

I, §§1002(m)(1), 1018(u)(23), Nov. 10, 1988, 102 Stat. 3382, 3591; Pub. L. 101-508, title XI, §11101(d)(7)(A), Nov. 5, 1990, 104 Stat. 1388-405; Pub. L. 105-34, title III, §311(c)(2), Aug. 5, 1997, 111 Stat. 835.)

REFERENCES IN TEXT

Section 607 of the Merchant Marine Act, 1936, referred to in subsecs. (a), (c), and (i), is classified to section 1177 of Title 46, Appendix, Shipping.

Section 606(5) of the Merchant Marine Act of 1936, referred to in subsec. (g)(3)(C)(iii), is classified to section 1176(5) of Title 46, Appendix.

The date of the enactment of this section, referred to in subsec. (i), is the date of enactment of Pub. L. 99-514, which was approved Oct. 22, 1986.

AMENDMENTS

1997—Subsec. (g)(6)(A). Pub. L. 105-34 substituted “20 percent” for “28 percent” in concluding provisions.

1990—Subsec. (g)(6)(A). Pub. L. 101-508 substituted “section 1(h)” for “section 1(j)” in last sentence.

1988—Subsec. (g)(1). Pub. L. 100-647, §1018(u)(23), substituted “not a qualified withdrawal” for “not qualified withdrawal”.

Subsec. (g)(6)(A). Pub. L. 100-647, §1002(m)(1), substituted “section 1(j)” for “section 1(i)”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years ending after May 6, 1997, see section 311(d) of Pub. L. 105-34, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub. L. 101-508, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section 261(g) of Pub. L. 99-514 provided that: “The amendments made by this section [enacting this section and amending section 26 of this title and section 1177 of Title 46, Appendix, Shipping] shall apply to taxable years beginning after December 31, 1986.”

MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS

Section 261(a) of Pub. L. 99-514 provided that: “The purpose of this section [enacting this section, amending section 26 of this title and section 1177 of Title 46, Appendix, and enacting provisions set out as a note above] is to coordinate the application of the Internal Revenue Code of 1986 with the capital construction program under the Merchant Marine Act, 1936 [46 App. U.S.C. 1101 et seq.].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26, 56 of this title; title 46 App. section 1177.

§ 7519. Required payments for entities electing not to have required taxable year

(a) General rule

This section applies to a partnership or S corporation for any taxable year, if—

- (1) an election under section 444 is in effect for the taxable year, and
- (2) the required payment determined under subsection (b) for such taxable year (or any preceding taxable year) exceeds \$500.

(b) Required payment

For purposes of this section, the term “required payment” means, with respect to any applicable election year of a partnership or S corporation, an amount equal to—

- (1) the excess of the product of—

- (A) the applicable percentage of the adjusted highest section 1 rate, multiplied by

- (B) the net base year income of the entity, over

- (2) the net required payment balance.

For purposes of paragraph (1)(A), the term “adjusted highest section 1 rate” means the highest rate of tax in effect under section 1 as of the end of the base year plus 1 percentage point (or, in the case of applicable election years beginning in 1987, 36 percent).

(c) Refund of payments

(1) In general

If, for any applicable election year, the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), the entity shall be entitled to a refund of such excess for such year.

(2) Termination of elections, etc.

If—

- (A) an election under section 444 is terminated effective with respect to any year, or

- (B) the entity is liquidated during any year, the entity shall be entitled to a refund of the net required payment balance.

(3) Date on which refund payable

Any refund under this subsection shall be payable on the later of—

- (A) April 15 of the calendar year following—

- (i) in the case of the year referred to in paragraph (1), the calendar year in which it begins,

- (ii) in the case of the year referred to in paragraph (2), the calendar year in which it ends, or

- (B) the day 90 days after the day on which claim therefor is filed with the Secretary.

(d) Net base year income

For purposes of this section—

(1) In general

An entity’s net base year income shall be equal to the sum of—

- (A) the deferral ratio multiplied by the entity’s net income for the base year, plus

- (B) the excess (if any) of—

- (i) the deferral ratio multiplied by the aggregate amount of applicable payments made by the entity during the base year, over

- (ii) the aggregate amount of such applicable payments made during the deferral period of the base year.

For purposes of this paragraph, the term “deferral ratio” means the ratio which the number of months in the deferral period of the base year bears to the number of months in the partnership’s or S corporation’s taxable year.

(2) Net income

Net income is determined by taking into account the aggregate amount of the following items—

(A) Partnerships

In the case of a partnership, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the partnership's items described in section 702(a) (other than credits and tax-exempt income).

(B) S corporations

In the case of an S corporation, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the S corporation's items described in section 1366(a) (other than credits and tax-exempt income). If the S corporation was a C corporation for the base year, its taxable income for such year shall be treated as its net income for such year (and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3)).

(C) Certain limitations disregarded

For purposes of subparagraph (A) or (B), any limitation on the amount of any item described in either such paragraph which may be taken into account for purposes of computing the taxable income of a partner or shareholder shall be disregarded.

(3) Applicable payments**(A) In general**

The term “applicable payment” means amounts paid by a partnership or S corporation which are includible in gross income of a partner or shareholder.

(B) Exceptions

The term “applicable payment” shall not include any—

- (i) gain from the sale or exchange of property between the partner or shareholder and the partnership or S corporation, and
- (ii) dividend paid by the S corporation.

(4) Applicable percentage

The applicable percentage is the percentage determined in accordance with the following table:

If the applicable election year of the partnership or S corporation begins during:	The applicable percentage is:
1987	25
1988	50
1989	75
1990 or thereafter.....	100.

Notwithstanding the preceding provisions of this paragraph, the applicable percentage for any partnership or S corporation shall be 100 percent unless more than 50 percent of such entity's net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income.

(5) Treatment of guaranteed payments**(A) In general**

Any guaranteed payment by a partnership shall not be treated as an applicable payment, and the amount of the net income of the partnership shall be determined by not taking such guaranteed payment into account.

(B) Guaranteed payment

For purposes of subparagraph (A), the term “guaranteed payment” means any payment referred to in section 707(c).

(e) Other definitions and special rules

For purposes of this section—

(1) Deferral period

The term “deferral period” has the meaning given to such term by section 444(b)(4).

(2) Years**(A) Base year**

The term “base year” means, with respect to any applicable election year, the taxable year of the partnership or S corporation preceding such applicable election year.

(B) Applicable election year

The term “applicable election year” means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

(3) Requirement of reporting

Each partnership or S corporation which makes an election under section 444 shall include on any required return or statement such information as the Secretary shall prescribe as is necessary to carry out the provisions of this section.

(4) Net required payment balance

The term “net required payment balance” means the excess (if any) of—

- (A) the aggregate of the required payments under this section for all preceding applicable election years, over
- (B) the aggregate amount allowable as a refund to the entity under subsection (c) for all preceding applicable election years.

(f) Administrative provisions**(1) In general**

Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, any payment required by this section shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C.

(2) Due date

The amount of any payment required by this section shall be paid on or before April 15 of the calendar year following the calendar year in which the applicable election year begins (or such later date as may be prescribed by the Secretary).

(3) Interest

For purposes of determining interest, any payment required by this section shall be treated as a tax; except that no interest shall

be allowed with respect to any refund of a payment made under this section.

(4) Penalties

(A) In general

In the case of any failure by any person to pay on the date prescribed therefor any amount required by this section, there shall be imposed on such person a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term “underpayment” means the excess of the amount of the payment required under this section over the amount (if any) of such payment paid on or before the date prescribed therefor. No penalty shall be imposed under this subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.

(B) Negligence and fraud penalties made applicable

For purposes of part II of subchapter A of chapter 68, any payment required by this section shall be treated as a tax.

(C) Willful failure

If any partnership or S corporation willfully fails to comply with the requirements of this section, section 444 shall cease to apply with respect to such partnership or S corporation.

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section and section 280H, including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

- (1) 2 or more applicable election years begin in the same calendar year, or
- (2) the base year is a taxable year of less than 12 months.

(Added Pub. L. 100-203, title X, §10206(b)(1), Dec. 22, 1987, 101 Stat. 1330-398; amended Pub. L. 100-647, title II, §2004(e)(4)-(10), (14)(B), Nov. 10, 1988, 102 Stat. 3601, 3602; Pub. L. 101-239, title VII, §§7721(c)(12), 7821(b), Dec. 19, 1989, 103 Stat. 2400, 2424; Pub. L. 101-508, title XI, §11704(a)(29), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 105-34, title XII, §1281(d), Aug. 5, 1997, 111 Stat. 1037.)

REFERENCES IN TEXT

Section 806(e)(2)(C) of the Tax Reform Act of 1986, referred to in subsec. (d)(4), is section 806(e)(2)(C) of Pub. L. 99-514, which is set out as a note under section 1378 of this title.

AMENDMENTS

1997—Subsec. (f)(4)(A). Pub. L. 105-34 inserted at end “No penalty shall be imposed under this subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.”

1990—Subsec. (c)(3). Pub. L. 101-508 substituted “payable on the later of” for “payable on later of”.

1989—Subsec. (d)(4). Pub. L. 101-239, §7821(b), struck out “for taxable years beginning after 1987,” before “the applicable percentage” and substituted “unless more than 50 percent” for “if more than 50 percent” and “who would have been entitled” for “who would not have been entitled”.

Subsec. (f)(4)(B). Pub. L. 101-239, §7721(c)(12), substituted “part II of subchapter A of chapter 68” for “section 6653”.

1988—Subsec. (b)(2). Pub. L. 100-647, §2004(e)(4)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “the amount of the required payment for the preceding applicable election year.”

Subsec. (c). Pub. L. 100-647, §2004(e)(5), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “If the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), then the entity shall be entitled to a refund of such excess.”

Subsec. (d)(2)(A). Pub. L. 100-647, §2004(e)(10), substituted “(other than credits and tax-exempt income)” for “(other than credits)”.

Subsec. (d)(2)(B). Pub. L. 100-647, §2004(e)(7), (10), substituted “(other than credits and tax-exempt income)” for “(other than credits)” and inserted before period at end “(and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3))”.

Subsec. (d)(3)(A). Pub. L. 100-647, §2004(e)(14)(B), struck out “or incurred” after “amounts paid”.

Subsec. (d)(4). Pub. L. 100-647, §2004(e)(9), inserted at end “Notwithstanding the preceding provisions of this paragraph, for taxable years beginning after 1987, the applicable percentage for any partnership or S corporation shall be 100 percent if more than 50 percent of such entity’s net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would not have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income.”

Subsec. (d)(5). Pub. L. 100-647, §2004(e)(8), added par. (5).

Subsec. (e)(4). Pub. L. 100-647, §2004(e)(4)(B), added par. (4).

Subsec. (g). Pub. L. 100-647, §2004(e)(6), substituted “including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

- “(1) 2 or more applicable election years begin in the same calendar year, or
- “(2) the base year is a taxable year of less than 12 months” for “including regulations for annualizing the income and applicable payments of an entity if the base year is a taxable year of less than 12 months”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years beginning after Aug. 5, 1997, see section 1281(e) of Pub. L. 105-34, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7721(c)(12) of Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

Section 7821(b) of Pub. L. 101-239 provided that the amendment made by that section is effective with respect to taxable years beginning after 1988.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

EFFECTIVE DATE

Section applicable to applicable election years beginning after Dec. 31, 1986, see section 10206(d)(2) of Pub. L. 100-203, set out as a note under section 444 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 444 of this title.

§ 7520. Valuation tables**(a) General rule**

For purposes of this title, the value of any annuity, any interest for life or a term of years, or any remainder or reversionary interest shall be determined—

- (1) under tables prescribed by the Secretary, and
- (2) by using an interest rate (rounded to the nearest 2/10ths of 1 percent) equal to 120 percent of the Federal midterm rate in effect under section 1274(d)(1) for the month in which the valuation date falls.

If an income, estate, or gift tax charitable contribution is allowable for any part of the property transferred, the taxpayer may elect to use such Federal midterm rate for either of the 2 months preceding the month in which the valuation date falls for purposes of paragraph (2). In the case of transfers of more than 1 interest in the same property with respect to which the taxpayer may use the same rate under paragraph (2), the taxpayer shall use the same rate with respect to each such interest.

(b) Section not to apply for certain purposes

This section shall not apply for purposes of part I of subchapter D of chapter 1 or any other provision specified in regulations.

(c) Tables**(1) In general**

The tables prescribed by the Secretary for purposes of subsection (a) shall contain valuation factors for a series of interest rate categories.

(2) Initial table

Not later than the day 3 months after the date of the enactment of this section, the Secretary shall prescribe initial tables for purposes of subsection (a). Such tables may be based on the same mortality experience as used for purposes of section 2031 on the date of the enactment of this section.

(3) Revision for recent mortality charges

Not later than December 31, 1989, the Secretary shall revise the initial tables prescribed for purposes of subsection (a) to take into account the most recent mortality experience available as of the time of such revision. Such tables shall be revised not less frequently than once each 10 years thereafter to take into account the most recent mortality experience available as of the time of the revision.

(d) Valuation date

For purposes of this section, the term “valuation date” means the date as of which the valuation is made.

(e) Tables to include formulas

For purposes of this section, the term “tables” includes formulas.

(Added Pub. L. 100-647, title V, § 5031(a), Nov. 10, 1988, 102 Stat. 3668.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 100-647, which was approved Nov. 10, 1988.

CODIFICATION

Another section 7520 was renumbered section 7521 of this title.

EFFECTIVE DATE

Section 5031(c) of Pub. L. 100-647 provided that: “The amendments made by this section [enacting this section] shall apply in cases where the date as of which the valuation is to be made occurs on or after the 1st day of the 6th calendar month beginning after the date of the enactment of this Act [Nov. 10, 1988].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 664, 2702 of this title.

§ 7521. Procedures involving taxpayer interviews**(a) Recording of interviews****(1) Recording by taxpayer**

Any officer or employee of the Internal Revenue Service in connection with any in-person interview with any taxpayer relating to the determination or collection of any tax shall, upon advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment.

(2) Recording by IRS officer or employee

An officer or employee of the Internal Revenue Service may record any interview described in paragraph (1) if such officer or employee—

(A) informs the taxpayer of such recording prior to the interview, and

(B) upon request of the taxpayer, provides the taxpayer with a transcript or copy of such recording but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of such transcript or copy.

(b) Safeguards**(1) Explanations of processes**

An officer or employee of the Internal Revenue Service shall before or at an initial interview provide to the taxpayer—

(A) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer's rights under such process, or

(B) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer's rights under such process.

(2) Right of consultation

If the taxpayer clearly states to an officer or employee of the Internal Revenue Service at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.