

“(1) a refinancing is attributable to the calling of indebtedness by the creditor, and

“(2) such refinancing is not with the creditor under the refinanced indebtedness or a person related to such creditor.

such refinancing shall, to the extent the refinanced indebtedness qualifies under subsections (a) and (b), be treated as a continuation of such refinanced indebtedness.”

AMENDMENT BY PUB. L. 99-514 TREATED AS CHANGE IN METHOD OF ACCOUNTING

For provisions requiring change in accounting method in the case of any taxpayer who made sales under revolving credit plan and was on installment method under this section for such taxpayer's last taxable year beginning before Jan. 1, 1987, see section 812(c)(2) of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 453 of this title.

§ 453B. Gain or loss on disposition of installment obligations

(a) General rule

If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and—

(1) the amount realized, in the case of satisfaction at other than face value or a sale or exchange, or

(2) the fair market value of the obligation at the time of distribution, transmission, or disposition, in the case of the distribution, transmission, or disposition otherwise than by sale or exchange.

any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received.

(b) Basis of obligation

The basis of an installment obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full.

(c) Special rule for transmission at death

Except as provided in section 691 (relating to recipients of income in respect of decedents), this section shall not apply to the transmission of installment obligations at death.

(d) Exception for distributions to which section 337(a) applies

Subsection (a) shall not apply to any distribution to which section 337(a) applies.

(e) Life insurance companies

(1) In general

In the case of a disposition of an installment obligation by any person other than a life insurance company (as defined in section 816(a)) to such an insurance company or to a partnership of which such an insurance company is a partner, no provision of this subtitle providing for the nonrecognition of gain shall apply with respect to any gain resulting under subsection (a). If a corporation which is a life insurance company for the taxable year was (for the preceding taxable year) a corporation which was not a life insurance company, such corpora-

tion shall, for purposes of this subsection and subsection (a), be treated as having transferred to a life insurance company, on the last day of the preceding taxable year, all installment obligations which it held on such last day. A partnership of which a life insurance company becomes a partner shall, for purposes of this subsection and subsection (a), be treated as having transferred to a life insurance company, on the last day of the preceding taxable year of such partnership, all installment obligations which it holds at the time such insurance company becomes a partner.

(2) Special rule where life insurance company elects to treat income as not related to insurance business

Paragraph (1) shall not apply to any transfer or deemed transfer of an installment obligation if the life insurance company elects (at such time and in such manner as the Secretary may by regulations prescribe) to determine its life insurance company taxable income—

(A) by returning the income on such installment obligation under the installment method prescribed in section 453, and

(B) as if such income were an item attributable to a noninsurance business.

(3) Noninsurance business

(A) In general

For purposes of this subsection, the term “noninsurance business” means any activity which is not an insurance business.

(B) Certain activities treated as insurance businesses

For purposes of subparagraph (A), any activity which is not an insurance business shall be treated as an insurance business if—

(i) it is of a type traditionally carried on by life insurance companies for investment purposes, but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or

(ii) it involves the performance of administrative services in connection with plans providing life insurance, pension, or accident and health benefits.

(f) Obligation becomes unenforceable

For purposes of this section, if any installment obligation is canceled or otherwise becomes unenforceable—

(1) the obligation shall be treated as if it were disposed of in a transaction other than a sale or exchange, and

(2) if the obligor and obligee are related persons (within the meaning of section 453(f)(1)), the fair market value of the obligation shall be treated as not less than its face amount.

(g) Transfers between spouses or incident to divorce

In the case of any transfer described in subsection (a) of section 1041 (other than a transfer in trust)—

(1) subsection (a) of this section shall not apply, and

(2) the same tax treatment with respect to the transferred installment obligation shall

apply to the transferee as would have applied to the transferor.

(h) Certain liquidating distributions by S corporations

If—

(1) an installment obligation is distributed by an S corporation in a complete liquidation, and

(2) receipt of the obligation is not treated as payment for the stock by reason of section 453(h)(1),

then, except for purposes of any tax imposed by subchapter S, no gain or loss with respect to the distribution of the obligation shall be recognized by the distributing corporation. Under regulations prescribed by the Secretary, the character of the gain or loss to the shareholder shall be determined in accordance with the principles of section 1366(b).

(Added Pub. L. 96-471, §2(a), Oct. 19, 1980, 94 Stat. 2252; amended Pub. L. 96-471, §2(c)(3), Oct. 19, 1980, 94 Stat. 2254; Pub. L. 97-448, title III, §302, Jan. 12, 1983, 96 Stat. 2398; Pub. L. 98-369, div. A, title I, §43(c)(2), title II, §211(b)(6), title IV, §§421(b)(3), 492(b)(3), July 18, 1984, 98 Stat. 558, 754, 794, 854; Pub. L. 99-514, title VI, §631(e)(9), title X, §1011(b)(1), title XVIII, §1842(c), Oct. 22, 1986, 100 Stat. 2274, 2389, 2853; Pub. L. 100-647, title I, §1006(e)(22), Nov. 10, 1988, 102 Stat. 3403; Pub. L. 101-508, title XI, §11702(a)(2), Nov. 5, 1990, 104 Stat. 1388-514; Pub. L. 115-97, title I, §13512(b)(1), Dec. 22, 2017, 131 Stat. 2142; Pub. L. 115-141, div. U, title IV, §401(a)(111), Mar. 23, 2018, 132 Stat. 1189.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 453 of this title.

AMENDMENTS

2018—Pub. L. 115-141 substituted “loss on disposition” for “loss disposition” in section catchline.

2017—Subsec. (e)(2)(B). Pub. L. 115-97, §13512(b)(1)(A), struck out “(as defined in section 806(b)(3))” before period at end.

Subsec. (e)(3). Pub. L. 115-97, §13512(b)(1)(B), added par. (3).

1990—Subsec. (d). Pub. L. 101-508 substituted heading for one which read: “Effect of distribution in liquidations to which section 332 applies” and amended text generally. Prior to amendment, text read as follows: “If—

“(1) an installment obligation is distributed in a liquidation to which section 332 (relating to complete liquidations of subsidiaries) applies, and

“(2) the basis of such obligation in the hands of the distributee is determined under section 334(b)(1), then no gain or loss with respect to the distribution of such obligation shall be recognized by the distributing corporation.”

1988—Subsec. (h). Pub. L. 100-647 added subsec. (h).

1986—Subsec. (d). Pub. L. 99-514, §631(e)(9), amended subsec. (d) generally, substituting “liquidations to which section 332 applies” for “certain liquidations” in heading, striking out par. (1) designation, redesignating subpars. (A) and (B) as pars. (1) and (2), and striking out former par. (2) relating to liquidations to which section 337 applies.

Subsec. (e)(2)(B). Pub. L. 99-514, §1011(b)(1), substituted “section 806(b)(3)” for “section 806(c)(3)”.

Subsec. (g). Pub. L. 99-514, §1842(c), inserted “(other than a transfer in trust)”.

1984—Subsec. (d)(2). Pub. L. 98-369, §492(b)(3), struck out “1251(c),” after “1250(a),” in provision following subpar. (B).

Pub. L. 98-369, §43(c)(2), substituted “1254(a), or 1276(a)” for “or 1254(a)”.

Subsec. (e)(1). Pub. L. 98-369, §211(b)(6)(A), substituted “section 816(a)” for “section 801(a)”.

Subsec. (e)(2). Pub. L. 98-369, §211(b)(6)(B), substituted “as not related to insurance business” for “as investment income” in heading, and in text substituted “as if such income were an item attributable to a noninsurance business (as defined in section 806(c)(3))” for “if such income would not otherwise be returnable as an item referred to in section 804(b) or as long-term capital gain, as if the income on such obligations were income specified in section 804(b)”.

Subsec. (g). Pub. L. 98-369, §421(b)(3), added subsec. (g).

1983—Subsec. (d)(2). Pub. L. 97-448 substituted “under subsection (a)” for “under paragraph (1)” in second sentence.

1980—Subsec. (d). Pub. L. 96-471, §2(c)(3), inserted last sentence providing that in the case of any installment obligation which would have met the requirements of subpars. (A) and (B) of par. (2) but for sections 337(f), gain shall be recognized to such corporation by reason of such distribution only to the extent gain would have been recognized under sections 337(f) if such corporation had sold or exchanged such installment obligation on the date of such distribution.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13512(c), Dec. 22, 2017, 131 Stat. 2143, provided that: “The amendments made by this section [amending this section and sections 465, 801, 804, 805, 842, and 953 of this title and repealing section 806 of this title] shall apply to taxable years beginning after December 31, 2017.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 11702(j) of Pub. L. 101-508, set out as a note under section 59 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 631(e)(9) of Pub. L. 99-514 applicable to any distribution in complete liquidation, and any sale or exchange, made by a corporation after July 31, 1986, unless such corporation is completely liquidated before Jan. 1, 1987, any transaction described in section 338 of this title for which the acquisition date occurs after Dec. 31, 1986, and any distribution, not in complete liquidation, made after Dec. 31, 1986, with exceptions and special and transitional rules, see section 633 of Pub. L. 99-514, set out as an Effective Date note under section 336 of this title.

Pub. L. 99-514, title X, §1011(c)(1), Oct. 22, 1986, 100 Stat. 2389, provided that: “The amendments made by this section [amending this section and sections 465, 801, 804 to 806, 813, and 815 of this title, enacting provisions set out as a note under section 801 of this title, and amending provisions set out as a note under section 806 of this title] shall apply to taxable years beginning after December 31, 1986.”

Amendment by section 1842(c) 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

Amendment by section 43(c)(2) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

Amendment by section 211(b)(6) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

Amendment by section 421(b)(3) of Pub. L. 98-369 applicable to transfers after July 18, 1984, in taxable years ending after such date, subject to election to have amendment apply to transfers after 1983 or to transfers pursuant to existing decrees, see section 421(d) of Pub. L. 98-369, set out as an Effective Date note under section 1041 of this title.

Amendment by section 492(b)(3) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 492(d) of Pub. L. 98-369, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 applicable to dispositions made after Oct. 19, 1980, in taxable years ending after such date, see section 311(a) of Pub. L. 97-448, set out as a note under section 453 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

For effective date of amendment by Pub. L. 96-471, see section 6(a)(6) of Pub. L. 96-471, set out as an Effective Date note under section 453 of this title.

EFFECTIVE DATE

For effective date, see section 6(a)(1), (5) of Pub. L. 96-471, set out as a note under section 453 of this title.

REPEAL OF MODIFICATION OF INSTALLMENT METHOD

Pub. L. 106-573, § 2, Dec. 28, 2000, 114 Stat. 3061, provided that:

“(a) IN GENERAL.—Subsection (a) of section 536 of the Ticket to Work and Work Incentives Improvement Act of 1999 (relating to modification of installment method and repeal of installment method for accrual method taxpayers) [Pub. L. 106-170, amending this section] is repealed effective with respect to sales and other dispositions occurring on or after the date of the enactment of such Act [Dec. 17, 1999].

“(b) APPLICABILITY.—The Internal Revenue Code of 1986 shall be applied and administered as if that subsection (and the amendments made by that subsection) had not been enacted.”

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.

TREATMENT OF ELECTIONS UNDER SECTION 453B(e)(2)

Pub. L. 98-369, div. A, title II, § 217(b), July 18, 1984, 98 Stat. 762, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “If an election is made under section 453B(e)(2) before January 1, 1984, with respect to any installment obligation, any income from such obligation shall be treated as attributable to a noninsurance business (as defined in [former] section 806(c)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]).”

[§ 453C. Repealed. Pub. L. 100-203, title X, § 10202(a)(1), Dec. 22, 1987, 101 Stat. 1330-388]

Section, added Pub. L. 99-514, title VIII, § 811(a), Oct. 22, 1986, 100 Stat. 2365; amended Pub. L. 100-647, title I, § 1008(f)(1)-(5), Nov. 10, 1988, 102 Stat. 3441, 3442, related to treatment of certain indebtedness as payment on installment obligations.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable to dispositions in taxable years beginning after Dec. 31, 1987, with special rules for dealers and non-dealers, and coordination with Tax Reform Act of 1986, see section 10202(e)(1)-(3), (5) of Pub. L. 100-203, set out as a note under section 453 of this title.

APPLICABILITY OF AMENDMENTS BY PUB. L. 100-203 AND PUB. L. 100-647

Pub. L. 100-647, title I, § 1008(f)(9), Nov. 10, 1988, 102 Stat. 3442, provided that: “For purposes of applying the amendments made by this subsection [amending this section and provisions set out below] and the amendments made by section 10202 of the Revenue Act of 1987 [Pub. L. 100-203, amending sections 56, 381, 453, 453A, and 691 of this title and repealing this section], the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987 [Dec. 22, 1987].”

EFFECTIVE DATE; ALLOCATION OF INDEBTEDNESS AS PAYMENT ON INSTALLMENT OBLIGATION

Pub. L. 99-514, title VIII, § 811(c), Oct. 22, 1986, 100 Stat. 2368, as amended by Pub. L. 100-647, title I, § 1008(f)(6)-(8), Nov. 10, 1988, 102 Stat. 3442; Pub. L. 105-34, title X, § 1088(a), Aug. 5, 1997, 111 Stat. 959, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section [enacting this section] shall apply to taxable years ending after December 31, 1986, with respect to dispositions after February 28, 1986.

“(2) Repealed. Pub. L. 105-34, title X, § 1088(a), Aug. 5, 1997, 111 Stat. 959.]

“(3) EXCEPTION FOR CERTAIN OBLIGATIONS.—In applying the amendments made by this section to any installment obligation of a corporation incorporated on January 13, 1928, the following indebtedness shall not be taken into account in determining the allocable installment indebtedness of such corporation under section 453C of the Internal Revenue Code of 1986 (as added by this section):

“(A) 12½ percent subordinated debentures with a total face amount of \$175,000,000 issued pursuant to a trust indenture dated as of September 1, 1985.

“(B) A revolving credit term loan in the maximum amount of \$130,000,000 made pursuant to a revolving credit and security agreement dated as of September 6, 1985, payable in various stages with final payment due on August 31, 1992.

This paragraph shall also apply to indebtedness which replaces indebtedness described in this paragraph if such indebtedness does not exceed the amount and maturity of the indebtedness it replaces.

“(4) SPECIAL RULE FOR RESIDENTIAL CONDOMINIUM PROJECT.—For purposes of applying the amendments made by this section, the term applicable installment obligation (within the meaning of section 453C(e)(1) of the Internal Revenue Code of 1986) shall not include any obligation arising in connection with sales from a residential condominium project—

“(A) for which a contract to purchase land for the project was entered into at least 5 years before the date of the enactment of this Act,

“(B) with respect to which land for the project was purchased before September 26, 1985,

“(C) with respect to which building permits for the project were obtained, and construction commenced, before September 26, 1985,