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## **Internal Revenue Code Section 7701(a)(20)**

### Definitions

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof-

(1) Person.

The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) Partnership and partner.

The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) Corporation.

The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) Domestic.

The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

(5) Foreign.

The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) Fiduciary.

The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) Stock.

The term "stock" includes shares in an association, joint-stock company, or insurance company.

(8) Shareholder.

The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(9) United States.

The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

(10) State.

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) Secretary of the Treasury and Secretary.

(A) Secretary of the Treasury. The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his.

(B) Secretary. The term "Secretary" means the Secretary of the Treasury or his delegate.

(12) Delegate.

(A) In general. The term "or his delegate"-

(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

(ii) when used with reference to any other official of the United States, shall be similarly construed.

(B) Performance of certain functions in Guam or American Samoa. The term "delegate," in relation to the performance of functions in Guam or American Samoa with respect to the taxes imposed by chapters 1, 2, and 21, also includes any officer or employee of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

(13) Commissioner.

The term "Commissioner" means the Commissioner of Internal Revenue.

(14) Taxpayer.

The term "taxpayer" means any person subject to any internal revenue tax.

(15) Military or naval forces and armed forces of the United States.

The term "military or naval forces of the United States" and the term "Armed Forces of the United States" each includes all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, and each term also includes the Coast Guard. The members of such forces include commissioned officers and personnel below the grade of commissioned officers in such forces.

(16) Withholding agent.

The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of sections 1441 , 1442 , 1443 , or 1461 .

(17) Husband and wife.

As used in section 2516 , if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such section, the term "wife" shall be read "former wife" and the term "husband" shall be read "former husband"; and, if the payments described in such section are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such section, the term "husband" shall be read "wife" and the term "wife" shall be read "husband."

(18) International organization.

The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288 -288f ).

(19) Domestic building and loan association.

The term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association-

(A) which is subject by law to supervision and examination by State or Federal authority having supervision over such associations;

(B) the business of which consists principally of acquiring the savings of the public and investing in loans; and

(C) at least 60 percent of the amount of the total assets of which (at the close of the taxable year) consists of-

(i) cash,

(ii) obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 103 ,

(iii) certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

(iv) loans secured by a deposit or share of a member,

(v) loans (including redeemable ground rents, as defined in section 1055 ) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, provided that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a

nonprofit basis for residents, and mobile homes not used on a transient basis,

(vi) loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

(vii) loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

(viii) property acquired through the liquidation of defaulted loans described in clause (v) , (vi) , or (vii) ,

(ix) loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary,

(x) property used by the association in the conduct of the business described in subparagraph (B) , and

(xi) any regular or residual interest in a REMIC, but only in the proportion which the assets of such REMIC consist of property described in any of the preceding clauses of this subparagraph ; except that if 95 percent or more of the assets of such REMIC are assets described in clauses (i) through (x) , the entire interest in the REMIC shall qualify.

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary. For purposes of clause (v) , if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of clause (v) , loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under clause (xi) , any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar

to the principles of clause (xi) ; except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi) .



(20) Employee.

For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104 , 105 , and 106 with respect to accident and health insurance or accident and health plans, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21.

(21) Levy.

The term "levy" includes the power of distraint and seizure by any means.

(22) Attorney General.

The term "Attorney General" means the Attorney General of the United States.

(23) Taxable year.

The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under subtitle A. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of subtitle A or under regulations prescribed by the Secretary, the period for which such return is made.

(24) Fiscal year.

The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(25) Paid or incurred, paid or accrued.

The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under subtitle A.

(26) Trade or business.

The term "trade or business" includes the performance of the functions of a public office.

(27) Tax Court.

The term "Tax Court" means the United States Tax Court.

(28) Other terms.

Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

(29) Internal Revenue Code.

The term "Internal Revenue Code of 1986" means this title, and the term "Internal Revenue Code of 1939" means the Internal Revenue Code enacted February 10, 1939, as amended.

(30) United States person.

The term "United States person" means-

- (A) a citizen or resident of the United States,
- (B) a domestic partnership,
- (C) a domestic corporation,
- (D) any estate (other than a foreign estate, within the meaning, of paragraph (31) ), and
- (E) any trust if-
  - (i) a court within the United States is able to exercise primary supervision over the administration of the trust, and
  - (ii) one or more United States persons have the authority to control all substantial decisions of the trust.

(31) Foreign estate or trust.

(A) Foreign estate. The term "foreign estate" means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

(B) Foreign trust. The term "foreign trust" means any trust other than a trust described in subparagraph (E) of paragraph (30) .

(32) Cooperative bank.

The term "cooperative bank" means an institution without capital stock organized and operated for mutual purposes and without profit, which-

- (A) is subject by law to supervision and examination by State or Federal authority having supervision over such institutions, and
- (B) meets the requirements of subparagraphs (B) and (C) of paragraph (19) of this subsection (relating to definition of domestic building and loan association).

In determining whether an institution meets the requirements referred to in subparagraph (B) of this paragraph , any reference to an association or to a domestic building and loan association contained in paragraph (19) shall be deemed to be a reference to such institution.

(33) Regulated public utility.

The term "regulated public utility" means-

- (A) A corporation engaged in the furnishing or sale of-
  - (i) electric energy, gas, water, or sewerage disposal services, or

(ii) transportation (not included in subparagraph (C) ) on an intrastate, suburban, municipal, or interurban electric railroad, on an intrastate, municipal, or suburban trackless trolley system, or on a municipal or suburban bus system, or

(iii) transportation (not included in clause (ii) ) by motor vehicle-

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, by a public service or public utility commission or other similar body of the District of Columbia or of any State or political subdivision thereof, or by a foreign country or an agency or instrumentality or political subdivision thereof.

(B) A corporation engaged as a common carrier in the furnishing or sale of transportation of gas by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission.

(C) A corporation engaged as a common carrier (i) in the furnishing or sale of transportation by railroad, if subject to the jurisdiction of the Surface Transportation Board, or (ii) in the furnishing or sale of transportation of oil or other petroleum products (including shale oil) by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission or if the rates for such furnishing or sale are subject to the jurisdiction of a public service or public utility commission or other similar body of the District of Columbia or of any State.

(D) A corporation engaged in the furnishing or sale of telephone or telegraph service, if the rates for such furnishing or sale meet the requirements of subparagraph (A) .

(E) A corporation engaged in the furnishing or sale of transportation as a common carrier by air, subject to the jurisdiction of the Secretary of Transportation.

(F) A corporation engaged in the furnishing or sale of transportation by a water carrier subject to jurisdiction under subchapter II of chapter 135 of title 49.

(G) A rail carrier subject to part A of subtitle IV of title 49, if (i) substantially all of its railroad properties have been leased to another such railroad corporation or corporations by an agreement or agreements entered into before January 1, 1954, (ii) each lease is for a term of more than 20 years, and (iii) at least 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from such leases and from sources described in subparagraphs (A) through (F) , inclusive. For purposes of the preceding sentence, an agreement for lease of railroad properties entered into before January 1, 1954, shall be considered to be a lease including such term as the total number of years of such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or

continuance under such agreement shall be considered part of the lease entered into before January 1, 1954.

(H) A common parent corporation which is a common carrier by railroad subject to part A of subtitle IV of title 49 if at least 80 percent of its gross income (computed without regard to capital gains or losses) is derived directly or indirectly from sources described in subparagraphs (A) through (F) , inclusive. For purposes of the preceding sentence, dividends and interest, and income from leases described in subparagraph (G) , received from a regulated public utility shall be considered as derived from sources described in subparagraphs (A) through (F) , inclusive, if the regulated public utility is a member of an affiliated group (as defined in section 1504 ) which includes the common parent corporation.

The term "regulated public utility" does not (except as provided in subparagraphs (G) and (H) ) include a corporation described in subparagraphs (A) through (F) , inclusive, unless 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from sources described in subparagraphs (A) through (F) , inclusive. If the taxpayer establishes to the satisfaction of the Secretary that (i) its revenue from regulated rates described in subparagraph (A) or (D) and its revenue derived from unregulated rates are derived from the operation of a single interconnected and coordinated system or from the operation of more than one such system, and (ii) the unregulated rates have been and are substantially as favorable to users and consumers as are the regulated rates, then such revenue from such unregulated rates shall be considered, for purposes of the preceding sentence, as income derived from sources described in subparagraph (A) or (D) .

(34) Repealed.

(35) Enrolled actuary.

The term "enrolled actuary" means a person who is enrolled by the Joint Board for the Enrollment of Actuaries established under subtitle C of the title III of the Employee Retirement Income Security Act of 1974.

(36) Tax return preparer.

(A) In general. The term " tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this title or any claim for refund of tax imposed by this title. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

(B) Exceptions. A person shall not be a "tax return preparer" merely because such person-

(i) furnishes typing, reproducing, or other mechanical assistance,

(ii) prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,



(iii) prepares as a fiduciary a return or claim for refund for any person, or

(iv) prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

(37) Individual retirement plan.

The term "individual retirement plan" means-

(A) an individual retirement account described in section 408(a) , and

(B) an individual retirement annuity described in section 408(b) .

(38) Joint return.

The term "joint return" means a single return made jointly under section 6013 by a husband and wife.

(39) Persons residing outside United States.

If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to-

(A) jurisdiction of courts, or

(B) enforcement of summons.

(40) Indian tribal government.

(A) In general. The term "Indian tribal government" means the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.

(B) Special rule for Alaska natives. No determination under subparagraph (A) with respect to Alaska Natives shall grant or defer any status or powers other than those enumerated in section 7871 . Nothing in the Indian Tribal Governmental Tax Status Act of 1982, or in the amendments made thereby, shall validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

(41) TIN.

The term "TIN" means the identifying number assigned to a person under section 6109 .

(42) Substituted basis property.

The term "substituted basis property" means property which is-

(A) transferred basis property, or

(B) exchanged basis property.

(43) Transferred basis property.

The term "transferred basis property" means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

(44) Exchanged basis property.

The term "exchanged basis property" means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

(45) Nonrecognition transaction.

The term "nonrecognition transaction" means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.

(46) Determination of whether there is a collective bargaining agreement.

In determining whether there is a collective bargaining agreement between employee representatives and 1 or more employers, the term "employee representatives" shall not include any organization more than one-half of the members of which are employees who are owners, officers, or executives of the employer. An agreement shall not be treated as a collective bargaining agreement unless it is a bona fide agreement between bona fide employee representatives and 1 or more employers.

(47) [Added by P.L. 107-16, Sec. 542(e)(3). Treated as never enacted by P.L. 111-312, 301(a).]

(48) Off-highway vehicles.

(A) Off-highway transportation vehicles.

(i) In general. A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

(ii) Determination of vehicle's design. For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

(iii) Determination of substantial limitation or impairment. For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

(B) Nontransportation trailers and semitrailers. A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.

(49) Qualified blood collector organization.

The term "qualified blood collector organization" means an organization which is-

(A) described in section 501(c)(3) and exempt from tax under section 501(a) ,

(B) primarily engaged in the activity of the collection of human blood,

(C) registered with the Secretary for purposes of excise tax exemptions, and

(D) registered by the Food and Drug Administration to collect blood.

(50) Termination of United States citizenship.

(A) In general. An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(g)(4) .

(B) Dual citizens. Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.

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