

**§ 1312. Circumstances of adjustment**

The circumstances under which the adjustment provided in section 1311 is authorized are as follows:

**(1) Double inclusion of an item of gross income**

The determination requires the inclusion in gross income of an item which was erroneously included in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer.

**(2) Double allowance of a deduction or credit**

The determination allows a deduction or credit which was erroneously allowed to the taxpayer for another taxable year or to a related taxpayer.

**(3) Double exclusion of an item of gross income****(A) Items included in income**

The determination requires the exclusion from gross income of an item included in a return filed by the taxpayer or with respect to which tax was paid and which was erroneously excluded or omitted from the gross income of the taxpayer for another taxable year, or from the gross income of a related taxpayer; or

**(B) Items not included in income**

The determination requires the exclusion from gross income of an item not included in a return filed by the taxpayer and with respect to which the tax was not paid but which is includible in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer.

**(4) Double disallowance of a deduction or credit**

The determination disallows a deduction or credit which should have been allowed to, but was not allowed to, the taxpayer for another taxable year, or to a related taxpayer.

**(5) Correlative deductions and inclusions for trusts or estates and legatees, beneficiaries, or heirs**

The determination allows or disallows any of the additional deductions allowable in computing the taxable income of estates or trusts, or requires or denies any of the inclusions in the computation of taxable income of beneficiaries, heirs, or legatees, specified in subparts A to E, inclusive (secs. 641 and following, relating to estates, trusts, and beneficiaries) of part I of subchapter J of this chapter, or corresponding provisions of prior internal revenue laws, and the correlative inclusion or deduction, as the case may be, has been erroneously excluded, omitted, or included, or disallowed, omitted, or allowed, as the case may be, in respect of the related taxpayer.

**(6) Correlative deductions and credits for certain related corporations**

The determination allows or disallows a deduction (including a credit) in computing the taxable income (or, as the case may be, net income, normal tax net income, or surtax net income) of a corporation, and a correlative deduction or credit has been erroneously al-

lowed, omitted, or disallowed, as the case may be, in respect of a related taxpayer described in section 1313(c)(7).

**(7) Basis of property after erroneous treatment of a prior transaction****(A) General rule**

The determination determines the basis of property, and in respect of any transaction on which such basis depends, or in respect of any transaction which was erroneously treated as affecting such basis, there occurred, with respect to a taxpayer described in subparagraph (B) of this paragraph, any of the errors described in subparagraph (C) of this paragraph.

**(B) Taxpayers with respect to whom the erroneous treatment occurred**

The taxpayer with respect to whom the erroneous treatment occurred must be—

(i) the taxpayer with respect to whom the determination is made,

(ii) a taxpayer who acquired title to the property in the transaction and from whom, mediately or immediately, the taxpayer with respect to whom the determination is made derived title, or

(iii) a taxpayer who had title to the property at the time of the transaction and from whom, mediately or immediately, the taxpayer with respect to whom the determination is made derived title, if the basis of the property in the hands of the taxpayer with respect to whom the determination is made is determined under section 1015(a) (relating to the basis of property acquired by gift).

**(C) Prior erroneous treatment**

With respect to a taxpayer described in subparagraph (B) of this paragraph—

(i) there was an erroneous inclusion in, or omission from, gross income,

(ii) there was an erroneous recognition, or nonrecognition, of gain or loss, or

(iii) there was an erroneous deduction of an item properly chargeable to capital account or an erroneous charge to capital account of an item properly deductible.

(Aug. 16, 1954, ch. 736, 68A Stat. 338; Pub. L. 85-866, title I, § 59(a), Sept. 2, 1958, 72 Stat. 1647.)

**Editorial Notes****AMENDMENTS**

1958—Pars. (6), (7). Pub. L. 85-866 added par. (6) and redesignated former par. (6) as (7).

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1958 AMENDMENT**

Pub. L. 85-866, title I, § 59(c), Sept. 2, 1958, 72 Stat. 1647, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1314 of this title] shall apply to determinations (as defined in section 1313(a)) made after November 14, 1954."

**§ 1313. Definitions****(a) Determination**

For purposes of this part, the term "determination" means—