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Internal Revenue Code Section 59

Other definitions and special rules

(a) Alternative minimum tax foreign tax credit.

For purposes of this part-

(1) In general.

The alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27 for such taxable year if-

(A) the pre-credit tentative minimum tax were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1986,

(B) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and

(C) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were made on the basis of the applicable rate specified in section 55(b)(1) in lieu of the highest rate of tax specified in section 1 .

(2) Pre-credit tentative minimum tax.

For purposes of this subsection , the term "pre-credit tentative minimum tax" means the amount determined under the first sentence of section 55(b)(1)(A) .

(3) Election to use simplified section 904 limitation.

(A) In general. In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies-

(i) subparagraph (B) of paragraph (1) shall not apply, and

(ii) the limitation of section 904 shall be based on the proportion which-

(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

(B) Election.

(i) In general. An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1997, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

(ii) Election revocable only with consent. An election under this paragraph , once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

(b) Repealed.

(c) Treatment of estates and trusts.

In the case of any estate or trust, the alternative minimum taxable income of such estate or trust and any beneficiary thereof shall be determined by applying part I of subchapter J with the adjustments provided in this part.

(d) Apportionment of differently treated items in case of certain entities.

(1) In general.

The differently treated items for the taxable year shall be apportioned (in accordance with regulations prescribed by the Secretary)-

(A) Regulated investment companies and real estate investment trusts. In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, between such company or trust and shareholders and holders of beneficial interest in such company or trust.

(B) Common trust funds. In the case of a common trust fund (as defined in section 584(a)), pro rata among the participants of such fund.

(2) Differently treated items.

For purposes of this section , the term "differently treated item" means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.

(e) Optional 10-year writeoff of certain tax preferences.

(1) In general.

For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which such expenditure was made (or, in the case of a qualified expenditure described in paragraph (2)(C) , over the 60-month period beginning with the month in which such expenditure was paid or incurred).

(2) Qualified expenditure.

For purposes of this subsection , the term "qualified expenditure" means any amount which, but for an election under this subsection , would have been allowable as a deduction (determined without regard to section 291) for the taxable year in which paid or incurred under-

(A) section 173 (relating to circulation expenditures),

(B) section 174A(a) (relating to domestic research or experimental expenditures),

(C) section 263(c) (relating to intangible drilling and development expenditures),

(D) section 616(a) (relating to development expenditures), or

(E) section 617(a) (relating to mining exploration expenditures).

(3) Other sections not applicable.

Except as provided in this subsection , no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

(4) Election.

(A) In general. An election may be made under paragraph (1) with respect to any portion of any qualified expenditure.

(B) Revocable only with consent. Any election under this subsection may be revoked only with the consent of the Secretary.

(C) Partners and shareholders of S corporations. In the case of a partnership, any election under paragraph (1) shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.

(5) Dispositions.

(A) Application of section 1254 . In the case of any disposition of property to which section 1254 applies (determined without regard to this section), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 1254 , be treated as a deduction allowable under section 263(c) , 616(a) , or 617(a) , whichever is appropriate.

(B) Application of section 617(d) . In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 617(d) , be treated as a deduction allowable under section 617(a) .

(6) Amounts to which election apply not treated as tax preference.

Any portion of any qualified expenditure to which an election under paragraph (1) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.

(f) Repealed.

(g) Tax benefit rule.

The Secretary may prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for the taxable year for which the item is taken into account or for any other taxable year.

(h) Coordination with certain limitations.

The limitations of sections 704(d) , 465 , and 1366(d) (and such other provisions as may be specified in regulations) shall be applied for purposes of computing the alternative minimum taxable income of the taxpayer for the taxable year with the adjustments of sections 56 , 57 , and 58 .

(i) Special rule for amounts treated as tax preference.

For purposes of this subtitle (other than this part), any amount shall not fail to be treated as wholly exempt from tax imposed by this subtitle solely by reason of being included in alternative minimum taxable income.

(j) Treatment of unearned income of minor children.

(1) In general.

In the case of a child to whom section 1(g) applies, the exemption amount for purposes of section 55 shall not exceed the sum of-

(A) such child's earned income (as defined in section 911(d)(2)) for the taxable year, plus

(B) \$5,000.

(2) Inflation adjustment.

In the case of any taxable year beginning in a calendar year after 1998, the dollar amount in paragraph (1)(B) shall be increased by an amount equal to the product of-

(A) such dollar amount, and

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "1997" for "2016" in subparagraph (A)(ii) thereof.

If any increase determined under the preceding sentence is not a multiple of \$50, such increase shall be rounded to the nearest multiple of \$50.

(k) Applicable corporation.

For purposes of this part-

(1) Applicable corporation defined.

(A) In general. The term "applicable corporation" means, with respect to any taxable year, any corporation (other than an S corporation, a regulated investment company, or a real estate investment trust) which meets the average annual adjusted financial statement income test of subparagraph (B) for one or more taxable years which-

(i) are prior to such taxable year, and

(ii) end after December 31, 2021.

(B) Average annual adjusted financial statement income test. For purposes of this subsection-

(i) a corporation meets the average annual adjusted financial statement income test for a taxable year if the average annual adjusted financial statement income of such corporation (determined without regard to

section 56A(d)) for the 3-taxable-year period ending with such taxable year exceeds \$1,000,000,000, and

(ii) in the case of a corporation described in paragraph (2) , such corporation meets the average annual adjusted financial statement income test for a taxable year if-

(I) the corporation meets the requirements of clause (i) for such taxable year (determined after the application of paragraph (2)), and

(II) the average annual adjusted financial statement income of such corporation (determined without regard to the application of paragraph (2) and without regard to section 56A(d)) for the 3-taxable-year-period ending with such taxable year is \$100,000,000 or more.

(C) Exception. Notwithstanding subparagraph (A), the term "applicable corporation" shall not include any corporation which otherwise meets the requirements of subparagraph (A) if-

(i) such corporation-

(I) has a change in ownership, or

(II) has a specified number (to be determined by the Secretary and which shall, as appropriate, take into account the facts and circumstances of the taxpayer) of consecutive taxable years, including the most recent taxable year, in which the corporation does not meet the average annual adjusted financial statement income test of subparagraph (B) , and

(ii) the Secretary determines that it would not be appropriate to continue to treat such corporation as an applicable corporation.

The preceding sentence shall not apply to any corporation if, after the Secretary makes the determination described in clause (ii) , such corporation meets the average annual adjusted financial statement income test of subparagraph (B) for any taxable year beginning after the first taxable year for which such determination applies.

(D) Special rules for determining applicable corporation status. Solely for purposes of determining whether a corporation is an applicable corporation under this paragraph, all adjusted financial statement income of persons treated as a single employer with such corporation under subsection (a) or (b) of section 52 shall be treated as adjusted financial statement income of such corporation, and adjusted financial statement income of such corporation shall be determined without regard to paragraphs (2)(D)(i) and (11) of section 56A(c) .

(E) Other special rules.

(i) corporations in existence for less than 3 years. If the corporation was in existence for less than 3-taxable years, subparagraph (B) shall be

applied on the basis of the period during which such corporation was in existence.

(ii) Short taxable years. Adjusted financial statement income for any taxable year of less than 12 months shall be annualized by multiplying the adjusted financial statement income for the short period by 12 and dividing the result by the number of months in the short period.

(iii) Treatment of predecessors. Any reference in this subparagraph to a corporation shall include a reference to any predecessor of such corporation.

(2) Special rule for foreign-parented multinational groups.

(A) In general. If a corporation is a member of a foreign-parented multinational group for any taxable year, then, solely for purposes of determining whether such corporation meets the average annual adjusted financial statement income test under paragraph (1)(B)(ii)(I) for such taxable year, the adjusted financial statement income of such corporation for such taxable year shall include the adjusted financial statement income of all members of such group. Solely for purposes of this subparagraph, adjusted financial statement income shall be determined without regard to paragraphs (2)(D)(i) , (3), (4) , and (11) of section 56A(c) .

(B) Foreign-parented multinational group. For purposes of subparagraph (A) , the term "foreign-parented multinational group" means, with respect to any taxable year, two or more entities if-

(i) at least one entity is a domestic corporation and another entity is a foreign corporation,

(ii) such entities are included in the same applicable financial statement with respect to such year, and

(iii) either-

(I) the common parent of such entities is a foreign corporation, or

(II) if there is no common parent, the entities are treated as having a common parent which is a foreign corporation under subparagraph (D) .

(C) Foreign corporations engaged in a trade or business within the United States. For purposes of this paragraph, if a foreign corporation is engaged in a trade or business within the United States, such trade or business shall be treated as a separate domestic corporation that is wholly owned by the foreign corporation.

(D) Other rules. The Secretary shall, applying the principles of this section, prescribe rules for the application of this paragraph, including rules for the determination of-

(i) the entities (if any) which are to be treated under subparagraph (B)(iii)(II) as having a common parent which is a foreign corporation,

(ii) the entities to be included in a foreign-parented multinational group,
and

(iii) the common parent of a foreign parented multinational group.

(3) Regulations or other guidance.

The Secretary shall provide regulations or other guidance for the purposes of carrying out this subsection, including regulations or other guidance-

(A) providing a simplified method for determining whether a corporation meets the requirements of paragraph (1), and

(B) addressing the application of this subsection to a corporation that experiences a change in ownership.

(l) Corporate AMT foreign tax credit.

(1) In general.

For purposes of this part, if an applicable corporation chooses to have the benefits of subpart A of part III of subchapter N for any taxable year, the corporate AMT foreign tax credit for the taxable year of the applicable corporation is an amount equal to sum of-

(A) the lesser of-

(i) the aggregate of the applicable corporation's pro rata share (as determined under section 56A(c)(3)) of the amount of income, war profits, and excess profits taxes (within the meaning of section 901) imposed by any foreign country or possession of the United States which are-

(I) taken into account on the applicable financial statement of each controlled foreign corporation with respect to which the applicable corporation is a United States shareholder, and

(II) paid or accrued (for Federal income tax purposes) by each such controlled foreign corporation, or

(ii) the product of the amount of the adjustment under section 56A(c)(3) and the percentage specified in section 55(b)(2)(A)(i) , and

(B) in the case of an applicable corporation that is a domestic corporation, the amount of income, war profits, and excess profits taxes (within the meaning of section 901) imposed by any foreign country or possession of the United States to the extent such taxes are-

(i) taken into account on the applicable corporation's applicable financial statement, and

(ii) paid or accrued (for Federal income tax purposes) by the applicable corporation.

(2) Carryover of excess tax paid.

For any taxable year for which an applicable corporation chooses to have the benefits of subpart A of part III of subchapter N, the excess of the amount described in paragraph

(1)(A)(i) over the amount described in paragraph (1)(A)(ii) shall increase the amount described in paragraph (1)(A)(i) in any of the first 5 succeeding taxable years to the extent not taken into account in a prior taxable year.

(3) Regulations or other guidance.

The Secretary shall provide for such regulations or other guidance as is necessary to carry out the purposes of this subsection.