

26 U.S. Code § 1371. Coordination with subchapter C

U.S. Code Notes

(a) APPLICATION OF SUBCHAPTER C RULES

Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.

(b) NO CARRYOVER BETWEEN C YEAR AND S YEAR

(1) FROM C YEAR TO S YEAR

No carryforward, and no carryback, arising for a taxable year for which a corporation is a C corporation may be carried to a taxable year for which such corporation is an S corporation.

(2) NO CARRYOVER FROM S YEAR

No carryforward, and no carryback, shall arise at the corporate level for a taxable year for which a corporation is an S corporation.

(3) TREATMENT OF S YEAR AS ELAPSED YEAR

Nothing in paragraphs (1) and (2) shall prevent treating a taxable year for which a corporation is an S corporation as a taxable year for purposes of determining the number of taxable years to which an item may be carried back or carried forward.

(c) EARNINGS AND PROFITS

(1) IN GENERAL

Except as provided in paragraphs (2) and (3) and subsection (d)(3), no adjustment shall be made to the earnings and profits of an S corporation.

(2) ADJUSTMENTS FOR REDEMPTIONS, LIQUIDATIONS, REORGANIZATIONS, DIVISIVES, ETC.

In the case of any transaction involving the application of subchapter C to any S corporation, proper adjustment to any accumulated earnings and profits of the corporation shall be made.

(3) ADJUSTMENTS IN CASE OF DISTRIBUTIONS TREATED AS DIVIDENDS UNDER SECTION 1368(c)

(2)

Paragraph (1) shall not apply with respect to that portion of a distribution which is treated as a dividend under section 1368(c)(2).

(d) COORDINATION WITH INVESTMENT CREDIT RECAPTURE

(1) NO RECAPTURE BY REASON OF ELECTION

Any election under section 1362 shall be treated as a mere change in the form of conducting a trade or business for purposes of the second sentence of section 50(a)(4).

(2) CORPORATION CONTINUES TO BE LIABLE

Notwithstanding an election under section 1362, an S corporation shall continue to be liable for any increase in tax under section 49(h) or 50(a) attributable to credits allowed for taxable years for

increase in tax under section 12(e), or 22(e), attributable to credits allowed for taxable years for which such corporation was not an S corporation.

(3) ADJUSTMENT TO EARNINGS AND PROFITS FOR AMOUNT OF RECAPTURE

Paragraph (1) of subsection (c) shall not apply to any increase in tax under section 49(b), or 50(a), for which the S corporation is liable.

(e) CASH DISTRIBUTIONS DURING POST-TERMINATION TRANSITION PERIOD

(1) IN GENERAL

Any distribution of money by a corporation with respect to its stock during a post-termination transition period shall be applied against and reduce the adjusted basis of the stock, to the extent that the amount of the distribution does not exceed the accumulated adjustments account (within the meaning of section 1368(e)).

(2) ELECTION TO DISTRIBUTE EARNINGS FIRST

An S corporation may elect to have paragraph (1) not apply to all distributions made during a post-termination transition period described in section 1377(b)(1)(A). Such election shall not be effective unless all shareholders of the S corporation to whom distributions are made by the S corporation during such post-termination transition period consent to such election.

(f) CASH DISTRIBUTIONS FOLLOWING POST-TERMINATION TRANSITION PERIOD

In the case of a distribution of money by an eligible terminated S corporation (as defined in section 481(d)) after the post-termination transition period, the accumulated adjustments account shall be allocated to such distribution, and the distribution shall be chargeable to accumulated earnings and profits, in the same ratio as the amount of such accumulated adjustments account bears to the amount of such accumulated earnings and profits.

(Added Pub. L. 97-354, § 2, Oct. 19, 1982, 96 Stat. 1681; amended Pub. L. 98-369, div. A, title VII, § 721(e), (o), (x)(3), July 18, 1984, 98 Stat. 967, 970, 971; Pub. L. 99-514, title XVIII, § 1899A(33), (34), Oct. 22, 1986, 100 Stat. 2960; Pub. L. 101-508, title XI, § 11813(b)(23), Nov. 5, 1990, 104 Stat.

1388-555; Pub. L. 104-188, title I, § 1310, Aug. 20, 1996, 110 Stat. 1784; Pub. L. 115-97, title I, § 13543(b), Dec. 22, 2017, 131 Stat. 2155.)

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