fair market value of the property at the time of the gift exceeded the basis of the property in the hands of the donor at the time of the gift.

(2) Amount of tax paid with respect to gift

For purposes of paragraph (1), the amount of gift tax paid with respect to any gift is an amount which bears the same ratio to the amount of gift tax paid under chapter 12 with respect to all gifts made by the donor for the calendar year (or preceding calendar period) in which such gift is made as the amount of such gift bears to the taxable gifts (as defined in

section 2503(a) but computed without the deduction allowed by section 2521) made by the donor during such calendar year or period. For purposes of the preceding sentence, the amount of any gift shall be the amount included with respect to such gift in determining (for the purposes of section 2503(a)) the total amount of gifts made during the calendar year or period, reduced by the amount of any deduction allowed with respect to such gift under section 2522 (relating to charitable deduction) or under section 2523 (relating to marital deduction).

(3) Gifts treated as made one-half by each spouse

For purposes of paragraph (1), where the donor and his spouse elected, under section 2513 to have the gift considered as made one-half by each, the amount of gift tax paid with respect to such gift under chapter 12 shall be the sum of the amounts of tax paid with respect to each half of such gift (computed in the manner provided in paragraph (2)).

(4) Treatment as adjustment to basis

For purposes of section 1016(b), an increase in basis under paragraph (1) shall be treated as an adjustment under section 1016(a).

(5) Application to gifts before 1955

With respect to any property acquired by gift before 1955, references in this subsection to any provision of this title shall be deemed to refer to the corresponding provision of the Internal Revenue Code of 1939 or prior revenue laws which was effective for the year in which such gift was made.

(6) Special rule for gifts made after December 31, 1976

(A) In general

In the case of any gift made after December 31, 1976, the increase in basis provided by this subsection with respect to any gift for the gift tax paid under chapter 12 shall be an amount (not in excess of the amount of tax so paid) which bears the same ratio to the amount of tax so paid as—

- (i) the net appreciation in value of the gift, bears to
- (ii) the amount of the gift.

(B) Net appreciation

For purposes of paragraph (1), the net appreciation in value of any gift is the amount by which the fair market value of the gift exceeds the donor's adjusted basis immediately before the gift.

(e) Gifts between spouses

In the case of any property acquired by gift in a transfer described in section 1041(a), the basis of such property in the hands of the transferee shall be determined under section 1041(b)(2) and not this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 298; Pub. L. 85-866, title I, § 43(a), Sept. 2, 1958, 72 Stat. 1640; Pub. L. 91-614, title I, § 102(d)(1), Dec. 31, 1970, 84 Stat. 1841; Pub. L. 94-455, title XIX, §§ 1901(a)(122), 1906(b) (13)(A), title XX, § 2005(c), Oct. 4, 1976, 90 Stat. 1784, 1834, 1877; Pub. L. 97-34,

title IV, § 442(d)(1), Aug. 13, 1981, 95 Stat. 322; Pub. L. 98-369, div. A, title IV, § 421(b)(5), July 18, 1984, 98 Stat. 794.)

REFERENCES IN TEXT

Section 2521, referred to in subsec. (d)(2), was repealed by Pub. L. 94-455, title XX, § 2001(b)(3), Oct. 4, 1976, 90 Stat. 1849.

The Internal Revenue Code of 1939, referred to in subsec. (d)(5), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

AMENDMENTS

1984—Subsec. (e). Pub. L. 98-369 added subsec. (e).

1981—Subsec. (d)(2). Pub. L. 97-34 substituted “calendar year (or preceding calendar period)” for “calendar quarter (or calendar year if the gift was made before January 1, 1971)” and “calendar year or period” for “calendar quarter or year” in two places.

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

Subsec. (d)(1)(A), (B). Pub. L. 94-455, § 1901(a)(122), substituted “September 2, 1958” for “the date of enactment of the Technical Amendments Act of 1958”.

Subsec. (d)(6). Pub. L. 94-455, § 2005(c), added par. (6).

1970—Subsec. (d)(2). Pub. L. 91-614 substituted “calendar quarter (or calendar year if the gift was made before January 1, 1971)” for “calendar year” the first place it appears and “calendar quarter or year” for “calendar year” every other place it appears.

1958—Subsec. (d). Pub. L. 85-866 added subsec. (d).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to transfers after July 18, 1984, in taxable years ending after such date, subject to election to have amendment apply to transfers after 1983 or to transfers pursuant to existing decrees, see section 421(d) of Pub. L. 98-369, set out as an Effective Date note under section 1041 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97-34, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(122) 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.

Section 2005(f) of Pub. L. 94-455, as amended by Pub. L. 95-600, title V, § 515(6), Nov. 6, 1978, 92 Stat. 2884, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting sections 1023, 1040, 6039A, and 6694 of this title, amending sections 691, 1016, and 1246 of this title, and renumbering former section 1023 as 1024] shall apply in respect of decedents dying after December 31, 1979.

“(2) The amendment made by subsection (c) [amending this section] shall apply to gifts made after December 31, 1976.”

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91-614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1953, and ending after

Aug. 16, 1954, see section 1(c)(1) of Pub. L. 85-866, set out as a note under section 165 of this title.

§ 1016. Adjustments to basis

(a) General rule

Proper adjustment in respect of the property shall in all cases be made—

(1) for expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made—

(A) for taxes or other carrying charges described in section 266, or

(B) for expenditures described in section 173 (relating to circulation expenditures),

for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior taxable years;

(2) in respect of any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent of the amount—

(A) allowed as deductions in computing taxable income under this subtitle or prior income tax laws, and

(B) resulting (by reason of the deductions so allowed) in a reduction for any taxable year of the taxpayer's taxes under this subtitle (other than chapter 2, relating to tax on self-employment income), or prior income, war-profits, or excess-profits tax laws,

but not less than the amount allowable under this subtitle or prior income tax laws. Where no method has been adopted under section 167 (relating to depreciation deduction), the amount allowable shall be determined under the straight line method. Subparagraph (B) of this paragraph shall not apply in respect of any period since February 28, 1913, and before January 1, 1952, unless an election has been made under section 1020 (as in effect before the date of the enactment of the Tax Reform Act of 1976). Where for any taxable year before the taxable year 1932 the depletion allowance was based on discovery value or a percentage of income, then the adjustment for depletion for such year shall be based on the depletion which would have been allowable for such year if computed without reference to discovery value or a percentage of income;

(3) in respect of any period—

(A) before March 1, 1913,

(B) since February 28, 1913, during which such property was held by a person or an organization not subject to income taxation under this chapter or prior income tax laws,

(C) since February 28, 1913, and before January 1, 1958, during which such property was held by a person subject to tax under part I of subchapter L (or the corresponding provisions of prior income tax laws), to the extent that paragraph (2) does not apply, and

(D) since February 28, 1913, during which such property was held by a person subject to tax under part II¹ of subchapter L (or the corresponding provisions of prior income tax laws), to the extent that paragraph (2) does not apply,

¹ See References in Text note below.

for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained;

(4) in the case of stock (to the extent not provided for in the foregoing paragraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 (40 Stat. 1057), or the Revenue Act of 1921 (42 Stat. 227), out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or 1921);

(5) in the case of any bond (as defined in section 171(d)) the interest on which is wholly exempt from the tax imposed by this subtitle, to the extent of the amortizable bond premium disallowable as a deduction pursuant to section 171(a)(2), and in the case of any other bond (as defined in section 171(d)) to the extent of the deductions allowable pursuant to section 171(a)(1) (or the amount applied to reduce interest payments under section 171(e)(2)) with respect thereto;

(6) in the case of any municipal bond (as defined in section 75(b)), to the extent provided in section 75(a)(2);

(7) in the case of a residence the acquisition of which resulted, under section 1034 (as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997), in the nonrecognition of any part of the gain realized on the sale, exchange, or involuntary conversion of another residence, to the extent provided in section 1034(e) (as so in effect);

(8) in the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to section 77, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability;

(9) for amounts allowed as deductions as deferred expenses under section 616(b) (relating to certain expenditures in the development of mines) and resulting in a reduction of the taxpayer's taxes under this subtitle, but not less than the amounts allowable under such section for the taxable year and prior years;

[(10) Repealed. Pub. L. 94-455, title XIX, § 1901(b)(21)(G), Oct. 4, 1976, 90 Stat. 1798]

(11) for deductions to the extent disallowed under section 268 (relating to sale of land with unharvested crops), notwithstanding the provisions of any other paragraph of this subsection;

(12) to the extent provided in section 28(h) of the Internal Revenue Code of 1939 in the case of amounts specified in a shareholder's consent made under section 28 of such code;

[(13) Repealed. Pub. L. 108-357, title IV, § 413(c)(19), Oct. 22, 2004, 118 Stat. 1509]

(14) for amounts allowed as deductions as deferred expenses under section 174(b)(1) (relating to research and experimental expendi-

tures) and resulting in a reduction of the taxpayers' taxes under this subtitle, but not less than the amounts allowable under such section for the taxable year and prior years;

(15) for deductions to the extent disallowed under section 272 (relating to disposal of coal or domestic iron ore), notwithstanding the provisions of any other paragraph of this subsection;

(16) in the case of any evidence of indebtedness referred to in section 811(b) (relating to amortization of premium and accrual of discount in the case of life insurance companies), to the extent of the adjustments required under section 811(b) (or the corresponding provisions of prior income tax laws) for the taxable year and all prior taxable years;

(17) to the extent provided in section 1367 in the case of stock of, and indebtedness owed to, shareholders of an S corporation;

(18) to the extent provided in section 961 in the case of stock in controlled foreign corporations (or foreign corporations which were controlled foreign corporations) and of property by reason of which a person is considered as owning such stock;

(19) to the extent provided in section 50(c), in the case of expenditures with respect to which a credit has been allowed under section 38;

(20) for amounts allowed as deductions under section 59(e) (relating to optional 10-year writeoff of certain tax preferences);

(21) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends);

(22) in the case of qualified replacement property the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(d),²

(23) in the case of property the acquisition of which resulted under section 1043, 1044, 1045, or 1397B in the nonrecognition of any part of the gain realized on the sale of other property, to the extent provided in section 1043(c), 1044(d), 1045(b)(3), or 1397B(b)(4), as the case may be.²

(24) to the extent provided in section 179A(e)(6)(A),²

(25) to the extent provided in section 30(e)(1),²

(26) to the extent provided in sections 23(g) and 137(e),²

(27) in the case of a residence with respect to which a credit was allowed under section 1400C, to the extent provided in section 1400C(h),²

(28) in the case of a facility with respect to which a credit was allowed under section 45F, to the extent provided in section 45F(f)(1),²

(29) in the case of railroad track with respect to which a credit was allowed under section 45G, to the extent provided in section 45G(e)(3),²

(30) to the extent provided in section 179B(c),²

(31) to the extent provided in section 179D(e),²

(32) to the extent provided in section 45L(e), in the case of amounts with respect to which a credit has been allowed under section 45L,²

² So in original. The comma probably should be a semicolon.

(33) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C,²

(34) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D,²

(35) to the extent provided in section 30B(h)(4),²

(36) to the extent provided in section 30C(e)(1),² and

(37) to the extent provided in section 30D(f)(1).

(b) Substituted basis

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in subsection (a) shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

(c) Increase in basis of property on which additional estate tax is imposed

(1) Tax imposed with respect to entire interest

If an additional estate tax is imposed under section 2032A(c)(1) with respect to any interest in property and the qualified heir makes an election under this subsection with respect to the imposition of such tax, the adjusted basis of such interest shall be increased by an amount equal to the excess of—

(A) the fair market value of such interest on the date of the decedent's death (or the alternate valuation date under section 2032, if the executor of the decedent's estate elected the application of such section), over

(B) the value of such interest determined under section 2032A(a).

(2) Partial dispositions

(A) In general

In the case of any partial disposition for which an election under this subsection is made, the increase in basis under paragraph (1) shall be an amount—

(i) which bears the same ratio to the increase which would be determined under paragraph (1) (without regard to this paragraph) with respect to the entire interest, as

(ii) the amount of the tax imposed under section 2032A(c)(1) with respect to such disposition bears to the adjusted tax difference attributable to the entire interest (as determined under section 2032A(c)(2)(B)).

(B) Partial disposition

For purposes of subparagraph (A), the term “partial disposition” means any disposition or cessation to which subsection (c)(2)(D), (h)(1)(B), or (i)(1)(B) of section 2032A applies.

(3) Time adjustment made

Any increase in basis under this subsection shall be deemed to have occurred immediately

before the disposition or cessation resulting in the imposition of the tax under section 2032A(c)(1).

(4) Special rule in the case of substituted property

If the tax under section 2032A(c)(1) is imposed with respect to qualified replacement property (as defined in section 2032A(h)(3)(B)) or qualified exchange property (as defined in section 2032A(i)(3)), the increase in basis under paragraph (1) shall be made by reference to the property involuntarily converted or exchanged (as the case may be).

(5) Election

(A) In general

An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable.

(B) Interest on recaptured amount

If an election is made under this subsection with respect to any additional estate tax imposed under section 2032A(c)(1), for purposes of section 6601 (relating to interest on underpayments), the last date prescribed for payment of such tax shall be deemed to be the last date prescribed for payment of the tax imposed by section 2001 with respect to the estate of the decedent (as determined for purposes of section 6601).

(d) Reduction in basis of automobile on which gas guzzler tax was imposed

If—

(1) the taxpayer acquires any automobile with respect to which a tax was imposed by section 4064, and

(2) the use of such automobile by the taxpayer begins not more than 1 year after the date of the first sale for ultimate use of such automobile,

the basis of such automobile shall be reduced by the amount of the tax imposed by section 4064 with respect to such automobile. In the case of importation, if the date of entry or withdrawal from warehouse for consumption is later than the date of the first sale for ultimate use, such later date shall be substituted for the date of such first sale in the preceding sentence.

(e) Cross reference

For treatment of separate mineral interests as one property, see section 614.

(Aug. 16, 1954, ch. 736, 68A Stat. 299; June 29, 1956, ch. 464, §4(c), 70 Stat. 407; Pub. L. 85-866, title I, §§2(b), 64(d)(2), Sept. 2, 1958, 72 Stat. 1607, 1656; Pub. L. 86-69, §3(d), June 25, 1959, 73 Stat. 139; Pub. L. 87-834, §§2(f), 8(g)(2), 12(b)(4), Oct. 16, 1962, 76 Stat. 972, 998, 1031; Pub. L. 88-272, title II, §§203(a)(3)(C), 225(j)(2), 227(b)(5), Feb. 26, 1964, 78 Stat. 34, 93, 98; Pub. L. 91-172, title II, §231(c)(3), title V, §§504(c)(4), 516(c)(2)(B), Dec. 30, 1969, 83 Stat. 580, 633, 648; Pub. L. 94-455, title XIX, §1901(a)(123), (b)(1)(F)(ii), (21)(G), (29)(A), (30)(A), title XX, §2005(a)(3), Oct. 4, 1976, 90 Stat. 1784, 1790, 1798, 1799, 1876; Pub. L. 95-472, §4(b), Oct. 17, 1978, 92 Stat. 1335; Pub. L. 95-600, title V, §515(2), title VI, §601(b)(3), title VII, §702(r)(3), Nov. 6,

1978, 92 Stat. 2884, 2896, 2938; Pub. L. 95–618, title I, § 101(b)(3), title II, § 201(b), Nov. 9, 1978, 92 Stat. 3179, 3183; Pub. L. 96–222, title I, §§ 106(a)(2), (3), 107(a)(2)(C), Apr. 1, 1980, 94 Stat. 221, 222; Pub. L. 96–223, title IV, § 401(a), (c)(1), Apr. 2, 1980, 94 Stat. 299, 300; Pub. L. 97–34, title II, § 212(d)(2)(G), title IV, § 421(g), Aug. 13, 1981, 95 Stat. 239, 310; Pub. L. 97–248, title II, §§ 201(c)(2), 205(a)(5)(B), Sept. 3, 1982, 96 Stat. 418, 429; Pub. L. 97–354, § 5(a)(33), Oct. 19, 1982, 96 Stat. 1695; Pub. L. 98–369, div. A, title I, §§ 43(a)(2), 53(d)(3), title II, § 211(b)(14), title IV, § 474(r)(23), title V, § 541(b)(2), July 18, 1984, 98 Stat. 558, 568, 756, 844, 890; Pub. L. 99–514, title II, § 241(b)(2), title VII, § 701(e)(4)(D), title XIII, § 1303(b)(3), title XVIII, § 1899A(25), Oct. 22, 1986, 100 Stat. 2181, 2343, 2658, 2959; Pub. L. 100–647, title I, §§ 1006(j)(1)(B), 1018(u)(22), Nov. 10, 1988, 102 Stat. 3411, 3591; Pub. L. 101–194, title V, § 502(b)(2), Nov. 30, 1989, 103 Stat. 1755; Pub. L. 101–508, title XI, §§ 11801(c)(1), 11812(b)(10), 11813(b)(19), Nov. 5, 1990, 104 Stat. 1388–522, 1388–535, 1388–555; Pub. L. 102–486, title XIX, § 1913(a)(3)(A), (b)(2)(B), Oct. 24, 1992, 106 Stat. 3019, 3020; Pub. L. 103–66, title XIII, §§ 13114(b), 13213(a)(2)(F), 13261(f)(3), Aug. 10, 1993, 107 Stat. 431, 474, 539; Pub. L. 104–188, title I, § 1704(t)(56), 1807(c)(5), Aug. 20, 1996, 110 Stat. 1890, 1902; Pub. L. 105–34, title III, §§ 312(d)(6), 313(b)(1), title VII, § 701(b)(2), Aug. 5, 1997, 111 Stat. 840, 842, 869; Pub. L. 106–554, § 1(a)(7) [title I, § 116(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–603; Pub. L. 107–16, title II, § 205(b)(3), June 7, 2001, 115 Stat. 53; Pub. L. 108–357, title II, § 245(c)(2), title III, §§ 338(b)(4), 339(d), title IV, § 413(c)(19), Oct. 22, 2004, 118 Stat. 1448, 1481, 1484, 1509; Pub. L. 109–58, title XIII, §§ 1331(b)(1), 1332(c), 1333(b)(1), 1335(b)(4), 1341(b)(2), 1342(b)(2), Aug. 8, 2005, 119 Stat. 1023, 1026, 1029, 1036, 1049, 1051; Pub. L. 109–135, title IV, § 412(nn), Dec. 21, 2005, 119 Stat. 2639; Pub. L. 110–172, §§ 7(a)(1)(C), 11(a)(21), (22), Dec. 29, 2007, 121 Stat. 2481, 2486; Pub. L. 110–343, div. B, title II, § 205(d)(2), Oct. 3, 2008, 122 Stat. 3839; Pub. L. 111–5, div. B, title I, §§ 1141(b)(3), 1142(b)(6), Feb. 17, 2009, 123 Stat. 328, 331; Pub. L. 111–148, title X, § 10909(b)(2)(L), (c), Mar. 23, 2010, 124 Stat. 1023; Pub. L. 111–312, title I, § 101(b)(1), Dec. 17, 2010, 124 Stat. 3298.)

AMENDMENT OF SECTION

For termination of amendment by section 10909(c) of Pub. L. 111–148, see Effective and Termination Dates of 2010 Amendment note below.

For termination of amendment by section 901 of Pub. L. 107–16, see Effective and Termination Dates of 2001 Amendment note below.

REFERENCES IN TEXT

Section 1020, referred to in subsec. (a)(2), was repealed by Pub. L. 94–455, title XIX, § 1901(a)(125), Oct. 4, 1976, 90 Stat. 1784.

The Tax Reform Act of 1976, referred to in subsec. (a)(2), is Pub. L. 94–455, Oct. 4, 1976, 90 Stat. 1520, as amended, which was enacted Oct. 4, 1976. For complete classification of this Act to the Code, see Tables.

Part II of subchapter L, referred to in subsec. (a)(3)(D), was repealed and part III of subchapter L was redesignated as part II by Pub. L. 99–514, title X, § 1024(a)(1), (2), Oct. 22, 1986, 100 Stat. 2405.

The Revenue Act of 1918 (40 Stat. 1057), referred to in subsec. (a)(4), is act Feb. 24, 1919, ch. 18, 40 Stat. 1057. For complete classification of this Act to the Code, see Tables.

The Revenue Act of 1921 (42 Stat. 227), referred to in subsec. (a)(4), is act Nov. 23, 1921, ch. 136, 42 Stat. 227. For complete classification of this Act to the Code, see Tables.

Section 218 of the Revenue Act of 1918 or 1921, referred to in subsec. (a)(4), was not classified to the Code.

The date of the enactment of the Taxpayer Relief Act of 1997, referred to in subsec. (a)(7), is the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997.

Section 28 of the Internal Revenue Code of 1939, referred to in subsec. (a)(12), was classified to section 28 of former Title 26, Internal Revenue Code. Section 28 was repealed by section 7851(a)(1)(A) of this title. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See, also, section 7851(e) of this title for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

CODIFICATION

Section 10909(b)(2)(L) of Pub. L. 111–148, which directed the amendment of section 1016(a)(26) without specifying the act to be amended, was executed to this section, which is section 1016 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2010 Amendment note below.

AMENDMENTS

2010—Subsec. (a)(26). Pub. L. 111–148, § 10909(b)(2)(L), (c), as amended by Pub. L. 111–312, temporarily substituted “36C(g)” for “23(g)”. See Codification note above and Effective and Termination Dates of 2010 Amendment note below.

2009—Subsec. (a)(25). Pub. L. 111–5, § 1142(b)(6), substituted “section 30(e)(1)” for “section 30(d)(1)”.

Subsec. (a)(37). Pub. L. 111–5, § 1141(b)(3), which directed amendment of subsec. (a)(25) by substituting “section 30D(f)(1)” for “section 30D(e)(4)”, was executed by making the substitution in subsec. (a)(37) to reflect the probable intent of Congress.

2008—Subsec. (a)(37). Pub. L. 110–343 added par. (37).

2007—Subsec. (a)(31), (32). Pub. L. 110–172, § 7(a)(1)(C), redesignated pars. (32) and (33) as (31) and (32), respectively, and struck out former par. (31) which read as follows: “in the case of a facility with respect to which a credit was allowed under section 45H, to the extent provided in section 45H(d),”.

Subsec. (a)(33). Pub. L. 110–172, § 11(a)(21), substituted “section 25C(f)” for “section 25C(e)”.

Pub. L. 110–172, § 7(a)(1)(C), redesignated par. (34) as (33). Former par. (33) redesignated (32).

Subsec. (a)(34), (35). Pub. L. 110–172, § 7(a)(1)(C), redesignated pars. (35) and (36) as (34) and (35), respectively. Former par. (34) redesignated (33).

Subsec. (a)(36). Pub. L. 110–172, § 11(a)(22), substituted “section 30C(e)(1)” for “section 30C(f)”.

Pub. L. 110–172, § 7(a)(1)(C), redesignated par. (37) as (36). Former par. (36) redesignated (35).

Subsec. (a)(37). Pub. L. 110–172, § 7(a)(1)(C), redesignated par. (37) as (36).

2005—Subsec. (a)(23). Pub. L. 109–135 substituted “1045(b)(3)” for “1045(b)(4)”.

Subsec. (a)(32). Pub. L. 109–58, § 1331(b)(1), added par. (32).

Subsec. (a)(33). Pub. L. 109–58, § 1332(c), added par. (33).

Subsec. (a)(34). Pub. L. 109–58, § 1333(b)(1), added par. (34).

Subsec. (a)(35). Pub. L. 109–58, § 1335(b)(4), added par. (35).

Subsec. (a)(36). Pub. L. 109–58, § 1341(b)(2), added par. (36).

Subsec. (a)(37). Pub. L. 109–58, § 1342(b)(2), added par. (37).

2004—Subsec. (a)(13). Pub. L. 108–357, § 413(c)(19), struck out par. (13) which read as follows: “to the extent provided in section 551(e) in the case of the stock of United States shareholders in a foreign personal holding company;”.

Subsec. (a)(29). Pub. L. 108-357, § 245(c)(2), added par. (29).

Subsec. (a)(30). Pub. L. 108-357, § 338(b)(4), added par. (30).

Subsec. (a)(31). Pub. L. 108-357, § 339(d), added par. (31). 2001—Subsec. (a)(28). Pub. L. 107-16, §§ 205(b)(3), 901, temporarily added par. (28). See Effective and Termination Dates of 2001 Amendment note below.

2000—Subsec. (a)(23). Pub. L. 106-554 substituted “1045, or 1397B” for “or 1045” and “1045(b)(4), or 1397B(b)(4)” for “or 1045(b)(4)”.

1997—Subsec. (a)(7). Pub. L. 105-34, § 312(d)(6), inserted “(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)” after “section 1034” and “(as so in effect)” after “section 1034(e)”.

Subsec. (a)(23). Pub. L. 105-34, § 313(b)(1), substituted “, 1044, or 1045” for “or 1044” and “, 1044(d), or 1045(b)(4)” for “or 1044(d)”.

Subsec. (a)(27). Pub. L. 105-34, § 701(b)(2), added par. (27).

1996—Subsec. (a)(20). Pub. L. 104-188, § 1704(t)(56), provided that section 11813(b)(19) of Pub. L. 101-508 shall be applied as if “Paragraph (20) of section 1016(a), as redesignated by section 11801,” appeared instead of “paragraph (21) of section 1016(a)”. See 1990 Amendment note below.

Subsec. (a)(26). Pub. L. 104-188, § 1807(c)(5), added par. (26).

1993—Subsec. (a)(19) to (23). Pub. L. 103-66, § 13261(f)(3), redesignated pars. (20) to (24) as (19) to (23), respectively, and struck out former par. (19) which read as follows: “for amounts allowed as deductions for payments made on account of transfers of franchises, trademarks, or trade names under section 1253(d)(2);”.

Subsec. (a)(24). Pub. L. 103-66, § 13261(f)(3), redesignated par. (25) as (24). Former par. (24) redesignated (23).

Pub. L. 103-66, § 13114(b), substituted “section 1043 or 1044” for “section 1043” and “section 1043(c) or 1044(d), as the case may be” for “section 1043(c)”.

Subsec. (a)(25), (26). Pub. L. 103-66, § 13261(f)(3), redesignated pars. (25) and (26) as (24) and (25), respectively.

Subsec. (e). Pub. L. 103-66, § 13213(a)(2)(F), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

“(1) For treatment of certain expenses incident to the purchase of a residence which were deducted as moving expenses by the taxpayer or his spouse under section 217(a), see section 217(e).

“(2) For treatment of separate mineral interests as one property, see section 614.”

1992—Subsec. (a)(25), (26). Pub. L. 102-486 added pars. (25) and (26).

1990—Subsec. (a)(2). Pub. L. 101-508, § 11812(b)(10), substituted “under the straight line method” for “under section 167(b)(1)” in concluding provisions.

Subsec. (a)(20). Pub. L. 101-508, § 11813(b)(19), which directed the amendment of subsec. (a)(21) by striking “section 48(q)” and inserting “section 50(c)”, was executed to subsec. (a)(20). See 1996 Amendment note above.

Pub. L. 101-508, § 11801(c)(1), redesignated par. (21) as (20) and struck out former par. (20) which read as follows: “to the extent provided in section 23(e), in the case of property with respect to which a credit has been allowed under section 23;”.

Subsec. (a)(21) to (25). Pub. L. 101-508, § 11801(c)(1), redesignated pars. (21) to (25) as (20) to (24), respectively.

1989—Subsec. (a)(25). Pub. L. 101-194 added par. (25).

1988—Subsec. (a)(5). Pub. L. 100-647, § 1006(j)(1)(B), inserted “(or the amount applied to reduce interest payments under section 171(e)(2))” after “allowable pursuant to section 171(a)(1)”.

Subsec. (a)(21) to (26). Pub. L. 100-647, § 1018(u)(22), added pars. (21) to (24) and struck out former pars. (23) to (26) which read as follows:

“(23) to the extent provided in section 48(q) in the case of expenditures with respect to which a credit has been allowed under section 38;

“(24) for amounts allowed as deductions under section 59(d) (relating to optional 10-year writeoff of certain tax preferences);

“(25) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends); and

“(26) in the case of qualified replacement property, the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(c).”

Former pars. (21) and (22) had been struck out previously.

1986—Subsec. (a). Pub. L. 99-514, § 1899A(25), which directed the amendment of pars. (23) to (26) by substituting a semicolon for a comma at the end thereof was executed to pars. (24) to (26) in view of the prior repeal of par. (23).

Pub. L. 99-514, § 1303(b)(3), which directed the amendment of subsec. (a) by striking out par. (22) and redesignating pars. (23) to (27) as (22) to (26), respectively, was executed by striking out par. (21) to reflect the probable intent of Congress in view of the amendment by section 241(b)(2) of Pub. L. 99-514. Prior to the amendment, par. (21) read as follows: “to the extent provided in section 1395 in the case of stock of shareholders of a general stock ownership corporation (as defined in section 1391) which makes the election provided by section 1392;”.

Pub. L. 99-514, § 241(b)(2), redesignated pars. (17) to (27) as (16) to (26), respectively, and struck out former par. (16) which read as follows: “for amounts allowed as deductions for expenditures treated as deferred expenses under section 177 (relating to trademark and trade name expenditures) and resulting in a reduction of the taxpayer’s taxes under this subtitle, but not less than the amounts allowable under such section for the taxable year and prior years;”.

Subsec. (a)(24). Pub. L. 99-514, § 701(e)(4)(D), substituted “section 59(d)” for “section 58(i)”.

1984—Subsec. (a)(17). Pub. L. 98-369, § 211(b)(14), substituted “section 811(b)” for “section 818(b)” in two places.

Subsec. (a)(21). Pub. L. 98-369, § 474(r)(23), substituted “section 23(e)” for “section 44C(e)” and “section 23” for “section 44C”.

Subsec. (a)(26). Pub. L. 98-369, § 53(d)(3), added par. (26).

Subsec. (a)(27). Pub. L. 98-369, § 541(b)(2), added par. (27).

Subsec. (b). Pub. L. 98-369, § 43(a)(2), struck out “The term ‘substituted basis’ as used in this section means a basis determined under any provision of this subchapter and subchapters C (relating to corporate distributions and adjustments), K (relating to partners and partnerships), and P (relating to capital gains and losses), or under any corresponding provision of a prior income tax law, providing that the basis shall be determined (1) by reference to the basis in the hands of a transferor, donor, or grantor, or (2) by reference to other property held at any time by the person for whom the basis is to be determined.” See section 7701(a)(42) of this title.

1982—Subsec. (a)(18). Pub. L. 97-354 substituted “section 1367” for “section 1376”, “indebtedness owed to” for “indebtedness owing”, and “an S corporation” for “an electing small business corporation (as defined in section 1371(b))”.

Subsec. (a)(24). Pub. L. 97-248, § 205(a)(5)(B), substituted “to the extent provided in section 48(q)” for “to the extent provided in section 48(g)(5)”.

Subsec. (a)(25). Pub. L. 97-248, § 201(c)(2), added par. (25).

1981—Subsec. (a)(24). Pub. L. 97-34, § 212(d)(2)(G), added par. (24).

Subsec. (c). Pub. L. 97-34, § 421(g), substituted provisions respecting increase in basis of property on which additional estate tax is imposed for provisions for increase in basis in the case of certain involuntary conversions, if such compulsory or involuntary conversions are within the meaning of section 1033, and an additional estate tax is imposed under section 2032A, and provisions respecting time adjustment made.

1980—Subsec. (a)(22). Pub. L. 96-222, § 106(a)(2), redesignated par. (21), relating to the extent provided in sec-

tion 1395 in the case of stock of shareholders of a general stock ownership corporation, as (22).

Subsec. (a)(23). Pub. L. 96-223, §401(a), repealed the amendments made by Pub. L. 94-455, §2005(a)(3), and Pub. L. 95-600, §702(r)(3). See 1976 and 1978 Amendment notes below.

Subsec. (c). Pub. L. 96-223, §401(c)(1), struck out provision relating to the net appreciation of in value of certain property and struck out references to section 1023 of this title.

1978—Subsec. (a)(21). Pub. L. 95-618, §101(b)(3), added par. (21) relating to an adjustment to the extent provided in section 44C.

Pub. L. 95-600, §601(b)(3), as amended by Pub. L. 96-222, §106(a)(3), added par. (21) relating to an adjustment to the extent provided in section 1395.

Subsec. (a)(23). Pub. L. 95-600, §702(r)(3), which redesignated par. (23) as (21), was repealed by Pub. L. 96-222, §107(a)(2)(C), and Pub. L. 96-223, §401(a). See Repeals note below.

Pub. L. 95-600, §515(2), substituted “December 31, 1979” for “December 31, 1976”.

Subsec. (c). Pub. L. 95-472 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95-618, §201(b), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 95-472 redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 95-618, §201(b), redesignated former subsec. (d) as (e).

1976—Subsec. (a)(2). Pub. L. 94-455, §1901(b)(29)(A), inserted “(as in effect before the date of the enactment of the Tax Reform Act of 1976)” after “under section 1020”.

Subsec. (a)(10). Pub. L. 94-455, §1901(b)(21)(G), struck out par. (10) which related to adjustment for the amounts allowed as deductions as deferred expenses under section 615(b) of this title.

Subsec. (a)(13). Pub. L. 94-455, §1901(b)(1)(F)(ii), substituted “section 551(e)” for “section 551(f)”.

Subsec. (a)(19). Pub. L. 94-455, §1901(a)(123), (b)(30)(A), redesignated par. (20) as (19). Former par. (19), which related to adjustment of section 38 property to the extent provided in sections 48(g) and 203 of this title, was struck out.

Subsec. (a)(20). Pub. L. 94-455, §1901(b)(30)(A), redesignated par. (22) as (20). Former par. (20) redesignated (19).

Subsec. (a)(21). Pub. L. 94-455, §1901(b)(30)(A), struck out par. (21) which related to property adjustment to the extent provided in section 1022 of this title.

Subsec. (a)(22). Pub. L. 94-455, §1901(b)(30)(A), redesignated par. (22) as (20).

Subsec. (a)(23). Pub. L. 94-455, §2005(a)(3), added par. (23). See Repeals note below.

1969—Subsec. (a)(22). Pub. L. 91-172, §516(c)(2)(B), added par. (22).

Subsec. (a)(10). Pub. L. 91-172, §504(c)(4), limited exploration expenditures referred to in this par. to pre-1970 exploration expenditures.

Subsec. (c). Pub. L. 91-172, §231(c)(3), redesignated existing provisions as par. (2) and added par. (1).

1964—Subsec. (a)(15). Pub. L. 88-272, §227(b)(5), inserted “or domestic iron ore”.

Subsec. (a)(19). Pub. L. 88-272, §203(a)(3)(C), inserted “and in section 203(a)(2) of the Revenue Act of 1964”.

Subsec. (a)(21). Pub. L. 88-272, §225(j)(2), added par. (21).

1962—Subsec. (a)(3)(D). Pub. L. 87-834, §8(g)(2), added subpar. (D).

Subsec. (a)(19). Pub. L. 87-834, §2(f), added par. (19).

Subsec. (a)(20). Pub. L. 87-834, §12(b)(4), added par. (20).

1959—Subsec. (a)(3)(C). Pub. L. 86-69, §3(d)(1), added subpar. (C).

Subsec. (a)(17). Pub. L. 86-69, §3(d)(2), added par. (17).

1958—Subsec. (a)(6). Pub. L. 85-866, §2(b), struck out “short-term” before “municipal bond”.

Subsec. (a)(18). Pub. L. 85-866, §64(d)(2), added par. (18).

1956—Subsec. (a)(16). Act June 29, 1956, added par. (16).

EFFECTIVE AND TERMINATION DATES OF 2010 AMENDMENT

Amendment by Pub. L. 111-148 terminated applicable to taxable years beginning after Dec. 31, 2011, and section is amended to read as if such amendment had never been enacted, see section 10909(c) of Pub. L. 111-148, set out as a note under section 1 of this title.

Amendment by Pub. L. 111-148 applicable to taxable years beginning after Dec. 31, 2009, see section 10909(d) of Pub. L. 111-148, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by section 1141(b)(3) of Pub. L. 111-5 applicable to vehicles acquired after Dec. 31, 2009, see section 1141(c) of Pub. L. 111-5, set out as a note under section 30B of this title.

Amendment by section 1142(b)(6) of Pub. L. 111-5 applicable to vehicles acquired after Feb. 17, 2009, see section 1142(c) of Pub. L. 111-5, set out as an Effective and Termination Dates of 2009 Amendment note under section 24 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 applicable to taxable years beginning after Dec. 31, 2008, see section 205(e) of Pub. L. 110-343, set out as an Effective and Termination Dates of 2008 Amendment note under section 24 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by section 7(a)(1)(C) of Pub. L. 110-172 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 7(e) of Pub. L. 110-172, set out as a note under section 1092 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 1331(b)(1) of Pub. L. 109-58 applicable to property placed in service after Dec. 31, 2005, see section 1331(d) of Pub. L. 109-58, set out as an Effective Date note under section 179D of this title.

Amendment by section 1332(c) of Pub. L. 109-58 applicable to qualified new energy efficient homes acquired after Dec. 31, 2005, in taxable years ending after such date, see section 1332(f) of Pub. L. 109-58, set out as a note under section 38 of this title.

Amendment by section 1333(b)(1) of Pub. L. 109-58 applicable to property placed in service after Dec. 31, 2005, see section 1333(c) of Pub. L. 109-58, set out as an Effective Date note under section 25C of this title.

Amendment by section 1335(b)(4) of Pub. L. 109-58 applicable to property placed in service after Dec. 31, 2005, in taxable years ending after such date, see section 1335(c) of Pub. L. 109-58, set out as a note under section 23 of this title.

Amendment by section 1341(b)(2) of Pub. L. 109-58 applicable to property placed in service after Dec. 31, 2005, in taxable years ending after such date, see section 1341(c) of Pub. L. 109-58, set out as an Effective Date note under section 30B of this title.

Amendment by section 1342(b)(2) of Pub. L. 109-58 applicable to property placed in service after Dec. 31, 2005, in taxable years ending after such date, see section 1342(c) of Pub. L. 109-58, set out as an Effective Date note under section 30C of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 245(c)(2) of Pub. L. 108-357 applicable to taxable years beginning after Dec. 31, 2004, see section 245(e) of Pub. L. 108-357, set out as a note under section 38 of this title.

Amendment by section 338(b)(4) of Pub. L. 108-357 applicable to expenses paid or incurred after Dec. 31, 2002, in taxable years ending after such date, see section 338(c) of Pub. L. 108-357, set out as an Effective Date note under section 179B of this title.

Amendment by section 339(d) of Pub. L. 108-357 applicable to expenses paid or incurred after Dec. 31, 2002, in

taxable years ending after such date, see section 339(f) of Pub. L. 108-357, set out as a note under section 38 of this title.

Amendment by section 413(c)(19) of Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2001, see section 205(c) of Pub. L. 107-16, set out as a note under section 38 of this title.

Amendment by Pub. L. 107-16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title I, §116(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-604, provided that: “The amendments made by this section [enacting subpart C of part III of subchapter U of this chapter, amending this section and sections 1223, 1394, 1400, and 1400B of this title, redesignating subpart C of part III of subchapter U of this chapter as subpart D of part III of subchapter U of this chapter, and renumbering sections 1397B and 1397C of this title as 1397C and 1397D, respectively, of this title] shall apply to qualified empowerment zone assets acquired after the date of the enactment of this Act [Dec. 21, 2000].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(d)(6) of Pub. L. 105-34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

Section 313(c) of Pub. L. 105-34 provided that: “The amendments made by this section [enacting section 1045 of this title and amending this section and section 1223 of this title] shall apply to sales after the date of enactment of this Act [Aug. 5, 1997].”

Amendment by section 701(b)(2) of Pub. L. 105-34 effective Aug. 5, 1997, see section 701(d) of Pub. L. 105-34, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1807(c)(5) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1807(e) of Pub. L. 104-188, set out as an Effective Date note under section 23 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1311(d) of Pub. L. 103-66 provided that: “The amendments made by this section [enacting section 1044 of this title and amending this section] shall apply to sales on and after the date of the enactment of this Act [Aug. 10, 1993], in taxable years ending on and after such date.”

Amendment by section 13213(a)(2)(F) of Pub. L. 103-66 applicable to expenses incurred after Dec. 31, 1993, see section 13213(e) of Pub. L. 103-66 set out as a note under section 62 of this title.

Amendment by section 13261(f)(3) of Pub. L. 103-66 applicable, except as otherwise provided, with respect to property acquired after Aug. 10, 1993, see section 13261(g) of Pub. L. 103-66, set out as an Effective Date note under section 197 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-486 applicable to property placed in service after June 30, 1993, see section 1913(c)

of Pub. L. 102-486, set out as an Effective Date note under section 30 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11812(b)(10) of Pub. L. 101-508 applicable to property placed in service after Nov. 5, 1990, but not applicable to any property to which section 168 of this title does not apply by reason of subsec. (f)(5) of section 168, and not applicable to rehabilitation expenditures described in section 252(f)(5) of Pub. L. 99-514, see section 11812(c) of Pub. L. 101-508, set out as a note under section 42 of this title.

Amendment by section 11813(b)(19) of Pub. L. 101-508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101-508, set out as a note under section 45K of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 502(c) of Pub. L. 101-194 provided that: “The amendments made by this section [enacting section 1043 of this title and amending this section and section 1223 of this title] shall apply to sales after the date of the enactment of this Act [Nov. 30, 1989].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1006(j)(1)(B) of Pub. L. 100-647 applicable in the case of obligations acquired after Dec. 31, 1987, with exception allowing taxpayer to elect to have amendment apply to obligations acquired after Oct. 22, 1986, see section 1006(j)(1)(C) of Pub. L. 100-647, set out as a note under section 171 of this title.

Amendment by section 1018(u)(22) of 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 1986 AMENDMENT

Amendment by section 241(b)(2) of Pub. L. 99-514 applicable to expenditures paid or incurred after Dec. 31, 1986, except as otherwise provided, see section 241(c) of Pub. L. 99-514, set out as an Effective Date of Repeal note under former section 177 of this title.

Amendment by section 701(e)(4)(D) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

Amendment by section 1303(b)(3) of Pub. L. 99-514 effective Oct. 22, 1986, see section 1311(f) of Pub. L. 99-514, as amended, set out as an Effective Date; Transitional Rules note under section 141 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 43(a)(2) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

Amendment by section 53(d)(3) of Pub. L. 98-369 applicable to distribution after Mar. 1, 1984, in taxable years ending after such date, see section 53(e)(1) of Pub. L. 98-369, set out as an Effective Date note under section 1059 of this title.

Amendment by section 211(b)(14) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

Amendment by section 474(r)(23) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 541(b)(2) of Pub. L. 98-369 applicable to sales of securities in taxable years beginning after July 18, 1984, see section 541(c) of Pub. L. 98-369, set out as an Effective Date note under section 1042 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Amendment by Pub. L. 97-354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97-354, set out as an Effective Date note under section 1361 of this title.

Amendment by section 201(c)(2) of Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97-248, set out as a note under section 5 of this title.

Amendment by section 205(a)(5)(B) of Pub. L. 97-248 applicable to periods after Dec. 31, 1982, under rules similar to the rules of section 48(m) of this title, with certain qualifications, see section 205(c)(1) of Pub. L. 97-248, set out as an Effective Date note under section 196 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 212(d)(2)(G) of Pub. L. 97-34 applicable to expenditures incurred after Dec. 31, 1981, in taxable years ending after that date, see section 212(e) of Pub. L. 97-34, set out as a note under section 46 of this title.

Amendment by section 421(g) of Pub. L. 97-34 applicable with respect to the estates of decedents dying after Dec. 31, 1981, see section 421(k) of Pub. L. 97-34, set out as a note under section 2032A of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS AND REVIVAL OF PRIOR LAW

Amendment by section 401(a) of Pub. L. 96-223 (repealing section 2005(a)(3) of Pub. L. 94-455 and section 702(r)(3) of Pub. L. 96-500 and the amendments made thereby, which had amended this section) applicable in respect of decedents dying after Dec. 31, 1976, and except for certain elections, this title to be applied as if those repealed provisions had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as a note under section 1023 of this title.

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as an Effective Date of 1980 Amendment note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Section 101(c) of Pub. L. 95-618 provided that: "The amendments made by this section [enacting section 23 of this title and amending this section and sections 56 and 6096 of this title] shall apply to taxable years ending on or after April 20, 1977."

Amendment by section 201(b) of Pub. L. 95-618 applicable with respect to 1980 and later model year automobiles, see section 201(g) of Pub. L. 95-618, set out as an Effective Date note under section 4064 of this title.

Amendment by section 601(b)(3) of Pub. L. 95-600 effective with respect to corporations chartered after Dec. 31, 1978, and before Jan. 1, 1984, see section 601(d) of Pub. L. 95-600, set out as a note under section 172 of this title.

Amendment by section 702(r)(3) of Pub. L. 95-600 applicable to estates of decedents dying after Dec. 31, 1976, see section 702(r)(5) of Pub. L. 95-600, set out as a note under section 2051 of this title.

Section 4(d) of Pub. L. 95-472 provided that: "The amendments made by this section [amending this section and section 2032A of this title] shall apply to involuntary conversions after December 31, 1976."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(123), (b)(1)(F)(ii), (21)(G), (29)(A) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see sec-

tion 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Section 1901(b)(30)(B) of Pub. L. 94-455 provided that: "The amendment made by subparagraph (A)(i) [amending this section] shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act [Oct. 4, 1976]."

Amendment by section 2005(a)(3) of Pub. L. 94-455 applicable in respect of decedents dying after Dec. 31, 1976, see section 2005(f) of Pub. L. 94-455 set out as an Effective Date note under section 1015 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 231(c)(3) of Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 231(d) of Pub. L. 91-172, set out as a note under section 217 of this title.

Amendment by section 504(c)(4) of Pub. L. 91-172 applicable with respect to exploration expenditures paid or incurred after Dec. 31, 1969, see section 504(d)(1) of Pub. L. 91-172, set out as a note under section 243 of this title.

Amendment by section 516(c)(2)(B) of Pub. L. 91-172 applicable to transfers after Dec. 31, 1969, see section 516(d)(3) of Pub. L. 91-172, set out as an Effective Date note under section 1001 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by section 203(a)(3)(C) of Pub. L. 88-272 applicable in case of property placed in service after Dec. 31, 1963, with respect to taxable years ending after such date, and in case of property placed in service before Jan. 1, 1964, with respect to taxable years beginning after Dec. 31, 1963, see section 203(a)(4) of Pub. L. 88-272, set out as a note under section 48 of this title.

Amendment by section 225(j)(2) of Pub. L. 88-272 applicable in respect of decedents dying after Dec. 31, 1963, see section 225(l) of Pub. L. 88-272, set out as a note under section 316 of this title.

Amendment by section 227(b)(5) of Pub. L. 88-272 applicable with respect to amounts received or accrued in taxable years beginning after Dec. 31, 1963, attributable to iron ore mined in such years, see section 227(c) of Pub. L. 88-272, set out as a note under section 272 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 2(f) of Pub. L. 87-834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87-834, set out as an Effective Date note under section 46 of this title.

Amendment by section 8(g)(2) of Pub. L. 87-834 applicable with respect to taxable years beginning after Dec. 31, 1962, see section 8(h) of Pub. L. 87-834, set out as a note under section 501 of this title.

Amendment by section 12(b)(1) of Pub. L. 87-834 applicable with respect to taxable years of foreign corporations beginning after Dec. 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end, see section 12(c) of Pub. L. 87-834, set out as an Effective Date note under section 951 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-69 applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 4 of Pub. L. 86-69, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 2(b) of Pub. L. 85-866 applicable with respect to taxable years ending after December 31, 1957, but only with respect to obligations acquired after such date, see section 2(c) of Pub. L. 85-866, set out as a note under section 75 of this title.

Amendment by section 64(d)(2) of Pub. L. 85-866 applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 64(e) of Pub. L. 85-866, set out as a note under section 172 of this title.

REPEALS

Section 2005(a)(3) of Pub. L. 94-455 and section 702(r)(3) of Pub. L. 95-600, cited as credits to this section, and the amendments made by those sections, were repealed by Pub. L. 96-223, title IV, § 401(a), 94 Stat. 299, resulting in the text of this section reading as it read prior to enactment of sections 2005(a)(3) and 702(r)(3). See Effective Date of 1980 Amendments and Revival of Prior Law note above.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(e)(4)(D) of Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100-647, set out as a note under section 861 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.

CHANGE FROM RETIREMENT TO STRAIGHT LINE METHOD
OF COMPUTING DEPRECIATION IN CERTAIN CASES

Section 94 of Pub. L. 85-866, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) SHORT TITLE.—This section may be cited as the ‘Retirement-Straight Line Adjustment Act of 1958’.

“(b) MAKING OF ELECTION.—Any taxpayer who held retirement-straight line property on his 1956 adjustment date may elect to have this section apply. Such an election shall be made at such time and in such manner as the Secretary shall prescribe. Any election under this section shall be irrevocable and shall apply to all retirement-straight line property as hereinafter provided in this section (including such property for periods when held by predecessors of the taxpayer).

“(c) RETIREMENT-STRAIGHT LINE PROPERTY DEFINED.—For purposes of this section, the term ‘retirement-straight line property’ means any property of a kind or class with respect to which the taxpayer or a predecessor (under the terms and conditions prescribed for him by the Commissioner) for any taxable year beginning after December 31, 1940, and before January 1, 1956, changed from the retirement to the straight line method of computing the allowance of deductions for depreciation.

“(d) BASIS ADJUSTMENTS AS OF 1956 ADJUSTMENT DATE.—If the taxpayer has made an election under this section, then in determining the adjusted basis on his 1956 adjustment date of all retirement-straight line property held by the taxpayer, in lieu of the adjustments for depreciation provided in section 1016(a)(2) and (3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the following adjustments shall be made (effective as of his 1956 adjustment date) in respect of all periods before the 1956 adjustment date:

“(1) DEPRECIATION SUSTAINED BEFORE MARCH 1, 1913.—For depreciation sustained before March 1, 1913, on retirement-straight line property held by the taxpayer or a predecessor on such date for which cost was or is claimed as basis and which either—

“(A) RETIRED BEFORE CHANGEOVER.—Was retired by the taxpayer or a predecessor before the changeover date, but only if (i) a deduction was allowed in computing net income by reason of such retirement, and (ii) such deduction was computed on the basis of cost without adjustment for depreciation sustained before March 1, 1913. In the case of any such property retired during any taxable year beginning after December 31, 1929, the adjustment under this subparagraph shall not exceed that portion of the amount attributable to depreciation sustained before March 1, 1913, which resulted (by reason of the deduction so allowed) in a reduction in taxes under the Internal Revenue Code of 1986 or prior income, war-profits, or excess-profits tax laws.

“(B) HELD ON CHANGEOVER DATE.—Was held by the taxpayer or a predecessor on the changeover date. This subparagraph shall not apply to property to which paragraph (2) applies.

The adjustment determined under this paragraph shall be allocated (in the manner prescribed by the Secretary) among all retirement-straight line property held by the taxpayer on his 1956 adjustment date.

“(2) PROPERTY DISPOSED OF AFTER CHANGEOVER AND BEFORE 1956 ADJUSTMENT DATE.—For that portion of the reserve prescribed by the Commissioner in connection with the changeover which was applicable to property—

“(A) sold, or

“(B) with respect to which a deduction was allowed for Federal income tax purposes by reason of casualty or ‘abnormal’ retirement in the nature of special obsolescence, if such sale occurred in, or such deduction was allowed for, a period on or after the changeover date and before the taxpayer’s 1956 adjustment date.

“(3) DEPRECIATION ALLOWABLE FROM CHANGEOVER TO 1956 ADJUSTMENT DATE.—For depreciation allowable, under the terms and conditions prescribed by the Commissioner in connection with the changeover, for all periods on and after the changeover date and before the taxpayer’s 1956 adjustment date. This subsection shall apply only with respect to taxable years beginning after December 31, 1955.

“(e) EFFECT ON PERIOD FROM CHANGEOVER TO 1956 ADJUSTMENT DATE.—If the taxpayer has made an election under this section, then in determining the adjusted basis of any retirement-straight line property as of any time on or after the changeover date and before the taxpayer’s 1956 adjustment date, in lieu of the adjustments for depreciation provided in section 1016(a)(2) and (3) of the Internal Revenue Code of 1986 and the corresponding provisions of prior revenue laws, the following adjustments shall be made:

“(1) FOR PRESCRIBED RESERVE.—For the amount of the reserve prescribed by the Commissioner in connection with the changeover.

“(2) FOR ALLOWABLE DEPRECIATION.—For the depreciation allowable under the terms and conditions prescribed by the Commissioner in connection with the changeover.

This subsection shall not apply in determining adjusted basis for purposes of section 437(c) of the Internal Revenue Code of 1939. This subsection shall apply only with respect to taxable years beginning on or after the changeover date and before the taxpayer’s 1956 adjustment date.

“(f) EQUITY INVESTED CAPITAL, ETC.—If an election is made under this section, then (notwithstanding the terms and conditions prescribed by the Commissioner in connection with the changeover)—

“(1) EQUITY INVESTED CAPITAL.—In determining equity invested capital under sections 458 and 718 of the

Internal Revenue Code of 1939, accumulated earnings and profits as of the changeover date, and as of the beginning of each taxable year thereafter, shall be reduced by the depreciation sustained before March 1, 1913, as computed under subsection (d)(1)(B); and

“(2) DEFINITION OF EQUITY CAPITAL.—In determining the adjusted basis of assets for the purpose of section 437(c) of the Internal Revenue Code of 1939 (and in addition to any other adjustments required by such Code), the basis shall be reduced by depreciation sustained before March 1, 1913 (as computed under subsection (d)), together with any depreciation allowable under subsection (e)(2) for any period before the year for which the excess profits credit is being computed.

“(g) DEFINITIONS.—For purposes of this section—

“(1) DEPRECIATION.—The term ‘depreciation’ means exhaustion, wear and tear, and obsolescence.

“(2) CHANGEOVER.—The term ‘changeover’ means a change from the retirement to the straight line method of computing the allowance of deductions for depreciation.

“(3) CHANGEOVER DATE.—The term ‘changeover date’ means the first day of the first taxable year for which the changeover was effective.

“(4) 1956 ADJUSTMENT DATE.—The term ‘1956 adjustment date’ means, in the case of any taxpayer, the first day of his first taxable year beginning after December 31, 1955.

“(5) PREDECESSOR.—The term ‘predecessor’ means any person from whom property of a kind or class to which this section refers was acquired, if the basis of such property is determined by reference to its basis in the hands of such person. Where a series of transfers of property has occurred and where in each instance the basis of the property was determined by reference to its basis in the hands of the prior holder, the term includes each such prior holder.

“(6) The term ‘Secretary’ means the Secretary of the Treasury or his delegate.

“(7) The term ‘Commissioner’ means the Commissioner of Internal Revenue.”

§ 1017. Discharge of indebtedness

(a) General rule

If—

(1) an amount is excluded from gross income under subsection (a) of section 108 (relating to discharge of indebtedness), and

(2) under subsection (b)(2)(E), (b)(5), or (c)(1) of section 108, any portion of such amount is to be applied to reduce basis,

then such portion shall be applied in reduction of the basis of any property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs.

(b) Amount and properties determined under regulations

(1) In general

The amount of reduction to be applied under subsection (a) (not in excess of the portion referred to in subsection (a)), and the particular properties the bases of which are to be reduced, shall be determined under regulations prescribed by the Secretary.

(2) Limitation in title 11 case or insolvency

In the case of a discharge to which subparagraph (A) or (B) of section 108(a)(1) applies, the reduction in basis under subsection (a) of this section shall not exceed the excess of—

(A) the aggregate of the bases of the property held by the taxpayer immediately after the discharge, over

(B) the aggregate of the liabilities of the taxpayer immediately after the discharge.

The preceding sentence shall not apply to any reduction in basis by reason of an election under section 108(b)(5).

(3) Certain reductions may only be made in the basis of depreciable property

(A) In general

Any amount which under subsection (b)(5) or (c)(1) of section 108 is to be applied to reduce basis shall be applied only to reduce the basis of depreciable property held by the taxpayer.

(B) Depreciable property

For purposes of this section, the term “depreciable property” means any property of a character subject to the allowance for depreciation, but only if a basis reduction under subsection (a) will reduce the amount of depreciation or amortization which otherwise would be allowable for the period immediately following such reduction.

(C) Special rule for partnership interests

For purposes of this section, any interest of a partner in a partnership shall be treated as depreciable property to the extent of such partner’s proportionate interest in the depreciable property held by such partnership. The preceding sentence shall apply only if there is a corresponding reduction in the partnership’s basis in depreciable property with respect to such partner.

(D) Special rule in case of affiliated group

For purposes of this section, if—

(i) a corporation holds stock in another corporation (hereinafter in this subparagraph referred to as the “subsidiary”), and

(ii) such corporations are members of the same affiliated group which file a consolidated return under section 1501 for the taxable year in which the discharge occurs,

then such stock shall be treated as depreciable property to the extent that such subsidiary consents to a corresponding reduction in the basis of its depreciable property.

(E) Election to treat certain inventory as depreciable property

(i) In general

At the election of the taxpayer, for purposes of this section, the term “depreciable property” includes any real property which is described in section 1221(a)(1).

(ii) Election

An election under clause (i) shall be made on the taxpayer’s return for the taxable year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Secretary. Such an election, once made, may be revoked only with the consent of the Secretary.

(F) Special rules for qualified real property business indebtedness

In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

(ii) subparagraph (E) shall not apply, and

(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a).

(4) Special rules for qualified farm indebtedness

(A) In general

Any amount which under subsection (b)(2)(E) of section 108 is to be applied to reduce basis and which is attributable to an amount excluded under subsection (a)(1)(C) of section 108—

(i) shall be applied only to reduce the basis of qualified property held by the taxpayer, and

(ii) shall be applied to reduce the basis of qualified property in the following order:

(I) First the basis of qualified property which is depreciable property.

(II) Second the basis of qualified property which is land used or held for use in the trade or business of farming.

(III) Then the basis of other qualified property.

(B) Qualified property

For purposes of this paragraph, the term “qualified property” has the meaning given to such term by section 108(g)(3)(C).

(C) Certain rules made applicable

Rules similar to the rules of subparagraphs (C), (D), and (E) of paragraph (3) shall apply for purposes of this paragraph and section 108(g).

(c) Special rules

(1) Reduction not to be made in exempt property

In the case of an amount excluded from gross income under section 108(a)(1)(A), no reduction in basis shall be made under this section in the basis of property which the debtor treats as exempt property under section 522 of title 11 of the United States Code.

(2) Reductions in basis not treated as dispositions

For purposes of this title, a reduction in basis under this section shall not be treated as a disposition.

(d) Recapture of reductions

(1) In general

For purposes of sections 1245 and 1250—

(A) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

(B) any reduction under this section shall be treated as a deduction allowed for depreciation.

(2) Special rule for section 1250

For purposes of section 1250(b), the determination of what would have been the depre-

ciation adjustments under the straight line method shall be made as if there had been no reduction under this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 301; Pub. L. 94-455, title XIX, §§1906(b)(13)(A), 1951(c)(1), Oct. 4, 1976, 90 Stat. 1834, 1840; Pub. L. 96-589, §2(b), Dec. 24, 1980, 94 Stat. 3394; Pub. L. 99-514, title IV, §405(b), title VIII, §822(b)(4), (5), Oct. 22, 1986, 100 Stat. 2224, 2373; Pub. L. 100-647, title I, §1004(a)(5), Nov. 10, 1988, 102 Stat. 3386; Pub. L. 101-508, title XI, §11704(a)(12), Nov. 5, 1990, 104 Stat. 1388-518; Pub. L. 103-66, title XIII, §13150(c)(6)-(8), Aug. 10, 1993, 107 Stat. 448; Pub. L. 104-188, title I, §1703(n)(5), Aug. 20, 1996, 110 Stat. 1877; Pub. L. 105-206, title VI, §6023(11), July 22, 1998, 112 Stat. 825; Pub. L. 106-170, title V, §532(c)(2)(S), Dec. 17, 1999, 113 Stat. 1931.)

AMENDMENTS

1999—Subsec. (b)(3)(E)(i). Pub. L. 106-170 substituted “1221(a)(1)” for “1221(1)”.

1998—Subsec. (a)(2). Pub. L. 105-206 substituted “(b)(2)(E)” for “(b)(2)(D)”.

1996—Subsec. (b)(4)(A). Pub. L. 104-188 substituted “subsection (b)(2)(E)” for “subsection (b)(2)(D)”.

1993—Subsec. (a)(2). Pub. L. 103-66, §13150(c)(6), substituted “, (b)(5), or (c)(1)” for “or (b)(5)”.

Subsec. (b)(3)(A). Pub. L. 103-66, §13150(c)(7), inserted “or (c)(1)” after “subsection (b)(5)”.

Subsec. (b)(3)(F). Pub. L. 103-66, §13150(c)(8), added subpar. (F).

1990—Subsec. (b)(4)(C). Pub. L. 101-508 substituted “subparagraphs” for “subparagraph”.

1988—Subsec. (b)(4). Pub. L. 100-647 substituted “Special rules for” for “Ordering rule in the case of” in heading, and amended text generally. Prior to amendment, text read as follows: “Any amount which is excluded from gross income under section 108(a) by reason of the discharge of qualified farm indebtedness (within the meaning of section 108(g)(2)) and which under subsection (b) of section 108 is to be applied to reduce basis shall be applied—

“(A) first to reduce the tax attributes described in section 108(b)(2) (other than subparagraph (D) thereof),

“(B) then to reduce basis of property other than property described in subparagraph (C), and

“(C) then to reduce the basis of land used or held for use in the trade or business of farming.”

1986—Subsec. (a)(2). Pub. L. 99-514, §822(b)(4), substituted “or (b)(5)” for “, (b)(5), or (c)(1)(A)”.

Subsec. (b)(3)(A). Pub. L. 99-514, §822(b)(5), struck out “or (c)(1)(A)” after “subsection (b)(5)”.

Subsec. (b)(4). Pub. L. 99-514, §405(b), added par. (4).

1980—Pub. L. 96-589 generally revised and expanded the section to specify the amount of reduction of basis of property under different subsections of section 108 of this title and the property to which such reduction is applicable, and provided for recapture of reductions for purposes of gains from depreciable property.

1976—Pub. L. 94-455, §§1906(b)(13)(A), 1951(c)(1), substituted “section 108” for “section 108(a)” in three places and struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§13001-13444, to which such amend-

ment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to discharges after Dec. 31, 1992, in taxable years ending after such date, see section 1315(d) of Pub. L. 103-66, set out as a note under section 108 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 1986 AMENDMENT

Amendment by section 405(b) of Pub. L. 99-514 applicable to discharges of indebtedness occurring after Apr. 9, 1986, in taxable years ending after such date, see section 405(c) of Pub. L. 99-514, set out as a note under section 108 of this title.

Amendment by section 822(b)(4), (5) of Pub. L. 99-514 applicable to discharges after Dec. 31, 1986, see section 822(c) of Pub. L. 99-514, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 applicable to transactions which occur after Dec. 31, 1980, other than transactions which occur in a proceeding in a bankruptcy case or similar judicial proceeding or in a proceeding under Title 11 commencing on or after Dec. 31, 1980, with an exception permitting the debtor to make the amendment applicable to transactions occurring after Sept. 30, 1979 in a specified manner, see section 7(a) and (f) of Pub. L. 96-589, set out as a note under section 108 of this title.

[§ 1018. Repealed. Pub. L. 96-589, § 6(h)(1), Dec. 24, 1980, 94 Stat. 3410]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 301; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1901(a)(124), 90 Stat. 1784, provided for adjustment of capital structure before Sept. 22, 1938.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, but not to apply to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as an Effective Date of 1980 Amendment note under section 108 of this title.

§ 1019. Property on which lessee has made improvements

Neither the basis nor the adjusted basis of any portion of real property shall, in the case of the lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludable from gross income under section 109 (relating to improvements by lessee on lessor's property). If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1942, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

(Aug. 16, 1954, ch. 736, 68A Stat. 301.)

[§ 1020. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(125), Oct. 4, 1976, 90 Stat. 1784]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 302, related to election to have section 1016(a)(2)(B) of this title apply in respect of periods since Feb. 28, 1913, and before Jan. 1, 1952.

§ 1021. Sale of annuities

In case of the sale of an annuity contract, the adjusted basis shall in no case be less than zero.

(Aug. 16, 1954, ch. 736, 68A Stat. 302.)

[§ 1022. Repealed. Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300]

Section, added Pub. L. 107-16, title V, § 542(a), June 7, 2001, 115 Stat. 76, related to treatment of property acquired from a decedent dying after Dec. 31, 2009.

TERMINATION OF REPEAL

For termination of repeal of section by section 304 of Pub. L. 111-312, see Effective and Termination Dates of Repeal note below.

TERMINATION OF SECTION

For termination of section by section 901 of Pub. L. 107-16, see Effective and Termination Dates note below.

PRIOR PROVISIONS

A prior section 1022, added Pub. L. 88-272, title II, § 225(j)(1), Feb. 26, 1964, 78 Stat. 92, dealt with the increase in basis with respect to certain foreign personal holding company stock or securities, prior to repeal by Pub. L. 94-455, title XIX, § 1901(a)(126), Oct. 4, 1976, 90 Stat. 1784, applicable with respect to stock or securities acquired from a decedent dying after Oct. 4, 1976.

Another prior section 1022, act Aug. 16, 1954, ch. 736, 68A Stat. 302, relating to cross references, was renumbered section 1023.

EFFECTIVE AND TERMINATION DATES

Repeal of section applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

Section 901 of Pub. L. 107-16 applicable to repeal by section 301(a) of Pub. L. 111-312, see section 304 of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

Section applicable to estates of decedents dying after Dec. 31, 2009, see section 542(f)(1) of Pub. L. 107-16, set out as an Effective and Termination Dates of 2001 Amendment note under section 121 of this title.

Section inapplicable to estates of decedents dying, gifts made, or generation skipping transfers, after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such estates, gifts, and transfers as if it had never been enacted, see section 901 of Pub. L. 107-16, set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title.

§ 1023. Cross references

(1) For certain distributions by a corporation which are applied in reduction of basis of stock, see section 301(c)(2).

(2) For basis in case of construction of new vessels, see chapter 533 of title 46, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 302, § 1022; renumbered § 1023, Pub. L. 88-272, title II, § 225(j)(1), Feb. 26, 1964, 78 Stat. 92; renumbered § 1024 and

amended Pub. L. 94-455, title XIX, §1901(a)(127), title XX, §2005(a)(2), Oct. 4, 1976, 90 Stat. 1784, 1872; renumbered §1023, Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299; Pub. L. 96-589, §6(i)(4), Dec. 24, 1980, 94 Stat. 3410; Pub. L. 109-304, §17(e)(4), Oct. 6, 2006, 120 Stat. 1708.)

PRIOR PROVISIONS

A prior section 1023, added Pub. L. 94-455, title XX, §2005(a)(2), Oct. 4, 1976, 90 Stat. 1872; amended Pub. L. 95-600, title V, §515(3), (4), title VII, §702(c)(2)-(4), (6)-(8), Nov. 6, 1978, 92 Stat. 2884, 2926-2928, related to carryover basis for certain property acquired from a decedent dying after Dec. 31, 1979, prior to repeal by Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299. The repeal was achieved by repealing section 2005(a)(2) of Pub. L. 94-455 and the amendment made thereby, which had enacted prior section 1023.

AMENDMENTS

2006—Par. (2). Pub. L. 109-304 substituted “chapter 533 of title 46, United States Code” for “section 511 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1161)”.

1980—Pub. L. 96-589 redesignated par. (3) as (2). Former par. (2), which provided reference to sections 670, 796, and 922 of Title 11, Bankruptcy, for basis of property in case of certain reorganizations and arrangements under the Bankruptcy Act, was struck out.

1976—Par. (4). Pub. L. 94-455, §1901(a)(127), struck out par. (4) which referred to section 405 of the Defense Production Act of 1950 for rules applicable in case of payments in violation of that Act.

EFFECTIVE DATE OF 1980 AMENDMENTS AND REVIVAL OF PRIOR LAW

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not to apply to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as an Effective Date of 1980 Amendment note under section 108 of this title.

Section 401(b) of Pub. L. 96-223, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Except to the extent necessary to carry out subsection (d) [set out as a note under section 1014 of this title], the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions [enacting this section and sections 6039A and 6698A of this title, redesignating former section 1023 as section 1024 of this title, and amending sections 306, 691, 1001, 1014, 1016, 1223, and 1246 of this title], had not been enacted.”

Section 401(e) of Pub. L. 96-223 provided that: “The amendments made by this section [amending sections 306, 691, 1001, 1014, 1016, 1040, 1223, 1246, and 2614 of this title, repealing former section 1023 and sections 6039A and 6698A of this title, redesignating former section 1024 of this title as 1023, and enacting provisions set out as notes under this section and section 1014 of this title] shall apply in respect of decedents dying after December 31, 1976.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(127) 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.

REPEALS

Pub. L. 94-455, §1901(a)(127), cited as a credit to this section, which renumbered this section as section 1024 of this title, was repealed by Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299, resulting in the redesignation of this section as section 1023 of this title. See Effective Date of 1980 Amendments and Revival of Prior Law note set out above.

[§ 1024. Renumbered § 1023]

PART III—COMMON NONTAXABLE EXCHANGES

Sec.	
1031.	Exchange of property held for productive use or investment.
1032.	Exchange of stock for property.
1033.	Involuntary conversions.
[1034.	Repealed.]
1035.	Certain exchanges of insurance policies.
1036.	Stock for stock of same corporation.
1037.	Certain exchanges of United States obligations.
1038.	Certain reacquisitions of real property.
[1039.	Repealed.]
1040.	Transfer of certain farm, etc., real property.
1041.	Transfers of property between spouses or incident to divorce.
1042.	Sales of stock to employee stock ownership plans or certain cooperatives.
1043.	Sale of property to comply with conflict-of-interest requirements.
1044.	Rollover of publicly traded securities gain into specialized small business investment companies.
1045.	Rollover of gain from qualified small business stock to another qualified small business stock.

AMENDMENT OF ANALYSIS

For termination of amendment by section 304 of Pub. L. 111-312, see Effective and Termination Dates of 2010 Amendment note set out under section 121 of this title.

For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note set out under section 1 of this title.

AMENDMENTS

2010—Pub. L. 111-312, title III, §§301(a), 304, Dec. 17, 2010, 124 Stat. 3300, 3304, temporarily amended analysis to read as if amendment by Pub. L. 107-16, §542(d)(2), had never been enacted. See 2001 Amendment note below.

2001—Pub. L. 107-16, title V, §542(d)(2), title IX, §901, June 7, 2001, 115 Stat. 84, 150, temporarily substituted “Use of appreciated carryover basis property to satisfy pecuniary bequest” for “Transfer of certain farm, etc., real property” in item 1040.

1997—Pub. L. 105-34, title III, §§312(d)(15), 313(b)(3), Aug. 5, 1997, 111 Stat. 841, 842, struck out item 1034 “Rollover of gain on sale of principal residence” and added item 1045.

1993—Pub. L. 103-66, title XIII, §13114(c), Aug. 10, 1993, 107 Stat. 431, added item 1044.

1990—Pub. L. 101-508, title XI, §11801(b)(8), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 1039 “Certain sales of low-income housing projects”.

1989—Pub. L. 101-194, title V, §502(b)(3), Nov. 30, 1989, 103 Stat. 1755, added item 1043.

1986—Pub. L. 99-514, title XVIII, §1854(a)(12), Oct. 22, 1986, 100 Stat. 2878, substituted “employee stock ownership plans or certain cooperatives” for “employees” in item 1042.

1984—Pub. L. 98-369, div. A, title IV, §421(c), title V, §541(b)(3), July 18, 1984, 98 Stat. 794, 890, added items 1041 and 1042.

1981—Pub. L. 97-34, title IV, §421(j)(2)(C), Aug. 13, 1981, 95 Stat. 312, substituted “Transfer of certain farm, etc., real property” for “Use of farm, etc., real property to satisfy pecuniary bequest” in item 1040.

1980—Pub. L. 96-223, title IV, §401(a), (c)(2)(B), Apr. 2, 1980, 94 Stat. 299, 300, amended item 1040 generally and repealed Pub. L. 94-455, §2005(e)(1), and the amendment made thereby. See 1976 Amendment note below.