

Public Law 95-345
95th Congress

An Act

To amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative telephone company income from nonmember telephone companies, and for other purposes.

Aug. 15, 1978
[H.R. 7581]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue
Code of 1954,
amendments.

SECTION 1. TREATMENT OF MUTUAL OR COOPERATIVE TELEPHONE COMPANY INCOME FROM NONMEMBER TELEPHONE COMPANY.

(a) **IN GENERAL.**—Paragraph (12) of section 501(c) of the Internal Revenue Code of 1954 (relating to certain organizations exempt from income tax) is amended by adding at the end thereof the following new sentence: "In the case of any mutual or cooperative telephone company, the preceding sentence shall be applied without taking into account any income received or accrued from a nonmember telephone company for the performance of communication services which involve members of such mutual or cooperative telephone company."

26 USC 501.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1974.

26 USC 501 note.

SEC. 2. LENDING OF SECURITIES BY EXEMPT ORGANIZATIONS.

(a) **TREATMENT OF INCOME FROM PAYMENTS WITH RESPECT TO SECURITIES LOANS.**—

(1) **INCLUSION IN GROSS INVESTMENT INCOME FOR PURPOSES OF DEFINING PRIVATE FOUNDATION.**—Section 509(e) of the Internal Revenue Code of 1954 (relating to definition of gross investment income) is amended by inserting "payments with respect to securities loans (as defined in section 512(a)(5))," after "dividends,"

26 USC 509.

Infra.

(2) **EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME.**—Section 512(b)(1) of such Code (relating to modifications of unrelated business taxable income) is amended by inserting "payments with respect to securities loans (as defined in section 512(a)(5))," after "interest,"

26 USC 512.

(3) **REGULATED INVESTMENT COMPANY INCOME.**—Section 851(b)(2) of such Code (relating to limitations on regulated investment company income) is amended by inserting "payments with respect to securities loans (as defined in section 512(a)(5))," after "interest,"

26 USC 851.

(4) **INCLUSION IN NET INVESTMENT INCOME OF PRIVATE FOUNDATIONS.**—Section 4940(c)(2) of such Code (relating to gross investment income) is amended by inserting "payments with respect to securities loans (as defined in section 512(a)(5))," after "rents,"

26 USC 4940.

(b) **DEFINITION OF PAYMENTS WITH RESPECT TO SECURITIES LOANS.**—Section 512(a) of such Code (relating to definition of unrelated business taxable income) is amended by adding at the end thereof the following new paragraph:

26 USC 512.

"(5) **DEFINITION OF PAYMENTS WITH RESPECT TO SECURITIES LOANS.**—

"(A) The term 'payments with respect to securities loans' includes all amounts received in respect of a security (as

26 USC 1236.
26 USC 1058.

defined in section 1236(c)) transferred by the owner to another person in a transaction to which section 1058 applies (whether or not title to the security remains in the name of the lender) including—

“(i) amounts in respect of dividends, interest, or other distributions,

“(ii) fees computed by reference to the period beginning with the transfer of securities by the owner and ending with the transfer of identical securities back to the transferor by the transferee and the fair market value of the security during such period,

“(iii) income from collateral security for such loan, and

“(iv) income from the investment of collateral security.

“(B) Subparagraph (A) shall apply only with respect to securities transferred pursuant to an agreement between the transferor and the transferee which provides for—

“(i) reasonable procedures to implement the obligation of the transferee to furnish to the transferor, for each business day during such period, collateral with a fair market value not less than the fair market value of the security at the close of business on the preceding business day,

“(ii) termination of the loan by the transferor upon notice of not more than 5 business days, and

“(iii) return to the transferor of securities identical to the transferred securities upon termination of the loan.”.

26 USC 514.

(c) TREATMENT FOR PURPOSES OF SECTION 514.—Subsection (c) of section 514 of such Code (relating to unrelated debt-financed income) is amended by adding at the end thereof the following new paragraph:

“(8) SECURITIES SUBJECT TO LOANS.—For purposes of this section—

Ante, p. 481.

“(A) payments with respect to securities loans (as defined in section 512(a)(5)) shall be deemed to be derived from the securities loaned and not from collateral security or the investment of collateral security from such loans,

“(B) any deductions which are directly connected with collateral security for such loan, or with the investment of collateral security, shall be deemed to be deductions which are directly connected with the securities loaned, and

“(C) an obligation to return collateral security shall not be treated as acquisition indebtedness (as defined in paragraph (1)).”.

(d) TREATMENT OF GAIN OR LOSS ON CERTAIN LOANS OF SECURITIES.—

26 USC 1051 *et seq.*

26 USC 1059.

26 USC 1058.

(1) NONRECOGNITION OF GAIN OR LOSS.—Part IV of subchapter O of chapter 1 of such Code (relating to special rules) is amended by redesignating section 1058 as 1059 and by inserting after section 1057 the following new section:

“SEC. 1058. TRANSFERS OF SECURITIES UNDER CERTAIN AGREEMENTS.

26 USC 1236.

“(a) GENERAL RULE.—In the case of a taxpayer who transfers securities (as defined in section 1236(c)) pursuant to an agreement which meets the requirements of subsection (b), no gain or loss shall be recognized on the exchange of such securities by the taxpayer for an obligation under such agreement, or on the exchange of rights

under such agreement by that taxpayer for securities identical to the securities transferred by that taxpayer.

“(b) **AGREEMENT REQUIREMENTS.**—In order to meet the requirements of this subsection, an agreement shall—

“(1) provide for the return to the transferor of securities identical to the securities transferred;

“(2) require that payments shall be made to the transferor of amounts equivalent to all interest, dividends, and other distributions which the owner of the securities is entitled to receive during the period beginning with the transfer of the securities by the transferor and ending with the transfer of identical securities back to the transferor;

“(3) not reduce the risk of loss or opportunity for gain of the transferor of the securities in the securities transferred; and

“(4) meet such other requirements as the Secretary may by regulation prescribe.

“(c) **BASIS.**—Property acquired by a taxpayer described in subsection (a), in a transaction described in that subsection, shall have the same basis as the property transferred by that taxpayer.”

(2) **CLERICAL AMENDMENT.**—The table of sections for part IV of subchapter O of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 1058. Transfers of securities under certain agreements.

“Sec. 1059. Cross references.”

26 USC 1051 et seq.

(e) **EFFECTIVE DATE.**—The amendments made by this section apply with respect to—

(1) amounts received after December 31, 1976, as payments with respect to securities loans (as defined in section 512(a)(5) of the Internal Revenue Code of 1954), and

(2) transfers of securities, under agreements described in section 1058 of such Code, occurring after such date.

26 USC 509 note.

Ante, p. 481.

Ante, p. 482.

SEC. 3. USE OF COMPLETED CROP POOL METHOD OF ACCOUNTING.

Section 1382 of the Internal Revenue Code of 1954 (relating to taxable income of cooperatives) is amended by adding at the end thereof the following new subsection:

“(g) **USE OF COMPLETED CROP POOL METHOD OF ACCOUNTING.**—

“(1) **IN GENERAL.**—An organization described in section 1381(a) which is engaged in pooling arrangements for the marketing of products may compute its taxable income with respect to any pool opened prior to March 1, 1978, under the completed crop pool method of accounting if—

“(A) the organization has computed its taxable income under such method for the 10 taxable years ending with its first taxable year beginning after December 31, 1976, and

“(B) with respect to the pool, the organization has entered into an agreement with the United States or any of its agencies which includes provisions to the effect that—

“(i) the United States or such agency shall provide a loan to the organization with the products comprising the pool serving as collateral for such loan,

“(ii) the organization shall use an amount equal to the proceeds of such loan to make price support advances to eligible producers (as determined by the United States or such agency), to defray costs of handling, processing, and storing such products, or to pay all or part of any administrative costs associated with the price support program,

26 USC 1382.

26 USC 1381.

“(iii) an amount equal to the net proceeds (as determined under such agreement) from the sale or exchange of the products in the pool shall be used to repay such loan until such loan is repaid in full (or all the products in the pool are disposed of), and

“(iv) the net gains (as determined under such agreement) from the sale or exchange of such products shall be distributed to eligible producers, except to the extent that the United States or such agency permits otherwise.

“(2) COMPLETED CROP POOL METHOD OF ACCOUNTING DEFINED.—For purposes of this subsection, the term ‘completed crop pool method of accounting’ means a method of accounting under which gain or loss is computed separately for each crop year pool in the year in which the last of the products in the pool are disposed of.”.

Approved August 15, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-742 (Comm. on Ways and Means).

SENATE REPORT No. 95-762 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Jan. 24, considered and passed House.

Apr. 27, considered and passed Senate, amended.

June 14, House concurred in Senate amendments with amendments.

Aug. 2, Senate concurred in House amendments.