

**[§ 466. Repealed. Pub. L. 99-514, title VIII, § 823(a), Oct. 22, 1986, 100 Stat. 2373]**

Section, added Pub. L. 95-600, title III, § 373(a), Nov. 6, 1978, 92 Stat. 2863; amended Pub. L. 96-222, title I, § 103(a)(16), Apr. 1, 1980, 94 Stat. 214, related to qualified discount coupons redeemed after close of taxable year.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF REPEAL**

Pub. L. 99-514, title VIII, § 823(c), Oct. 22, 1986, 100 Stat. 2374, provided:

“(1) IN GENERAL.—The amendments made by this section [amending section 461 of this title and repealing this section] shall apply to taxable years beginning after December 31, 1986.

“(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who elected to have section 466 of the Internal Revenue Code of 1954 [now 1986] apply for such taxpayer’s last taxable year beginning before January 1, 1987, and is required to change its method of accounting by reason of the amendments made by this section for any taxable year—

“(A) such change shall be treated as initiated by the taxpayer,

“(B) such change shall be treated as having been made with the consent of the Secretary, and

“(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 to be taken into account by the taxpayer shall—

“(i) be reduced by the balance in the suspense account under section 466(e) of such Code as of the close of such last taxable year, and

“(ii) be taken into account over a period not longer than 4 years.”

**§ 467. Certain payments for the use of property or services**

**(a) Accrual method on present value basis**

In the case of the lessor or lessee under any section 467 rental agreement, there shall be taken into account for purposes of this title for any taxable year the sum of—

(1) the amount of the rent which accrues during such taxable year as determined under subsection (b), and

(2) interest for the year on the amounts which were taken into account under this subsection for prior taxable years and which are unpaid.

**(b) Accrual of rental payments**

**(1) Allocation follows agreement**

Except as provided in paragraph (2), the determination of the amount of the rent under any section 467 rental agreement which accrues during any taxable year shall be made—

(A) by allocating rents in accordance with the agreement, and

(B) by taking into account any rent to be paid after the close of the period in an amount determined under regulations which shall be based on present value concepts.

**(2) Constant rental accrual in case of certain tax avoidance transactions, etc.**

In the case of any section 467 rental agreement to which this paragraph applies, the portion of the rent which accrues during any taxable year shall be that portion of the constant rental amount with respect to such agreement which is allocable to such taxable year.

**(3) Agreements to which paragraph (2) applies**

Paragraph (2) applies to any rental payment agreement if—

(A) such agreement is a disqualified leaseback or long-term agreement, or

(B) such agreement does not provide for the allocation referred to in paragraph (1)(A).

**(4) Disqualified leaseback or long-term agreement**

For purposes of this subsection, the term “disqualified leaseback or long-term agreement” means any section 467 rental agreement if—

(A) such agreement is part of a leaseback transaction or such agreement is for a term in excess of 75 percent of the statutory recovery period for the property, and

(B) a principal purpose for providing increasing rents under the agreement is the avoidance of tax imposed by this subtitle.

**(5) Exceptions to disqualification in certain cases**

The Secretary shall prescribe regulations setting forth circumstances under which agreements will not be treated as disqualified leaseback or long-term agreements, including circumstances relating to—

(A) changes in amounts paid determined by reference to price indices,

(B) rents based on a fixed percentage of lessee receipts or similar amounts,

(C) reasonable rent holidays, or

(D) changes in amounts paid to unrelated 3rd parties.

**(c) Recapture of prior understated inclusions under leaseback or long-term agreements**

**(1) In general**

If—

(A) the lessor under any section 467 rental agreement disposes of any property subject to such agreement during the term of such agreement, and

(B) such agreement is a leaseback or long-term agreement to which paragraph (2) of subsection (b) did not apply,

the recapture amount shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

**(2) Recapture amount**

For purposes of paragraph (1), the term “recapture amount” means the lesser of—

(A) the prior understated inclusions, or

(B) the excess of the amount realized (or in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of the property) over the adjusted basis of such property.

The amount determined under subparagraph (B) shall be reduced by the amount of any gain treated as ordinary income on the disposition under any other provision of this subtitle.

**(3) Prior understated inclusions**

For purposes of this subsection, the term “prior understated inclusion” means the excess (if any) of—

(A) the amount which would have been taken into account by the lessor under sub-