

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 applicable to taxable years beginning after Dec. 31, 2012, see section 102(d)(1) of Pub. L. 112-240, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-27 applicable, except as otherwise provided, to taxable years beginning after Dec. 31, 2002, see section 302(f) of Pub. L. 108-27, set out as an Effective and Termination Dates of 2003 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2000, see section 101(d)(1) of Pub. L. 107-16, set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to taxable years beginning after Dec. 31, 1992, see sections 13201(c) and 13202(c) of Pub. L. 103-66, set out as notes under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1001(a)(2)(B), Nov. 10, 1988, 102 Stat. 3349, provided that: "The amendment made by subparagraph (A) [amending this section] shall apply to taxable years beginning after December 31, 1987. Such amendment shall not be treated as a change in a rate of tax for purposes of section 15 of the 1986 Code."

§ 532. Corporations subject to accumulated earnings tax**(a) General rule**

The accumulated earnings tax imposed by section 531 shall apply to every corporation (other than those described in subsection (b)) formed or availed of for the purpose of avoiding the income tax with respect to its shareholders or the shareholders of any other corporation, by permitting earnings and profits to accumulate instead of being divided or distributed.

(b) Exceptions

The accumulated earnings tax imposed by section 531 shall not apply to—

- (1) a personal holding company (as defined in section 542),
- (2) a corporation exempt from tax under subchapter F (section 501 and following), or
- (3) a passive foreign investment company (as defined in section 1297).

(c) Application determined without regard to number of shareholders

The application of this part to a corporation shall be determined without regard to the number of shareholders of such corporation.

(Aug. 16, 1954, ch. 736, 68A Stat. 179; Pub. L. 98-369, div. A, title I, §58(a), July 18, 1984, 98 Stat. 574; Pub. L. 99-514, title XII, §1235(f)(1), Oct. 22, 1986, 100 Stat. 2575; Pub. L. 105-34, title XI, §1122(d)(1), Aug. 5, 1997, 111 Stat. 977; Pub. L. 109-135, title IV, §403(n)(1), Dec. 21, 2005, 119 Stat. 2626.)

Editorial Notes

AMENDMENTS

2005—Subsec. (b)(2) to (4). Pub. L. 109-135 redesignated pars. (3) and (4) as (2) and (3), respectively, and struck

out former par. (2) which read as follow: "a foreign personal holding company (as defined in section 552)."

1997—Subsec. (b)(4). Pub. L. 105-34 substituted "section 1297" for "section 1296".

1986—Subsec. (b)(4). Pub. L. 99-514 added par. (4).

1984—Subsec. (c). Pub. L. 98-369 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XI, §1124, Aug. 5, 1997, 111 Stat. 978, provided that: "The amendments made by this subtitle [subtitle C (§§1121-1124) of title XI of Pub. L. 105-34, enacting section 1296 of this title, amending this section and sections 542, 551, 852, 1291, 1293, 1296 to 1298, and 4982 of this title, redesignating subpart C of part VI of subchapter P of this chapter as subpart D of part VI of subchapter P of this chapter, and renumbering sections 1296 and 1297 of this title as sections 1297 and 1298, respectively, of this title] shall apply to—

"(1) taxable years of United States persons beginning after December 31, 1997, and

"(2) taxable years of foreign corporations ending with or within such taxable years of United States persons."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years of foreign corporations beginning after Dec. 31, 1986, see section 1235(h) of Pub. L. 99-514, set out as an Effective Date note under section 1291 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §58(c), July 18, 1984, 98 Stat. 576, provided that: "The amendments made by this section [amending this section and section 535 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [July 18, 1984]."

§ 533. Evidence of purpose to avoid income tax**(a) Unreasonable accumulation determinative of purpose**

For purposes of section 532, the fact that the earnings and profits of a corporation are permitted to accumulate beyond the reasonable needs of the business shall be determinative of the purpose to avoid the income tax with respect to shareholders, unless the corporation by the preponderance of the evidence shall prove to the contrary.

(b) Holding or investment company

The fact that any corporation is a mere holding or investment company shall be prima facie evidence of the purpose to avoid the income tax with respect to shareholders.

(Aug. 16, 1954, ch. 736, 68A Stat. 179.)

§ 534. Burden of proof**(a) General rule**

In any proceeding before the Tax Court involving a notice of deficiency based in whole or in part on the allegation that all or any part of the earnings and profits have been permitted to accumulate beyond the reasonable needs of the business, the burden of proof with respect to such allegation shall—