

[former] sections 56(g)(1) and 56(g)(3) of the Internal Revenue Code of 1986 with respect to taxable years beginning in 1991 and 1992, the reference in such sections to the alternative tax net operating loss deduction shall be treated as including a reference to the deduction under [former] section 56(h) of such Code as in effect before the amendments made by section 1915 of the Energy Policy Act of 1992 [Pub. L. 102-486].”

INSTALLMENT SALES; TAXABLE YEARS BEGINNING IN 1987

Pub. L. 101-239, title VII, § 7821(a)(5), Dec. 19, 1989, 103 Stat. 2424, provided that: “In the case of taxable years beginning in 1987, the reference to section 453 contained in section 56(a)(6) of the Internal Revenue Code of 1986 shall be treated as including a reference to section 453A.”

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(a) of Pub. L. 99-514 [enacting this section] notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

STUDY OF BOOK AND EARNINGS AND PROFITS ADJUSTMENTS

Pub. L. 99-514, title VII, § 702, Oct. 22, 1986, 100 Stat. 2345, required Secretary of the Treasury or his delegate to conduct a study of operation and effect of provisions of section 56(f) and former section 56(g) of the Internal Revenue Code of 1986, prior to repeal by Pub. L. 101-508, title XI, § 11832(4), Nov. 5, 1990, 104 Stat. 1388-559.

§ 56A. Adjusted financial statement income

(a) In general

For purposes of this part, the term “adjusted financial statement income” means, with respect to any corporation for any taxable year, the net income or loss of the taxpayer set forth on the taxpayer’s applicable financial statement for such taxable year, adjusted as provided in this section.

(b) Applicable financial statement

For purposes of this section, the term “applicable financial statement” means, with respect to any taxable year, an applicable financial statement (as defined in section 451(b)(3) or as specified by the Secretary in regulations or other guidance) which covers such taxable year.

(c) General adjustments

(1) Statements covering different taxable years

Appropriate adjustments shall be made in adjusted financial statement income in any case in which an applicable financial statement covers a period other than the taxable year.

(2) Special rules for related entities

(A) Consolidated financial statements

If the financial results of a taxpayer are reported on the applicable financial statement for a group of entities, rules similar to the rules of section 451(b)(5) shall apply.

(B) Consolidated returns

Except as provided in regulations prescribed by the Secretary, if the taxpayer is

part of an affiliated group of corporations filing a consolidated return for any taxable year, adjusted financial statement income for such group for such taxable year shall take into account items on the group’s applicable financial statement which are properly allocable to members of such group.

(C) Treatment of dividends and other amounts

In the case of any corporation which is not included on a consolidated return with the taxpayer, adjusted financial statement income of the taxpayer with respect to such other corporation shall be determined by only taking into account the dividends received from such other corporation (reduced to the extent provided by the Secretary in regulations or other guidance) and other amounts which are includible in gross income or deductible as a loss under this chapter (other than amounts required to be included under sections 951 and 951A or such other amounts as provided by the Secretary) with respect to such other corporation.

(D) Treatment of partnerships

(i) In general

Except as provided by the Secretary, if the taxpayer is a partner in a partnership, adjusted financial statement income of the taxpayer with respect to such partnership shall be adjusted to only take into account the taxpayer’s distributive share of adjusted financial statement income of such partnership.

(ii) Adjusted financial statement income of partnerships

For the purposes of this part, the adjusted financial statement income of a partnership shall be the partnership’s net income or loss set forth on such partnership’s applicable financial statement (adjusted under rules similar to the rules of this section).

(3) Adjustments to take into account certain items of foreign income

(A) In general

If, for any taxable year, a taxpayer is a United States shareholder of one or more controlled foreign corporations, the adjusted financial statement income of such taxpayer with respect to such controlled foreign corporation (as determined under paragraph (2)(C)) shall be adjusted to also take into account such taxpayer’s pro rata share (determined under rules similar to the rules under section 951(a)(2)) of items taken into account in computing the net income or loss set forth on the applicable financial statement (as adjusted under rules similar to those that apply in determining adjusted financial statement income) of each such controlled foreign corporation with respect to which such taxpayer is a United States shareholder.

(B) Negative adjustments

In any case in which the adjustment determined under subparagraph (A) would result

in a negative adjustment for such taxable year—

- (i) no adjustment shall be made under this paragraph for such taxable year, and
- (ii) the amount of the adjustment determined under this paragraph for the succeeding taxable year (determined without regard to this paragraph) shall be reduced by an amount equal to the negative adjustment for such taxable year.

(4) Effectively connected income

In the case of a foreign corporation, to determine adjusted financial statement income, the principles of section 882 shall apply.

(5) Adjustments for certain taxes

Adjusted financial statement income shall be appropriately adjusted to disregard any Federal income taxes, or income, war profits, or excess profits taxes (within the meaning of section 901) with respect to a foreign country or possession of the United States, which are taken into account on the taxpayer's applicable financial statement. To the extent provided by the Secretary, the preceding sentence shall not apply to income, war profits, or excess profits taxes (within the meaning of section 901) that are imposed by a foreign country or possession of the United States and taken into account on the taxpayer's applicable financial statement if the taxpayer does not choose to have the benefits of subpart A of part III of subchapter N for the taxable year. The Secretary shall prescribe such regulations or other guidance as may be necessary and appropriate to provide for the proper treatment of current and deferred taxes for purposes of this paragraph, including the time at which such taxes are properly taken into account.

(6) Adjustment with respect to disregarded entities

Adjusted financial statement income shall be adjusted to take into account any adjusted financial statement income of a disregarded entity owned by the taxpayer.

(7) Special rule for cooperatives

In the case of a cooperative to which section 1381 applies, the adjusted financial statement income (determined without regard to this paragraph) shall be reduced by the amounts referred to in section 1382(b) (relating to patronage dividends and per-unit retain allocations) to the extent such amounts were not otherwise taken into account in determining adjusted financial statement income.

(8) Rules for Alaska native corporations

Adjusted financial statement income shall be appropriately adjusted to allow—

- (A) cost recovery and depletion attributable to property the basis of which is determined under section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), and
- (B) deductions for amounts payable made pursuant to section 7(i) or section 7(j) of such Act (43 U.S.C. 1606(i) and 1606(j)) only at such time as the deductions are allowed for tax purposes.

(9) Amounts attributable to elections for direct payment of certain credits

Adjusted financial statement income shall be appropriately adjusted to disregard any amount treated as a payment against the tax imposed by subtitle A pursuant to an election under section 48D(d) or 6417, to the extent such amount was not otherwise taken into account under paragraph (5).

(10) Consistent treatment of mortgage servicing income of taxpayer other than a regulated investment company

(A) In general

Adjusted financial statement income shall be adjusted so as not to include any item of income in connection with a mortgage servicing contract any earlier than when such income is included in gross income under any other provision of this chapter.

(B) Rules for amounts not representing reasonable compensation

The Secretary shall provide regulations to prevent the avoidance of taxes imposed by this chapter with respect to amounts not representing reasonable compensation (as determined by the Secretary) with respect to a mortgage servicing contract.

(11) Adjustment with respect to defined benefit pensions

(A) In general

Except as otherwise provided in rules prescribed by the Secretary in regulations or other guidance, adjusted financial statement income shall be—

- (i) adjusted to disregard any amount of income, cost, or expense that would otherwise be included on the applicable financial statement in connection with any covered benefit plan,
- (ii) increased by any amount of income in connection with any such covered benefit plan that is included in the gross income of the corporation under any other provision of this chapter, and
- (iii) reduced by deductions allowed under any other provision of this chapter with respect to any such covered benefit plan.

(B) Covered benefit plan

For purposes of this paragraph, the term "covered benefit plan" means—

- (i) a defined benefit plan (other than a multiemployer plan described in section 414(f)) if the trust which is part of such plan is an employees' trust described in section 401(a) which is exempt from tax under section 501(a),
- (ii) any qualified foreign plan (as defined in section 404A(e)), or
- (iii) any other defined benefit plan which provides post-employment benefits other than pension benefits.

(12) Tax-exempt entities

In the case of an organization subject to tax under section 511, adjusted financial statement income shall be appropriately adjusted to only take into account any adjusted financial statement income—

(A) of an unrelated trade or business (as defined in section 513) of such organization, or

(B) derived from debt-financed property (as defined in section 514) to the extent that income from such property is treated as unrelated business taxable income.

(13) Depreciation

Adjusted financial statement income shall be—

(A) reduced by depreciation deductions allowed under section 167 with respect to property to which section 168 applies to the extent of the amount allowed as deductions in computing taxable income for the taxable year, and

(B) appropriately adjusted—

(i) to disregard any amount of depreciation expense that is taken into account on the taxpayer's applicable financial statement with respect to such property, and

(ii) to take into account any other item specified by the Secretary in order to provide that such property is accounted for in the same manner as it is accounted for under this chapter.

(14) Qualified wireless spectrum

(A) In general

Adjusted financial statement income shall be—

(i) reduced by amortization deductions allowed under section 197 with respect to qualified wireless spectrum to the extent of the amount allowed as deductions in computing taxable income for the taxable year, and

(ii) appropriately adjusted—

(I) to disregard any amount of amortization expense that is taken into account on the taxpayer's applicable financial statement with respect to such qualified wireless spectrum, and

(II) to take into account any other item specified by the Secretary in order to provide that such qualified wireless spectrum is accounted for in the same manner as it is accounted for under this chapter.

(B) Qualified wireless spectrum

For purposes of this paragraph, the term "qualified wireless spectrum" means wireless spectrum which—

(i) is used in the trade or business of a wireless telecommunications carrier, and

(ii) was acquired after December 31, 2007, and before the date of enactment of this section.

(15) Secretarial authority to adjust items

The Secretary shall issue regulations or other guidance to provide for such adjustments to adjusted financial statement income as the Secretary determines necessary to carry out the purposes of this section, including adjustments—

(A) to prevent the omission or duplication of any item, and

(B) to carry out the principles of part II of subchapter C of this chapter (relating to cor-

porate liquidations), part III of subchapter C of this chapter (relating to corporate organizations and reorganizations), and part II of subchapter K of this chapter (relating to partnership contributions and distributions).

(d) Deduction for financial statement net operating loss

(1) In general

Adjusted financial statement income (determined after application of subsection (c) and without regard to this subsection) shall be reduced by an amount equal to the lesser of—

(A) the aggregate amount of financial statement net operating loss carryovers to the taxable year, or

(B) 80 percent of adjusted financial statement income computed without regard to the deduction allowable under this subsection.

(2) Financial statement net operating loss carryover

A financial statement net operating loss for any taxable year shall be a financial statement net operating loss carryover to each taxable year following the taxable year of the loss. The portion of such loss which shall be carried to subsequent taxable years shall be the amount of such loss remaining (if any) after the application of paragraph (1).

(3) Financial statement net operating loss defined

For purposes of this subsection, the term "financial statement net operating loss" means the amount of the net loss (if any) set forth on the corporation's applicable financial statement (determined after application of subsection (c) and without regard to this subsection) for taxable years ending after December 31, 2019.

(e) Regulations and other guidance

The Secretary shall provide for such regulations and other guidance as necessary to carry out the purposes of this section, including regulations and other guidance relating to the effect of the rules of this section on partnerships with income taken into account by an applicable corporation.

(Added Pub. L. 117-169, title I, §10101(b)(1), Aug. 16, 2022, 136 Stat. 1822.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c)(14)(B)(ii), is the date of enactment of Pub. L. 117-169, which was approved Aug. 16, 2022.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2022, see section 10101(f) of Pub. L. 117-169, set out as an Effective Date of 2022 Amendment note under section 11 of this title.

§ 57. Items of tax preference

(a) General rule

For purposes of this part, the items of tax preference determined under this section are—