amendment by section 803(b)(5) of Pub. L. 99–514 is applicable to such interest costs only to the extent such interest costs are attributable to costs which were required to be capitalized under section 263 of the Internal Revenue Code of 1954 and which would have been taken into account in applying section 189 of the Internal Revenue Code of 1954 (as in effect before its repeal by section 803 of Pub. L. 99–514) or, if applicable, section 266 of such Code, see section 7831(d)(2) of Pub. L. 101–239, set out as an Effective Date note under section 263A of this title.

Amendment by section 803(b)(5) of Pub. L. 99–514 applicable, except as otherwise provided, to costs incurred after Dec. 31, 1986, in taxable years ending after that date, see section 803(d) of Pub. L. 99–514, set out as a note under section 263A of this title.

Amendment by section 806(c)(2) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, with special provisions applicable to taxpayers who are required to change their accounting periods, see section 806(e) of Pub. L. 99–514, set out as a note under section 1378 of this title.

Amendment by sections 1812(c)(1), (2), (3)(C), (4)(A) and 1842(a) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–369, div. A, title I, § 174(c), July 18, 1984, 98 Stat. 707, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) SUBSECTIONS (a) AND (b)(1).—The amendments made by subsections (a) and (b)(1) [amending this section] shall apply to amounts allowable as deductions under chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for taxable years beginning after December 31, 1983. For purposes of the preceding sentence, the allowability of a deduction shall be determined without regard to any disallowance or postponement of deductions under section 267 of such Code.

''(2) SUBSECTION (b) (OTHER THAN PARAGRAPH (1)).—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (b) (other than paragraph (1) thereof) [amending this section and sections 170, 368, 514, and 1235 of this title] shall apply to transactions after December 31, 1983, in taxable years ending after such date.

''(B) EXCEPTION FOR TRANSFERS TO FOREIGN CORPORATIONS ON OR BEFORE MARCH 1, 1984.—The amendments made by subsection (b)(2) [amending this section] shall not apply to property transferred to a foreign corporation on or before March 1, 1984.

''(3) EXCEPTION FOR EXISTING INDEBTEDNESS, ETC.—

''(A) IN GENERAL.—The amendments made by this section [amending this section and sections 170, 368, 514, and 1235 of this title] shall not apply to any amount paid or incurred—

''(i) on indebtedness incurred on or before September 29, 1983, or

''(ii) pursuant to a contract which was binding on September 29, 1983, and at all times thereafter before the amount is paid or incurred.

''(B) TREATMENT OF RENEGOTIATIONS, EXTENSIONS, ETC.—If any indebtedness (or contract described in subparagraph (A)) is renegotiated, extended, renewed, or revised after September 29, 1983, subparagraph (A) shall not apply to any amount paid or incurred on such indebtedness (or pursuant to such contract) after the date of such renegotiation, extension, renewal, or revision.''

Amendment by section 721(s) of Pub. L. 98–369 effective as if included in the 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 OF 1982 AMENDMENT

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

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–628, § 2(b), Nov. 10, 1978, 92 Stat. 3627, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to payments made after the date of the enactment of this Act [Nov. 10, 1978].''

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

Nothing in section 806 of Pub. L. 99–514 [amending this section] or in any legislative history relating thereto to be construed as requiring the Secretary of the Treasury or his delegate to permit an automatic change of a taxable year, see section 1008(e)(9) of Pub. L. 100–647, set out as a note under section 1378 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

EXCEPTION FOR CERTAIN INDEBTEDNESS

Pub. L. 99–514, title XVIII, § 1812(c)(5), Oct. 22, 1986, 100 Stat. 2835, provided that: ''Clause (i) of section 174(c)(3)(A) of the Tax Reform Act of 1984 [section 174(c)(3)(A)(i) of Pub. L. 98–369, set out as a note above] shall be applied by substituting 'December 31, 1983' for 'September 29, 1983' in the case of indebtedness which matures on January 1, 1999, the payments on which from January 1989 through November 1993 equal U/L plus $77,600, the payments on which from December 1993 to maturity equal U/L plus $50,100, and which accrued interest at 13.75 percent through December 31, 1989.''

§ 267A. Certain related party amounts paid or accrued in hybrid transactions or with hybrid entities

(a) In general

No deduction shall be allowed under this chapter for any disqualified related party amount paid or accrued pursuant to a hybrid transaction or by, or to, a hybrid entity.

(b) Disqualified related party amount

For purposes of this section—

(1) Disqualified related party amount

The term ''disqualified related party amount'' means any interest or royalty paid or accrued to a related party to the extent that—

(A) such amount is not included in the income of such related party under the tax law of the country of which such related party is a resident for tax purposes or is subject to tax, or

(B) such related party is allowed a deduction with respect to such amount under the tax law of such country.

Such term shall not include any payment to the extent such payment is included in the gross income of a United States shareholder under section 951(a).

(2) Related party

The term ''related party'' means a related person as defined in section 954(d)(3), except

that such section shall be applied with respect to the person making the payment described in paragraph (1) in lieu of the controlled foreign corporation otherwise referred to in such section.

(c) Hybrid transaction

For purposes of this section, the term ''hybrid transaction'' means any transaction, series of transactions, agreement, or instrument one or more payments with respect to which are treated as interest or royalties for purposes of this chapter and which are not so treated for purposes the tax law of the foreign country of which the recipient of such payment is resident for tax purposes or is subject to tax.

(d) Hybrid entity

For purposes of this section, the term ''hybrid entity'' means any entity which is either—

(1) treated as fiscally transparent for purposes of this chapter but not so treated for purposes of the tax law of the foreign country of which the entity is resident for tax purposes or is subject to tax, or

(2) treated as fiscally transparent for purposes of such tax law but not so treated for purposes of this chapter.

(e) Regulations

The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance providing for—

(1) rules for treating certain conduit arrangements which involve a hybrid transaction or a hybrid entity as subject to subsection (a),

(2) rules for the application of this section to branches or domestic entities,

(3) rules for treating certain structured transactions as subject to subsection (a),

(4) rules for treating a tax preference as an exclusion from income for purposes of applying subsection (b)(1) if such tax preference has the effect of reducing the generally applicable statutory rate by 25 percent or more,

(5) rules for treating the entire amount of interest or royalty paid or accrued to a related party as a disqualified related party amount if such amount is subject to a participation exemption system or other system which provides for the exclusion or deduction of a substantial portion of such amount,

(6) rules for determining the tax residence of a foreign entity if the entity is otherwise considered a resident of more than one country or of no country,

(7) exceptions from subsection (a) with respect to—

(A) cases in which the disqualified related party amount is taxed under the laws of a foreign country other than the country of which the related party is a resident for tax purposes, and

(B) other cases which the Secretary determines do not present a risk of eroding the Federal tax base,[1]

(8) requirements for record keeping and information reporting in addition to any requirements imposed by section 6038A.

[1] So in original. Probably should be followed by ''and''.

(Added Pub. L. 115–97, title I, §14222(a), Dec. 22, 2017, 131 Stat. 2219.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 115–97, title I, §14222(c), Dec. 22, 2017, 131 Stat. 2220, provided that: ''The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 2017.''

§ 268. Sale of land with unharvested crop

Where an unharvested crop sold by the taxpayer is considered under the provisions of section 1231 as ''property used in the trade or business'', in computing taxable income no deduction (whether or not for the taxable year of the sale and whether for expenses, depreciation, or otherwise) attributable to the production of such crop shall be allowed.

(Aug. 16, 1954, ch. 736, 68A Stat. 80.)

§ 269. Acquisitions made to evade or avoid income tax

(a) In general

If—

(1) any person or persons acquire, directly or indirectly, control of a corporation, or

(2) any corporation acquires, directly or indirectly, property of another corporation, not controlled, directly or indirectly, immediately before such acquisition, by such acquiring corporation or its stockholders, the basis of which property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation,

and the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance which such person or corporation would not otherwise enjoy, then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraphs (1) and (2), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of the corporation.

(b) Certain liquidations after qualified stock purchases

(1) In general

If—

(A) there is a qualified stock purchase by a corporation of another corporation,

(B) an election is not made under section 338 with respect to such purchase,

(C) the acquired corporation is liquidated pursuant to a plan of liquidation adopted not more than 2 years after the acquisition date, and

(D) the principal purpose for such liquidation is the evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance which the acquiring corporation would not otherwise enjoy,

then the Secretary may disallow such deduction, credit, or other allowance.