Act of 1996, Pub. L. 104–188, to which such amendment relates, see section 407(c) of Pub. L. 108–311, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Pub. L. 105–34, title XVI, § 1601(c)(2), Aug. 5, 1997, 111 Stat. 1087, provided that:

''(A) Notwithstanding section 1317 of the Small Business Job Protection Act of 1996 [Pub. L. 104–188, enacting provisions set out as notes under sections 641 and 1362 of this title], the amendments made by subsections (a) and (b) of section 1307 of such Act [amending this section] shall apply to determinations made after December 31, 1996.

''(B) In no event shall the 120-day period referred to in section 1377(b)(1)(B) of the Internal Revenue Code of 1986 (as added by such section 1307) expire before the end of the 120-day period beginning on the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by Pub. L. 104–188 applicable to taxable years beginning after Dec. 31, 1996, see section 1317(a) of Pub. L. 104–188, set out as a note under section 641 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97–354, set out as a note under section 1361 of this title.

§ 1378. Taxable year of S corporation

(a) General rule

For purposes of this subtitle, the taxable year of an S corporation shall be a permitted year.

(b) Permitted year defined

For purposes of this section, the term ''permitted year'' means a taxable year which—

(1) is a year ending December 31, or

(2) is any other accounting period for which the corporation establishes a business purpose to the satisfaction of the Secretary.

For purposes of paragraph (2), any deferral of income to shareholders shall not be treated as a business purpose.

(Added Pub. L. 97–354, § 2, Oct. 19, 1982, 96 Stat. 1685; amended Pub. L. 98–369, div. A, title VII, § 721(m), (q), July 18, 1984, 98 Stat. 969, 970; Pub. L. 99–514, title VIII, § 806(b), Oct. 22, 1986, 100 Stat. 2363.)

PRIOR PROVISIONS

A prior section 1378, added Pub. L. 89–389, § 2(a), Apr. 14, 1966, 80 Stat. 113; amended Pub. L. 91–172, title V, § 511(c)(4), Dec. 30, 1969, 83 Stat. 638; Pub. L. 94–455, title XIX, § 1901(a)(152), (b)(33)(R), Oct. 4, 1976, 90 Stat. 1789, 1802, related to tax imposed on certain capital gains, prior to the general revision of this subchapter by section 2 of Pub. L. 97–354.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–514, § 806(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''For purposes of this subtitle—

''(1) an S corporation shall not change its taxable year to any accounting period other than a permitted year, and

''(2) no corporation may make an election under section 1362(a) for any taxable year unless such taxable year is a permitted year.''

Subsec. (b). Pub. L. 99–514, § 806(b)(2), inserted at end ''For purposes of paragraph (2), any deferral of income to shareholders shall not be treated as a business purpose.''

Subsec. (c). Pub. L. 99–514, § 806(b)(3), struck out subsec. (c) which required existing S corporations to use permitted year after 50-percent shift in ownership.

1984—Subsec. (c)(1). Pub. L. 98–369, § 721(m), substituted ''which includes December 31, 1982 (or which is an S corporation for a taxable year beginning during 1983 by reason of an election made on or before October 19, 1982)'' for ''which includes December 31, 1982''.

Subsec. (c)(3)(B)(i). Pub. L. 98–369, § 721(q), substituted ''who (or whose estate) held'' for ''who held''.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–514, title VIII, § 806(e), Oct. 22, 1986, 100 Stat. 2364, as amended by Pub. L. 100–647, title I, § 1008(e)(7), (8), (10), Nov. 10, 1988, 102 Stat. 3441, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 267, 441, and 706 of this title] shall apply to taxable years beginning after December 31, 1986.

''(2) CHANGE IN ACCOUNTING PERIOD.—In the case of any partnership, S corporation, or personal service corporation required by the amendments made by this section to change its accounting period for the taxpayer's first taxable year beginning after December 31, 1986—

''(A) such change shall be treated as initiated by the partnership, S corporation, or personal service corporation,

''(B) such change shall be treated as having been made with the consent of the Secretary, and

''(C) with respect to any partner or shareholder of an S corporation which is required to include the items from more than 1 taxable year of the partnership or S corporation in any 1 taxable year, income in excess of expenses of such partnership or corporation for the short taxable year required by such amendments shall be taken into account ratably in each of the first 4 taxable years beginning after December 31, 1986, unless such partner or shareholder elects to include all such income in the the [sic] partner's or shareholder's taxable year with or within which the partnership's or S corporation's short taxable year ends.

Subparagraph (C) shall apply to a shareholder of an S corporation only if such corporation was an S corporation for a taxable year beginning in 1986.

''(3) BASIS, ETC. RULES—

''(A) BASIS RULE.—The adjusted basis of any partner's interest in a partnership or shareholder's stock in an S corporation shall be determined as if all of the income to be taken into account ratably in the 4 taxable years referred to in paragraph (2)(C) were included in gross income for the 1st of such taxable years.

''(B) TREATMENT OF DISPOSITIONS.—If any interest in a partnership or stock in an S corporation is disposed of before the last taxable year in the spread period, all amounts which would be included in the gross income of the partner or shareholder for subsequent taxable years in the spread period under paragraph (2)(C) and attributable to the interest or stock disposed of shall be included in gross income for the taxable year in which the disposition occurs. For purposes of the preceding sentence, the term 'spread period' means the period consisting of the 4 taxable years referred to in paragraph (2)(C).''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective as if included in Subchapter S Revision Act of 1982, Pub. L. 97–354, see section 721(y)(1) of Pub. L. 98–369, set out as a note under section 1361 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97–354, set out as a note under section 1361 of this title.

CONSTRUCTION OF SECTION 806 OF PUB. L. 99–514

Pub. L. 100–647, title I, § 1008(e)(9), Nov. 10, 1988, 102 Stat. 3441, provided that: ''Nothing in section 806 of the Reform Act [Pub. L. 99–514, amending this section and

sections 267, 441, and 706 of this title and enacting provisions set out above] or in any legislative history relating thereto shall be construed as requiring the Secretary of the Treasury or his delegate to permit an automatic change of a taxable year.''

§ 1379. Transitional rules on enactment

(a) Old elections

Any election made under section 1372(a) (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall be treated as an election made under section 1362.

(b) References to prior law included

Any references in this title to a provision of this subchapter shall, to the extent not inconsistent with the purposes of this subchapter, include a reference to the corresponding provision as in effect before the enactment of the Subchapter S Revision Act of 1982.

(c) Distributions of undistributed taxable income

If a corporation was an electing small business corporation for the last preenactment year, subsections (f) and (d) of section 1375 (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall continue to apply with respect to distributions of undistributed taxable income for any taxable year beginning before January 1, 1983.

(d) Carryforwards

If a corporation was an electing small business corporation for the last preenactment year and is an S corporation for the 1st postenactment year, any carryforward to the 1st postenactment year which arose in a taxable year for which the corporation was an electing small business corporation shall be treated as arising in the 1st postenactment year.

(e) Preenactment and postenactment years defined

For purposes of this subsection—

(1) Last preenactment year

The term ''last preenactment year'' means the last taxable year of a corporation which begins before January 1, 1983.

(2) 1st postenactment year

The term ''1st postenactment year'' means the 1st taxable year of a corporation which begins after December 31, 1982.

(Added Pub. L. 97–354, § 2, Oct. 19, 1982, 96 Stat. 1686; amended Pub. L. 98–369, div. A, title VII, § 721(n), July 18, 1984, 98 Stat. 969.)

REFERENCES IN TEXT

The enactment of the Subchapter S Revision Act of 1982, referred to in subsecs. (a) to (c), is the enactment of Pub. L. 97–354, which was approved Oct. 19, 1982.

PRIOR PROVISIONS

A prior section 1379, added Pub. L. 91–172, title V, § 531(a), Dec. 30, 1969, 83 Stat. 654; amended Pub. L. 93–406, title II, § 2001(b), Sept. 2, 1974, 88 Stat. 952; Pub. L. 97–34, title III, § 312(c)(6), Aug. 13, 1981, 95 Stat. 284; Pub. L. 97–248, title II, § 238(c), Sept. 3, 1982, 96 Stat. 513, related to certain qualified pension, etc., plans, prior to the general revision of this subchapter by section 2 of Pub. L. 97–354.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–369 struck out ''In applying this subchapter to any taxable year beginning after December 31, 1982,'' and substituted ''Any references in this title to a provision'' for ''any reference in this subchapter to another provision''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective as if included in Subchapter S Revision Act of 1982, Pub. L. 97–354, see section 721(y)(1) of Pub. L. 98–369, set out as a note under section 1361 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1983, except that this section as in effect before Oct. 19, 1982, to remain in effect for years beginning before Jan. 1, 1984, see section 6(a), (b)(1) of Pub. L. 97–354, set out as a note under section 1361 of this title.

COORDINATION OF REPEALS OF CERTAIN SECTIONS

Subsec. (b) of this section as in effect on day before Sept. 3, 1982, inapplicable to any section 401(j) plan, see section 713(d)(8) of Pub. L. 98–369, set out as a note under section 404 of this title.

Subchapter T—Cooperatives and Their Patrons

Part
I. Tax treatment of cooperatives.
II. Tax treatment by patrons of patronage dividends and per-unit retain allocations.
III. Definitions; special rules.

AMENDMENTS

1966—Pub. L. 89–809, title II, § 211(b)(5), Nov. 13, 1966, 80 Stat. 1582, inserted ''and per-unit retain allocations'' in heading of part II.

1962—Pub. L. 87–834, § 17(a), Oct. 16, 1962, 76 Stat. 1045, added headings of subchapter T and of parts I to III.

PART I—TAX TREATMENT OF COOPERATIVES

Sec.
1381. Organizations to which part applies.
1382. Taxable income of cooperatives.
1383. Computation of tax where cooperative redeems nonqualified written notices of allocation or nonqualified per-unit retain certificates.

AMENDMENTS

1966—Pub. L. 89–809, title II, § 211(a)(8), Nov. 13, 1966, 80 Stat. 1582, inserted ''or nonqualified per-unit retain certificates'' in item 1383.

1962—Pub. L. 87–834, § 17(a), Oct. 16, 1962, 76 Stat. 1045, added heading of part I and items 1381 to 1383.

§ 1381. Organizations to which part applies

(a) In general

This part shall apply to—

(1) any organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

(2) any corporation operating on a cooperative basis other than an organization—

(A) which is exempt from tax under this chapter,

(B) which is subject to the provisions of—

(i) part II of subchapter H (relating to mutual savings banks, etc.), or

(ii) subchapter L (relating to insurance companies), or

(C) which is engaged in furnishing electric energy, or providing telephone service, to persons in rural areas.

(b) Tax on certain farmers' cooperatives

An organization described in subsection (a)(1) shall be subject to the tax imposed by section 11.