

(ii) the value of such interest subject to tax under section 83 upon the receipt or vesting of such interest.

(5) Third party investor

The term “third party investor” means a person who—

(A) holds an interest in the partnership which does not constitute property held in connection with an applicable trade or business; and

(B) is not (and has not been) actively engaged, and is (and was) not related to a person so engaged, in (directly or indirectly) providing substantial services described in paragraph (1) for such partnership or any applicable trade or business.

(d) Transfer of applicable partnership interest to related person

(1) In general

If a taxpayer transfers any applicable partnership interest, directly or indirectly, to a person related to the taxpayer, the taxpayer shall include in gross income (as short term capital gain) the excess (if any) of—

(A) so much of the taxpayer’s long-term capital gains with respect to such interest for such taxable year attributable to the sale or exchange of any asset held for not more than 3 years as is allocable to such interest, over

(B) any amount treated as short term capital gain under subsection (a) with respect to the transfer of such interest.

(2) Related person

For purposes of this paragraph, a person is related to the taxpayer if—

(A) the person is a member of the taxpayer’s family within the meaning of section 318(a)(1), or

(B) the person performed a service within the current calendar year or the preceding three calendar years in any applicable trade or business in which or for which the taxpayer performed a service.

(e) Reporting

The Secretary shall require such reporting (at the time and in the manner prescribed by the Secretary) as is necessary to carry out the purposes of this section.

(f) Regulations

The Secretary shall issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section²

(Added Pub. L. 115–97, title I, §13309(a)(2), Dec. 22, 2017, 131 Stat. 2130.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1061 was renumbered section 1062 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 115–97, title I, §13309(c), Dec. 22, 2017, 131 Stat. 2131, provided that: “The amendments made by this

² So in original. Probably should be followed by a period.

section [enacting this section and renumbering former section 1061 of this title as section 1062] shall apply to taxable years beginning after December 31, 2017.”

§ 1062. Cross references

(1) For nonrecognition of gain in connection with the transfer of obsolete vessels to the Maritime Administration under chapter 573 of title 46, United States Code, see section 57307 of title 46.

(2) For recognition of gain or loss in connection with the construction of new vessels, see chapter 533 of title 46, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 311, §1054; renumbered §1055, Pub. L. 86–779, §8(b), Sept. 14, 1960, 74 Stat. 1003; renumbered §1056, Pub. L. 88–9, §1(b), Apr. 10, 1963, 77 Stat. 7; renumbered §1057, Pub. L. 94–455, title II, §212(a)(1), Oct. 4, 1976, 90 Stat. 1545; renumbered §1058, Pub. L. 94–455, title X, §1015(c), Oct. 4, 1976, 90 Stat. 1618; renumbered §1059, Pub. L. 95–345, §2(d)(1), Aug. 15, 1978, 92 Stat. 482; renumbered §1060, Pub. L. 98–369, div. A, title I, §53(a), July 18, 1984, 98 Stat. 565; renumbered §1061 and amended, Pub. L. 99–514, title VI, §641(a), title XVIII, §1899A(27), Oct. 22, 1986, 100 Stat. 2282, 2960; Pub. L. 109–304, §17(e)(5), Oct. 6, 2006, 120 Stat. 1708; renumbered §1062, Pub. L. 115–97, title I, §13309(a)(1), Dec. 22, 2017, 131 Stat. 2130.)

Editorial Notes

AMENDMENTS

2017—Pub. L. 115–97 renumbered section 1061 of this title as this section.

2006—Par. (1). Pub. L. 109–304, §17(e)(5)(A), substituted “chapter 573 of title 46, United States Code, see section 57307 of title 46” for “section 510 of the Merchant Marine Act, 1936, see subsection (e) of that section, as amended August 4, 1939 (46 U.S.C. App. 1160)”.

Par. (2). Pub. L. 109–304, §17(e)(5)(B), substituted “chapter 533 of title 46, United States Code” for “section 511 of such Act, as amended (46 U.S.C. App. 1161)”.

Par. (3). Pub. L. 109–304, §17(e)(5)(C), struck out par. (3), which read as follows: “For nonrecognition of gain in connection with vessels exchanged with the Maritime Administration under section 8 of the Merchant Ship Sales Act of 1946, see subsection (a) of that section (50 U.S.C. App. 1741).”

1986—Pub. L. 99–514, §641(a), renumbered section 1060 of this title as this section.

Pars. (1), (2). Pub. L. 99–514, §1899A(27), which directed the amendment of pars. (1) and (2) of section 1060 by substituting “46 U.S.C. App.” for “46 U.S.C.” was executed to section 1061 to reflect the probable intent of Congress in view of the renumbering of section 1060 as 1061 by section 641(a) of Pub. L. 99–514.

[PART V—REPEALED]

[§ 1071. Repealed. Pub. L. 104–7, §2(a), Apr. 11, 1995, 109 Stat. 93]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 311; Sept. 2, 1958, Pub. L. 85–866, title I, §48(a), 72 Stat. 1642; Oct. 4, 1976, Pub. L. 94–455, title XIX, §§1901(b)(31)(E), 1906(b)(13)(A), 90 Stat. 1800, 1834, provided for nonrecognition on FCC certified sales and exchanges.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Pub. L. 104–7, §2(d), Apr. 11, 1995, 109 Stat. 93, provided that:

“(1) IN GENERAL.—The amendments made by this section [repealing this section and amending sections 1245 and 1250 of this title] shall apply to—