

Public Law 96-613  
96th Congress

## An Act

To make certain miscellaneous changes in the tax laws.

Dec. 28, 1980

[H.R. 7171]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Tax laws,  
miscellaneous  
changes.**SECTION 1. ANNUITY CONTRACTS PURCHASED BY THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.**

(a) **IN GENERAL.**—An annuity contract purchased by the Uniformed Services University of the Health Sciences for any employee who is a member of the civilian faculty or staff of such university shall, for purposes of section 403(b) of the Internal Revenue Code of 1954, be treated as an annuity contract purchased for an employee by an employer described in section 501(c)(3) of such Code which is exempt from tax under section 501(a) of such Code.

26 USC 403.

26 USC 501.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply to service after December 31, 1979, in taxable years ending after such date.

**SEC. 2. RETIREMENT-REPLACEMENT-BETTERMENT METHOD OF DEPRECIATION.**

(a) **IN GENERAL.**—Section 167 of the Internal Revenue Code of 1954 (relating to allowance for depreciation) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

26 USC 167.

“(r) **RETIREMENT-REPLACEMENT-BETTERMENT METHOD.**—In the case of railroad track used by a common carrier by railroad (including a railroad switching company or a terminal company), the term ‘reasonable allowance’ as used in subsection (a) includes an allowance for such tract computed under the retirement-replacement-betterment method.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to taxable years ending after December 31, 1953.

26 USC 167 note.

**SEC. 3. TREATMENT OF CERTAIN RAILROAD STOCK FOR PURPOSES OF CONSOLIDATED RETURN REGULATIONS.**

(a) **IN GENERAL.**—For purposes of the consolidated return regulations prescribed under section 1502 of the Internal Revenue Code of 1954, if the determination of whether or not there has been a deemed disposition of stock in a transferor railroad (as defined in section 374(c)(5)(B) of such Code) depends on a determination of final value by the special court under the Regional Rail Reorganization Act of 1973, that deemed disposition shall not be treated as occurring before the earlier of—

26 USC 1502.

26 USC 374.

45 USC 701 note.

(1) the date on which such determination becomes final, or

(2) the first date on which there is an actual disposition of the stock or a deemed disposition not described above.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply to taxable years ending after March 31, 1976.

26 USC 374 note. **SEC. 4. RESTORATION OF CERTAIN NET OPERATING LOSS CARRYOVERS TO RAILROADS IN CONRAIL PROCEEDINGS WHERE OTHER MEMBERS OF CONSOLIDATED GROUP HAD INCOME BECAUSE OF STOCK DISPOSITION.**

26 USC 374. (a) **IN GENERAL.**—For purposes of subsection (e) of section 374 of the Internal Revenue Code of 1954 (relating to use of expired net operating loss carryovers to offset income arising from certain railroad reorganization proceedings), if—

(1) subparagraphs (A) and (B) of paragraph (1) of such subsection are satisfied with respect to a corporation,

(2) such corporation had a net operating loss for a taxable year which would have satisfied the requirements of clause (i) of subparagraph (C) of such paragraph (1) but for the fact that such net operating loss was used to reduce the income of an affiliated group of corporations which filed a consolidated return, and

(3) any portion of the amount so used was included in an excess loss account which was required to be restored to the income of a member or members of the affiliated group (or would be required to be so restored but for an election under Regulation § 1.1502-19(a)(6)),

26 CFR  
1.1502-19.

then an amount equal to the restoration amount shall be treated as meeting the requirements of subparagraph (C) of such paragraph (1).

(b) **RESTORATION AMOUNT DEFINED.**—

(1) **IN GENERAL.**—For purposes of subsection (a), the term “restoration amount” means, with respect to the net operating loss for any taxable year, an amount equal to the sum of—

(A) so much of the portion referred to in subsection (a)(3) as was required to be treated as ordinary income, and

(B) an amount equal to so much of such portion as was required to be treated as long-term capital gain, multiplied by the capital gain conversion fraction.

(2) **CAPITAL GAIN CONVERSION FRACTION.**—For purposes of paragraph (1), the capital gain conversion fraction is a fraction—

26 USC 1201.

(A) the numerator of which is the rate of tax set forth in section 1201(a)(2) of such Code for the taxable year the portion was required to be included in income, and

26 USC 11.

(B) the denominator of which is the highest rate of tax set forth in section 11(b) of such Code for such taxable year.

(3) **FIFO RULE FOR ADDITIONS TO EXCESS LOSS ACCOUNT.**—For purposes of this subsection, the amount in any excess loss account at the time of restoration (and the ordinary income portion of the restoration) shall be treated as attributable to net operating losses in the order of the years in which the respective net operating losses arose.

26 CFR  
1.1502-19.

(4) **CAPITAL GAIN TREATMENT.**—For purposes of paragraph (1), any amount to which an election under Regulation § 1.1502-19(a)(6) applies shall be treated as long-term capital gain.

(c) **EFFECTIVE DATE.**—This section shall apply to restorations occurring after March 31, 1976.

**SEC. 5. PREVENTION OF ABUSE OF CERTAIN PENSION PLAN PROVISIONS THROUGH THE USE OF SEPARATE CORPORATIONS OR OTHER ORGANIZATIONS.**

26 USC 414.

(a) **IN GENERAL.**—Section 414 (relating to definitions and special rules relating to pension plan, etc.) is amended by adding at the end thereof the following new subsection:

“(m) **EMPLOYEES OF AN AFFILIATED SERVICE GROUP.**—

"(1) **IN GENERAL.**—For purposes of the employee benefit requirements listed in paragraph (4), except to the extent otherwise provided in regulations, all employees of the members of an affiliated service group shall be treated as employed by a single employer.

"(2) **AFFILIATED SERVICE GROUP.**—For purposes of this subsection, the term 'affiliated service group' means a group consisting of a service organization (hereinafter in this paragraph referred to as the 'first organization') and one or more of the following:

"(A) any service organization which—

"(i) is a shareholder or partner in the first organization, and

"(ii) regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons, and

"(B) any other organization if—

"(i) a significant portion of the business of such organization is the performance of services (for the first organization, for organizations described in subparagraph (A), or for both) of a type historically performed in such service field by employees, and

"(ii) 10 percent or more of the interests in such organization is held by persons who are officers, highly compensated employees, or owners of the first organization or an organization described in subparagraph (A).

"(3) **SERVICE ORGANIZATIONS.**—For purposes of this subsection, the term 'service organization' means an organization the principal business of which is the performance of services.

"(4) **EMPLOYEE BENEFIT REQUIREMENTS.**—For purposes of this subsection, the employee benefit requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and (16) of section 401(a),

"(B) sections 408(k), 410, 411, and 415,

"(C) section 105(h), and

"(D) section 125.

26 USC 401.

26 USC 408, 410,

411, 415.

26 USC 105.

26 USC 125.

"(5) **OTHER DEFINITIONS.**—For purposes of this subsection—

"(A) **ORGANIZATION DEFINED.**—The term 'organization' means a corporation, partnership, or other organization.

"(B) **OWNERSHIP.**—In determining ownership, the principles of section 267(c) shall apply.

26 USC 267.

Regulations.

"(6) **PREVENTION OF AVOIDANCE.**—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance with respect to service organizations, through the use of separate organizations, of any employee benefit requirement listed in paragraph (4)."

(b) **TECHNICAL AMENDMENTS.**—

(1) Paragraph (8) of section 105(h) (relating to amount paid to highly compensated individuals under a discriminatory self-insured medical expense reimbursement plan) is amended—

26 USC 105.

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(2) Paragraph (4) of section 125(g) (relating to special rules for cafeteria plans) is amended—

26 USC 125.

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

26 USC 414 note.

**(c) EFFECTIVE DATES.—**

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years ending after November 30, 1980.

(2) **PLANS IN EXISTENCE ON NOVEMBER 30, 1980.**—In the case of a plan in existence on November 30, 1980, the amendments made by this section shall apply to plan years beginning after November 30, 1980.

Approved December 28, 1980.

**LEGISLATIVE HISTORY:**

HOUSE REPORT No. 96-1050 (Comm. on Ways and Means).

SENATE REPORT No. 96-1032 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 17, considered and passed House.

Dec. 13, considered and passed Senate, amended; House agreed to certain

Senate amendments, to others with amendments, and disagreed to Senate amendment No. 9; Senate receded from its amendment No. 9 and agreed to House amendments.