

rules, the interim impact on former employees, the meeting of the written requirement for covered plans in connection with implementation of section 89 of the Code, and the issuance by Nov. 15, 1988, of rules necessary to carry out section 89, prior to repeal by Pub. L. 101-140, title II, §203(a)(7), Nov. 8, 1989, 103 Stat. 831.

PART-TIME EMPLOYEE DEFINED FOR PURPOSES OF
SUBSECTION (f)

Pub. L. 100-647, title VI, §6070, Nov. 10, 1988, 102 Stat. 3704, increased the number of employees who would be excluded from consideration under this section during plan years 1989 and 1990, in the case of a plan maintained by an employer which employs fewer than 10 employees on a normal working day during a plan year, prior to repeal by Pub. L. 101-140, title II, §203(a)(7), Nov. 8, 1989, 103 Stat. 831.

§ 90. Illegal Federal irrigation subsidies

(a) General rule

Gross income shall include an amount equal to any illegal Federal irrigation subsidy received by the taxpayer during the taxable year.

(b) Illegal Federal irrigation subsidy

For purposes of this section—

(1) In general

The term “illegal Federal irrigation subsidy” means the excess (if any) of—

- (A) the amount required to be paid for any Federal irrigation water delivered to the taxpayer during the taxpayer year, over
- (B) the amount paid for such water.

(2) Federal irrigation water

The term “Federal irrigation water” means any water made available for agricultural purposes from the operation of any reclamation or irrigation project referred to in paragraph (8) of section 202 of the Reclamation Reform Act of 1982.

(c) Denial of deduction

No deduction shall be allowed under this subtitle by reason of any inclusion in gross income under subsection (a).

(Added Pub. L. 100-203, title X, §10611(a), Dec. 22, 1987, 101 Stat. 1330-451.)

Editorial Notes

REFERENCES IN TEXT

Section 202 of the Reclamation Reform Act of 1982, referred to in subsec. (b)(2), is classified to section 390bb of Title 43, Public Lands.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 100-203, title X, §10611(c), Dec. 22, 1987, 101 Stat. 1330-452, provided that: “The amendments made by this section [enacting this section] shall apply to water delivered to the taxpayer in months beginning after the date of the enactment of this Act [Dec. 22, 1987].”

§ 91. Certain foreign branch losses transferred to specified 10-percent owned foreign corporations

(a) In general

If a domestic corporation transfers substantially all of the assets of a foreign branch (with-

in the meaning of section 367(a)(3)(C), as in effect before the date of the enactment of the Tax Cuts and Jobs Act) to a specified 10-percent owned foreign corporation (as defined in section 245A) with respect to which it is a United States shareholder after such transfer, such domestic corporation shall include in gross income for the taxable year which includes such transfer an amount equal to the transferred loss amount with respect to such transfer.

(b) Transferred loss amount

For purposes of this section, the term “transferred loss amount” means, with respect to any transfer of substantially all of the assets of a foreign branch, the excess (if any) of—

(1) the sum of losses—

(A) which were incurred by the foreign branch after December 31, 2017, and before the transfer, and

(B) with respect to which a deduction was allowed to the taxpayer, over

(2) the sum of—

(A) any taxable income of such branch for a taxable year after the taxable year in which the loss was incurred and through the close of the taxable year of the transfer, and

(B) any amount which is recognized under section 904(f)(3) on account of the transfer.

(c) Reduction for recognized gains

The transferred loss amount shall be reduced (but not below zero) by the amount of gain recognized by the taxpayer on account of the transfer (other than amounts taken into account under subsection (b)(2)(B)).

(d) Source of income

Amounts included in gross income under this section shall be treated as derived from sources within the United States.

(e) Basis adjustments

Consistent with such regulations or other guidance as the Secretary shall prescribe, proper adjustments shall be made in the adjusted basis of the taxpayer’s stock in the specified 10-percent owned foreign corporation to which the transfer is made, and in the transferee’s adjusted basis in the property transferred, to reflect amounts included in gross income under this section.

(Added Pub. L. 115-97, title I, §14102(d)(1), Dec. 22, 2017, 131 Stat. 2193.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Tax Cuts and Jobs Act, referred to in subsec. (a), probably means the date of enactment of title I of Pub. L. 115-97, which was approved Dec. 22, 2017. Prior versions of the bill that was enacted into law as Pub. L. 115-97 included such Short Title, but it was not enacted as part of title I of Pub. L. 115-97.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 115-97, title I, §14102(d)(3), Dec. 22, 2017, 131 Stat. 2194, provided that: “The amendments made by this subsection [enacting this section] shall apply to transfers after December 31, 2017.”

TRANSITION RULE

Pub. L. 115-97, title I, § 14102(d)(4), Dec. 22, 2017, 131 Stat. 2194, provided that: “The amount of gain taken into account under section 91(c) of the Internal Revenue Code of 1986, as added by this subsection, shall be reduced by the amount of gain which would be recognized under section 367(a)(3)(C) (determined without regard to the amendments made by subsection (e) [amending section 367 of this title]) with respect to losses incurred before January 1, 2018.”

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

Sec.	
101.	Certain death payments. ¹
102.	Gifts and inheritances.
103.	Interest on State and local bonds.
[103A.]	Repealed.]
104.	Compensation for injuries or sickness.
105.	Amounts received under accident and health plans.
106.	Contributions by employer to accident and health plans.
107.	Rental value of parsonages.
108.	Income from discharge of indebtedness.
109.	Improvements by lessee on lessor’s property.
110.	Qualified lessee construction allowances for short-term leases.
111.	Recovery of tax benefit items.
112.	Certain combat zone compensation of members of the Armed Forces.
[113, 114.]	Repealed.]
115.	Income of States, municipalities, etc.
[116.]	Repealed.]
117.	Qualified scholarships.
118.	Contributions to the capital of a corporation.
119.	Meals or lodging furnished for convenience of employer. ¹
[120.]	Repealed.]
121.	Exclusion of gain from sale of principal residence.
122.	Certain reduced uniformed services retirement pay.
123.	Amounts received under insurance contracts for certain living expenses.
[124.]	Repealed.]
125.	Cafeteria plans.
126.	Certain cost-sharing payments.
127.	Educational assistance programs.
[128.]	Repealed.]
129.	Dependent care assistance programs. ²
130.	Certain personal injury liability assignments.
131.	Certain foster care payments.
132.	Certain fringe benefits.
[133.]	Repealed.]
134.	Certain military benefits.
135.	Income from United States savings bonds used to pay higher education tuition and fees.
136.	Energy conservation subsidies provided by public utilities.
137.	Adoption assistance programs.
138.	Medicare Advantage MSA.
139.	Disaster relief payments.
139A.	Federal subsidies for prescription drug plans.
139B.	Benefits provided to volunteer firefighters and emergency medical responders.
139C.	Certain disability-related first responder retirement payments.
139D.	Indian health care benefits.
139E.	Indian general welfare benefits.
139F.	Certain amounts received by wrongfully incarcerated individuals.
139G.	Assignments to Alaska Native Settlement Trusts.

¹ So in original. Does not conform to section catchline.

² Editorially supplied. Section 129 added by Pub. L. 97-34 without corresponding amendment of part analysis.

139H.	Interest received in action to recover property seized by the Internal Revenue Service based on structuring transaction.
139I.	Continuation coverage premium assistance.
140.	Cross references to other Acts.

Editorial Notes

AMENDMENTS

2022—	Pub. L. 117-328, div. T, title III, § 309(b), Dec. 29, 2022, 136 Stat. 5346, added item 139C.
2021—	Pub. L. 117-2, title IX, § 9501(b)(4)(B), Mar. 11, 2021, 135 Stat. 137, added item 139I.
2019—	Pub. L. 116-25, title I, § 1202(b), July 1, 2019, 133 Stat. 988, added item 139H.
2018—	Pub. L. 115-141, div. U, title IV, § 401(d)(7)(C), Mar. 23, 2018, 132 Stat. 1212, struck out item 139C “COBRA premium assistance”.
2017—	Pub. L. 115-97, title I, § 13821(a)(2), Dec. 22, 2017, 131 Stat. 2178, added item 139G.
2015—	Pub. L. 114-113, div. Q, title III, § 304(b), Dec. 18, 2015, 129 Stat. 3088, added item 139F.
2014—	Pub. L. 113-295, div. A, title II, § 221(a)(19)(A), Dec. 19, 2014, 128 Stat. 4039, which directed amendment of part III by striking out item 120 in table of sections for “such subpart”, was executed by striking out item 120 “Amounts received under qualified group legal services plans” in table of sections for this part to reflect the probable intent of Congress.
Pub. L. 113-168,	§ 2(b), Sept. 26, 2014, 128 Stat. 1884, added item 139E.
2011—	Pub. L. 112-10, div. B, title VIII, § 1858(b)(2)(B), Apr. 15, 2011, 125 Stat. 168, struck out item 139D “Free choice vouchers”.
2010—	Pub. L. 111-148, title X, § 10108(f)(2), Mar. 23, 2010, 124 Stat. 913, added item 139D relating to free choice vouchers.
Pub. L. 111-148,	title IX, § 9021(b), Mar. 23, 2010, 124 Stat. 874, added item 139D relating to Indian health care benefits.
2009—	Pub. L. 111-5, div. B, title III, § 3001(a)(15)(B), Feb. 17, 2009, 123 Stat. 465, added item 139C.
2007—	Pub. L. 110-142, § 5(b), Dec. 20, 2007, 121 Stat. 1806, added item 139B.
2004—	Pub. L. 108-357, title I, § 101(b)(3), Oct. 22, 2004, 118 Stat. 1423, struck out item 114 “Extraterritorial income”.
Pub. L. 108-311,	title IV, § 408(a)(5)(G), Oct. 4, 2004, 118 Stat. 1191, substituted “Medicare Advantage MSA” for “Medicare+Choice MSA” in item 138.
2003—	Pub. L. 108-173, title XII, § 1202(c), Dec. 8, 2003, 117 Stat. 2480, added item 139A.
2002—	Pub. L. 107-134, title I, § 111(b), Jan. 23, 2002, 115 Stat. 2433, added item 139 and redesignated former item 139 as 140.
2000—	Pub. L. 106-519, § 4(6), Nov. 15, 2000, 114 Stat. 2433, added item 114.
1997—	Pub. L. 105-34, title III, § 312(d)(14), title XII, § 1213(d), Aug. 5, 1997, 111 Stat. 841, 1001, added item 110 and substituted “Exclusion of gain from sale of principal residence” for “One-time exclusion of gain from sale of principal residence by individual who has attained age 55” in item 121.
Pub. L. 105-33,	title IV, § 4006(b)(3), Aug. 5, 1997, 111 Stat. 334, added items 138 and 139 and struck out former item 138 “Cross reference to other Acts”.
1996—	Pub. L. 104-188, title I, §§ 1602(b)(8), 1704(t)(4)(B), 1807(c)(7), Aug. 20, 1996, 110 Stat. 1834, 1887, 1902, substituted “combat zone compensation” for “combat pay” in item 112, struck out item 133 “Interest on certain loans used to acquire employer securities”, added items 137 and 138, and struck out former item 137 “Cross reference to other Acts”.
1992—	Pub. L. 102-486, title XIX, § 1912(b), Oct. 24, 1992, 106 Stat. 3016, added items 136 and 137 and struck out former item 136 “Cross references to other Acts”.
1990—	Pub. L. 101-508, title XI, § 11801(b)(2), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 110 “Income taxes paid by lessee corporation”, item 113 “Mustering-