

Sec.
1202. Partial exclusion for gain from certain small business stock.

Editorial Notes

AMENDMENTS

2017—Pub. L. 115-97, title I, §13001(b)(2)(A), Dec. 22, 2017, 131 Stat. 2096, struck out item 1201 “Alternative tax for corporations”.

2000—Pub. L. 106-554, §1(a)(7) [title I, §117(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-604, substituted “Partial” for “50-percent” in item 1202.

1993—Pub. L. 103-66, title XIII, §13113(d)(6), Aug. 10, 1993, 107 Stat. 430, added item 1202.

1986—Pub. L. 99-514, title III, §301(b)(13), Oct. 22, 1986, 100 Stat. 2218, struck out item 1202 “Deduction for capital gains”.

1978—Pub. L. 95-600, title IV, §401(b)(6), Nov. 6, 1978, 92 Stat. 2867, substituted “Alternative tax for corporations” for “Alternative tax” in item 1201.

[§ 1201. Repealed. Pub. L. 115-97, title I, § 13001(b)(2)(A), Dec. 22, 2017, 131 Stat. 2096]

Section, Aug. 16, 1954, ch. 736, 68A Stat. 320; Mar. 13, 1956, ch. 83, §5(7), 70 Stat. 49; Pub. L. 86-69, §3(f)(2), June 25, 1959, 73 Stat. 140; Pub. L. 87-834, §8(g)(3), Oct. 16, 1962, 76 Stat. 999; Pub. L. 91-172, title V, §511(b), Dec. 30, 1969, 83 Stat. 635; Pub. L. 94-455, title XIX, §1901(a)(135), (b)(33)(L), Oct. 4, 1976, 90 Stat. 1786, 1801; Pub. L. 95-600, title IV, §§401(a), 403(a), (b), Nov. 6, 1978, 92 Stat. 2866, 2868; Pub. L. 96-222, title I, §104(a)(2)(B), (3)(A), Apr. 1, 1980, 94 Stat. 214, 215; Pub. L. 98-369, div. A, title II, §211(b)(16), July 18, 1984, 98 Stat. 756; Pub. L. 99-514, title III, §311(a), title X, §1024(c)(14), Oct. 22, 1986, 100 Stat. 2219, 2408; Pub. L. 100-647, title I, §1003(c)(1), title II, §2004(l), Nov. 10, 1988, 102 Stat. 3384, 3606; Pub. L. 103-66, title XIII, §13221(c)(2), Aug. 10, 1993, 107 Stat. 477; Pub. L. 104-188, title I, §1703(f), Aug. 20, 1996, 110 Stat. 1876; Pub. L. 105-34, title III, §314(a), Aug. 5, 1997, 111 Stat. 842; Pub. L. 110-234, title XV, §15311(a), May 22, 2008, 122 Stat. 1502; Pub. L. 110-246, §4(a), title XV, §15311(a), June 18, 2008, 122 Stat. 1664, 2264; Pub. L. 114-113, div. Q, title III, §334(a), Dec. 18, 2015, 129 Stat. 3108, related to alternative tax for corporations.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 2017, see section 13001(c)(1) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 11 of this title.

EXTENSION OF SPECIAL RULE RELATING TO QUALIFIED TIMBER GAIN

Pub. L. 115-123, div. D, title I, §40310, Feb. 9, 2018, 132 Stat. 147, provided that: “For purposes of applying section 1201(b) of the Internal Revenue Code of 1986 with respect to taxable years beginning during 2017, such section shall be applied by substituting ‘2016 or 2017’ for ‘2016’.”

§ 1202. Partial exclusion for gain from certain small business stock

(a) Exclusion

(1) In general

In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

(2) Empowerment zone businesses

(A) In general

In the case of qualified small business stock acquired after the date of the enact-

ment of this paragraph in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer’s holding period for such stock, paragraph (1) shall be applied by substituting “60 percent” for “50 percent”.

(B) Certain rules to apply

Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) (as in effect before its repeal) shall apply for purposes of this paragraph.

(C) Gain after 2018 not qualified

Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2018.

(D) Treatment of DC zone

The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.

(3) Special rules for 2009 and certain periods in 2010

In the case of qualified small business stock acquired after the date of the enactment of this paragraph and on or before the date of the enactment of the Creating Small Business Jobs Act of 2010—

(A) paragraph (1) shall be applied by substituting “75 percent” for “50 percent”, and

(B) paragraph (2) shall not apply.

In the case of any stock which would be described in the preceding sentence (but for this sentence), the acquisition date for purposes of this subsection shall be the first day on which such stock was held by the taxpayer determined after the application of section 1223.

(4) 100 percent exclusion for stock acquired during certain periods in 2010 and thereafter

In the case of qualified small business stock acquired after the date of the enactment of the Creating Small Business Jobs Act of 2010—

(A) paragraph (1) shall be applied by substituting “100 percent” for “50 percent”,

(B) paragraph (2) shall not apply, and

(C) paragraph (7) of section 57(a) shall not apply.

In the case of any stock which would be described in the preceding sentence (but for this sentence), the acquisition date for purposes of this subsection shall be the first day on which such stock was held by the taxpayer determined after the application of section 1223.

(b) Per-issuer limitation on taxpayer’s eligible gain

(1) In general

If the taxpayer has eligible gain for the taxable year from 1 or more dispositions of stock issued by any corporation, the aggregate amount of such gain from dispositions of stock issued by such corporation which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

(A) \$10,000,000 reduced by the aggregate amount of eligible gain taken into account by the taxpayer under subsection (a) for