distribution and duly notifies such distributees of such designation, under regulations prescribed by the Secretary, but

(iii) not in excess of the sum of such distributees' allocable share of the undistributed personal holding company income for such year, computed without regard to this subparagraph or section 562(b).

(3) Deficiency dividend distributions by a regulated investment company or real estate investment trust

The term ''dividend'' also means any distribution of property (whether or not a dividend as defined in subsection (a)) which constitutes a ''deficiency dividend'' as defined in section 860(f).

(4) Certain distributions by regulated investment companies in excess of earnings and profits

In the case of a regulated investment company that has a taxable year other than a calendar year, if the distributions by the company with respect to any class of stock of such company for the taxable year exceed the company's current and accumulated earnings and profits which may be used for the payment of dividends on such class of stock, the company's current earnings and profits shall, for purposes of subsection (a), be allocated first to distributions with respect to such class of stock made during the portion of the taxable year which precedes January 1.

(Aug. 16, 1954, ch. 736, 68A Stat. 98; Mar. 13, 1956, ch. 83, §5(1), 70 Stat. 49; Pub. L. 88–272, title II, §225(f)(1), Feb. 26, 1964, 78 Stat. 87; Pub. L. 94–455, title XVI, §1601(d), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1746, 1834; Pub. L. 95–600, title III, §362(d)(1), Nov. 6, 1978, 92 Stat. 2851; Pub. L. 111–325, title III, §305(a), Dec. 22, 2010, 124 Stat. 3549.)

Editorial Notes

AMENDMENTS

2010—Subsec. (b)(4). Pub. L. 111–325 added par. (4).

1978—Subsec. (b)(3). Pub. L. 95–600 inserted ''regulated investment company or'' after ''distributions by a'' in heading and substituted in text ''section 860(f)'' for ''section 859(d)''.

1976—Subsec. (b)(2)(B)(ii). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(3). Pub. L. 94–455, §1601(d), added par. (3).

1964—Subsec. (b)(2). Pub. L. 88–272 inserted definition of ''distribution of property''.

1956—Subsec. (b)(1). Act Mar. 13, 1956, substituted ''subchapter L'' for ''sections 803(e), 821(a)(2), and 832(c)(11)''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–325, title III, §305(b), Dec. 22, 2010, 124 Stat. 3549, provided that: ''The amendment made by this section [amending this section] shall apply to distributions made in taxable years beginning after the date of the enactment of this Act [Dec. 22, 2010].''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95–600, set out as an Effective Date note under section 860 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 1601(d) of Pub. L. 94–455, see section 1608(a) of Pub. L. 94–455, set out as a note under section 857 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88–272, title II, §225(*l*), Feb. 26, 1964, 78 Stat. 94, provided that:

''(1) The amendments made by this section [enacting section 1022, redesignating former section 1022 as 1023, amending this section and sections 331, 333, 381, 541, 542, 543, 544, 545, 551, 553, 554, 562, 856, 1016, 1361, 6501, and the analysis preceding section 1011, and enacting provisions set out as a note under section 333 of this title] (other than by subsections (c)(1), (f), (g), and (j) [enacting section 1022, redesignating former section 1022 as 1023, amending this section and sections 331, 333, 542, 551, 562, 1016, and the analysis preceding section 1011 of this title]) shall apply to taxable years beginning after December 31, 1963.

''(2) The amendment made by subsection (c)(1) [amending section 542 of this title] shall apply to taxable years beginning after October 16, 1962.

''(3) The amendments made by subsections (f) and (g) [amending this section and sections 331, 333, 551, and 562 of this title] shall apply to distributions made in any taxable year of the distributing corporation beginning after December 31, 1963.

''(4) The amendments made by subsection (j) [enacting section 1022, redesignating former section 1022 as 1023, and amending section 1016 and the analysis preceding section 1011 of this title] shall apply in respect of decedents dying after December 31, 1963.

''(5) Subsection (h) [set out as a note under section 333 of this title] shall apply to taxable years beginning after December 31, 1963.''

EFFECTIVE DATE OF 1956 AMENDMENT

Act Mar. 13, 1956, ch. 83, §6, 70 Stat. 49, provided that: ''The amendments made by this Act [amending this section and sections 501, 594, 801 to 805, 811 to 813, 816 to 818, 821, 822, 832, 841, 842, 843, 891, 1201, 1504, and 4371 of this title] shall apply only to taxable years beginning after December 31, 1954.''

§ 317. Other definitions

(a) Property

For purposes of this part, the term ''property'' means money, securities, and any other property; except that such term does not include stock in the corporation making the distribution (or rights to acquire such stock).

(b) Redemption of stock

For purposes of this part, stock shall be treated as redeemed by a corporation if the corporation acquires its stock from a shareholder in exchange for property, whether or not the stock so acquired is cancelled, retired, or held as treasury stock.

(Aug. 16, 1954, ch. 736, 68A Stat. 99.)

§ 318. Constructive ownership of stock

(a) General rule

For purposes of those provisions of this subchapter to which the rules contained in this section are expressly made applicable—

(1) Members of family

(A) In general

An individual shall be considered as owning the stock owned, directly or indirectly, by or for—

(i) his spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and

(ii) his children, grandchildren, and parents.

(B) Effect of adoption

For purposes of subparagraph (A)(ii), a legally adopted child of an individual shall be treated as a child of such individual by blood.

(2) Attribution from partnerships, estates, trusts, and corporations

(A) From partnerships and estates

Stock owned, directly or indirectly, by or for a partnership or estate shall be considered as owned proportionately by its partners or beneficiaries.

(B) From trusts

(i) Stock owned, directly or indirectly, by or for a trust (other than an employees' trust described in section 401(a) which is exempt from tax under section 501(a)) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

(ii) Stock owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

(C) From corporations

If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned, directly or indirectly, by or for such corporation, in that proportion which the value of the stock which such person so owns bears to the value of all the stock in such corporation.

(3) Attribution to partnerships, estates, trusts, and corporations

(A) To partnerships and estates

Stock owned, directly or indirectly, by or for a partner or a beneficiary of an estate shall be considered as owned by the partnership or estate.

(B) To trusts

(i) Stock owned, directly or indirectly, by or for a beneficiary of a trust (other than an employees' trust described in section 401(a) which is exempt from tax under section 501(a)) shall be considered as owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this clause, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of the trust property.

(ii) Stock owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners) shall be considered as owned by the trust.

(C) To corporations

If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such corporation shall be considered as owning the stock owned, directly or indirectly, by or for such person.

(4) Options

If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(5) Operating rules

(A) In general

Except as provided in subparagraphs (B) and (C), stock constructively owned by a person by reason of the application of paragraph (1), (2), (3), or (4), shall, for purposes of applying paragraphs (1), (2), (3), and (4), be considered as actually owned by such person.

(B) Members of family

Stock constructively owned by an individual by reason of the application of paragraph (1) shall not be considered as owned by him for purposes of again applying paragraph (1) in order to make another the constructive owner of such stock.

(C) Partnerships, estates, trusts, and corporations

Stock constructively owned by a partnership, estate, trust, or corporation by reason of the application of paragraph (3) shall not be considered as owned by it for purposes of applying paragraph (2) in order to make another the constructive owner of such stock.

(D) Option rule in lieu of family rule

For purposes of this paragraph, if stock may be considered as owned by an individual under paragraph (1) or (4), it shall be considered as owned by him under paragraph (4).

(E) S corporation treated as partnership

For purposes of this subsection—

(i) an S corporation shall be treated as a partnership, and

(ii) any shareholder of the S corporation shall be treated as a partner of such partnership.

The preceding sentence shall not apply for purposes of determining whether stock in the S corporation is constructively owned by any person.

(b) Cross references

For provisions to which the rules contained in subsection (a) apply, see—

(1) section 302 (relating to redemption of stock);

(2) section 304 (relating to redemption by related corporations);

(3) section 306(b)(1)(A) (relating to disposition of section 306 stock);

(4) section 338(h)(3) (defining purchase);

(5) section 382(*l*)(3) (relating to special limitations on net operating loss carryovers);

(6) section 856(d) (relating to definition of rents from real property in the case of real estate investment trusts);

(7) section 958(b) (relating to constructive ownership rules with respect to controlled foreign corporations); and

(8) section 6038(e)(2) (relating to information with respect to certain foreign corporations).

(Aug. 16, 1954, ch. 736, 68A Stat. 99; Pub. L. 86–779, §10(h), Sept. 14, 1960, 74 Stat. 1009; Pub. L. 87–834, §20(d)(1), Oct. 16, 1962, 76 Stat. 1063; Pub. L. 88–554, §4(a), (b)(2), Aug. 31, 1964, 78 Stat. 762, 763; Pub. L. 97–248, title II, §224(c)(3), Sept. 3, 1982, 96 Stat. 489; Pub. L. 98–369, div. A, title VII, §§712(k)(5)(E), 721(j), July 18, 1984, 98 Stat. 950, 969; Pub. L. 99–514, title VI, §621(c)(1), Oct. 22, 1986, 100 Stat. 2266; Pub. L. 105–34, title XI, §1142(e)(3), Aug. 5, 1997, 111 Stat. 983; Pub. L. 109–135, title IV, §412(u), Dec. 21, 2005, 119 Stat. 2638.)

Editorial Notes

AMENDMENTS

2005—Subsec. (b)(8). Pub. L. 109–135 substituted ''section 6038(e)(2)'' for ''section 6038(d)(2)''.

1997—Subsec. (b)(8). Pub. L. 105–34 substituted ''6038(d)(2)'' for ''6038(d)(1)''.

1986—Subsec. (b)(5). Pub. L. 99–514 substituted ''382(*l*)(3)'' for ''382(a)(3)''.

1984—Subsec. (a)(5)(E). Pub. L. 98–369, §721(j), added subpar. (E).

Subsec. (b)(4). Pub. L. 98–369, §712(k)(5)(E), substituted ''section 338(h)(3) (defining purchase)'' for ''section 338(h)(3)(B) (relating to purchase of stock from subsidiaries, etc.)''.

1982—Subsec. (b)(4). Pub. L. 97–248 substituted ''section 338(h)(3)(B) (relating to purchase of stock from subsidiaries, etc.)'' for ''section 334(b)(3)(C) (relating to basis of property received in certain liquidations of subsidiaries)''.

1964—Subsec. (a). Pub. L. 88–554, §4(a), struck out sidewise attribution by providing that when stock is attributed to a partnership, estate, trust, or corporation from a partner, shareholder, or beneficiary, this stock is not to be attributed again to another partner, beneficiary, or shareholder.

Subsec. (b)(7), (8). Pub. L. 88–554, §4(b)(2), added par. (7) and redesignated former par. (7) as (8).

1962—Subsec. (b)(7). Pub. L. 87–834 added par. (7).

1960—Subsec. (b)(6). Pub. L. 86–779 added par. (6).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title XI, §1142(f), Aug. 5, 1997, 111 Stat. 983, provided that: ''The amendments made by this section [amending this section and sections 901 and 6038 of this title] shall apply to annual accounting periods beginning after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to any ownership change after Dec. 31, 1986, except as otherwise provided, see section 621(f) of Pub. L. 99–514, as amended, set out as a note under section 382 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 712(k)(5)(E) of Pub. L. 98–369 not applicable to any qualified stock purchase where the acquisition date is before Sept. 1, 1982, see section 712(k)(9)(A) of Pub. L. 98–369, set out as a note under section 338 of this title.

Amendment by section 712(k)(5)(E) of Pub. L. 98–369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 715 of Pub. L. 98–369, set out as a note under section 31 of this title.

Amendment by section 721(j) 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. 97–248 applicable to any target corporation with respect to which the acquisition date occurs after Aug. 31, 1982, with special rules for certain acquisitions before Sept. 1, 1982, and certain acquisitions of financial institutions in which there was a binding contract on July 22, 1982, to acquire control, see section 224(d) of Pub. L. 97–248, set out as an Effective Date note under section 338 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88–554, §4(c), Aug. 31, 1964, 78 Stat. 764, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section and sections 304, 382, 856, 958, and 6038 of this title] shall take effect on the date of the enactment of this Act, [Aug. 31, 1964], except that, for purposes of sections 302 and 304 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], such amendments shall not apply with respect to distributions in payment for stock acquisitions or redemptions, if such acquisitions or redemptions occurred before the date of the enactment of this Act.''

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–779 applicable with respect to taxable years of real estate investment trusts beginning after Dec. 31, 1960, see section 10(k) of Pub. L. 86–779, set out as an Effective Date note under section 856 of this title.

PART II—CORPORATE LIQUIDATIONS

Subpart
A. Effects on recipients.
B. Effects on corporation.
[C. Repealed.]
D. Definition and special rule.

Editorial Notes

AMENDMENTS

2003—Pub. L. 108–27, title III, §302(e)(4)(B)(iii), May 28, 2003, 117 Stat. 764, struck out item for subpart C ''Collapsible corporations''.

1982—Pub. L. 97–248, title II, §222(e)(8)(B), Sept. 3, 1982, 96 Stat. 481, inserted ''and special rule'' in item for subpart D.

1976—Pub. L. 94–455, title XIX, §1901(b)(12)(B), Oct. 4, 1976, 90 Stat. 1795, struck out in table of subparts for part II of subchapter C of chapter 1 in subpart (C) ''; foreign personal holding companies'' after ''corporations''.

SUBPART A—EFFECTS ON RECIPIENTS

Sec.
331. Gain or loss to shareholder in corporate liquidations.
332. Complete liquidations of subsidiaries.
[333. Repealed.]
334. Basis of property received in liquidations.