

§451 as changed by H.R. 1, Tax Cuts and Jobs Act, Sec. 13221

See effective date information and link at end of this document.

§451 General rule for taxable year of inclusion

(a) General rule. The amount of any item of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the method of accounting used in computing taxable income, such amount is to be properly accounted for as of a different period.

(b) Inclusion not later than for financial accounting purposes.

(1) Income taken into account in financial statement.

(A) In general. In the case of a taxpayer the taxable income of which is computed under an accrual method of accounting, the all events test with respect to any item of gross income (or portion thereof) shall not be treated as met any later than when such item (or portion thereof) is taken into account as revenue in—

(i) An applicable financial statement of the taxpayer, or

(ii) Such other financial statement as the Secretary may specify for purposes of this subsection.

(B) Exception.—This paragraph shall not apply to—

(i) A taxpayer which does not have a financial statement described in clause (i) or (ii) of subparagraph (A) for a taxable year, or

(ii) Any item of gross income in connection with a mortgage servicing contract.

(C) All events test.—For purposes of this section, the all events test is met with respect to any item of gross income if all the events have occurred which fix the right to receive such income and the amount of such income can be determined with reasonable accuracy.

(2) Coordination with special methods of accounting.—Paragraph (1) shall not apply with respect to any item of gross income for which the taxpayers uses a special method of accounting provided under any other provision of this chapter, other than any provision of part V of subchapter P (except as provided in clause (ii) of paragraph(!)(B)).

(3) Applicable financial statement.—For purposes of this subsection, the term ‘applicable financial statement’ means—

(A) A financial statement which is certified as being prepared in accordance with generally accepted accounting principles and which is—

(i) A 10-K (or successor form), or annual statement to shareholders, required to be filed by the taxpayer with the United States Securities and Exchange Commission,

(ii) An audited financial statement of the taxpayer which is used for—

(I) credit purposes,

(II) reporting to shareholders, partners, or other proprietors, or to beneficiaries, or

(III) any other substantial nontax purpose,

but only if there is no statement of the taxpayer described in clause (i) or

(iii) filed by the taxpayer with any other Federal agency for purposes other than Federal tax purposes, but only if there is no statement of the taxpayer described in clause (i) or (ii)

(B) a financial statement which is made on the basis of international financial reporting standards and is filed by the taxpayer with an agency of a foreign government which is equivalent to the United States Securities and Exchange Commission and which has reporting standards not less stringent than the standards required by such Commission, but only if there is no statement of the taxpayer described in subparagraph (A), or

(C) a financial statement filed by the taxpayer with any other regulatory or governmental body specified by the Secretary, but only if there is no statement of the taxpayer described in subparagraph (A) or (B).

(4) Allocation of transaction price.—For purposes of this subsection, in the

case of a contract which contains multiple performance obligations, the allocation of the transaction price to each performance obligation shall be equal to the amount allocated to each performance obligation for purposes of including such item in revenue in the applicable financial statement of the taxpayer.

(5) Group of entities.—For purposes of paragraph(1), if the financial results of a taxpayer are reported on the applicable financial statement (as defined in paragraph (3)) for a group of entities, such statement shall be treated as the applicable financial statement of the taxpayer.

(c) Treatment of advance payments.—

(1) In general.—A taxpayer which computes taxable income under the accrual method of accounting, and receives any advance payment during the taxable year, shall—

(A) Except as provided in subparagraph (B), include such advance payment in gross income for such taxable year, or

(B) If the taxpayer elects the application of this subparagraph with respect to the category of advance payments to which such advance payment belongs, the taxpayer shall—

(i) To the extent that any portion of such advance payment is required under subsection (b) to be included in gross income in the taxable year in which such payment is received, so include such portion, and

(ii) Include the remaining portion of such advance payment in gross income in the taxable year following the taxable year in which such payment is received.

(2) Election.—

(A) In general.—Except as otherwise provided in this paragraph, the election under paragraph (1)(B) shall be made at such time, in such form and manner, and with respect to such categories of advance payments, as the Secretary may provide.

(B) Period to which election applies.—An election under paragraph (1)(B) shall be effective for the taxable year with respect to which

it is first made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to revoke such election. For purposes of this title, the computation of taxable income under an election made under paragraph (1)(B) shall be treated as a method of accounting.

(3) Taxpayers ceasing to exist.—Except as otherwise provided by the Secretary, the election under paragraph (1)(B) shall not apply with respect to advance payments received by the taxpayer during a taxable year if such taxpayer ceases to exist during (or with the close of) such taxable year.

(4) Advance payment.—For purposes of this subsection—

(A) In general.—The term ‘advance payment’ means any payment—

- (i) The full inclusion of which in the gross income of the taxpayer for the taxable year of receipt is a permissible method of accounting under this section (determined without regard to this subsection),
- (ii) Any portion of which is included in revenue by the taxpayer in a financial statement described in clause (i) or (ii) of subsection (b)(1)(A) for a subsequent taxable year, and
- (iii) Which is for goods, services, or such other items as may be identified by the Secretary for purposes of this clause.

(B) Exclusions.—Except as otherwise provided by the Secretary, such term shall not include—

- (i) rent,
- (ii) insurance premiums governed by subchapter L,
- (iii) payments with respect to financial instruments,
- (iv) payments with respect to warranty or guarantee contracts under which a third party is the primary obligor,

- (v) payments subject to section 871(a), 881, 1441, or 1442,
- (vi) payments in property to which section 83 applies, and
- (vii) any other payment identified by the Secretary for purposes of this subparagraph.

(C) Receipt.—For purposes of this subsection, an item of gross income is received by the taxpayer if it is actually or constructively received, or if it is due and payable to the taxpayer.

(D) Allocation of transaction price.—For purposes of this subsection, rules similar to subsection (b)(4) shall apply.

~~(b)~~ Special rule in case of death. In the case of the death of a taxpayer whose taxable income is computed under an accrual method of accounting, any amount accrued only by reason of the death of the taxpayer shall not be included in computing taxable income for the period in which falls the date of the taxpayer's death.

~~(e)~~ Special rule for employee tips. For purposes of subsection (a) , tips included in a written statement furnished an employer by an employee pursuant to section 6053(a) shall be deemed to be received at the time the written statement including such tips is furnished to the employer.

~~(f)~~ Special rule for crop insurance proceeds or disaster payments. In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such proceeds in income for the taxable year following the taxable year of destruction or damage, if he establishes that, under his practice, income from such crops would have been reported in a following taxable year. For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, or title II of the Disaster Assistance Act of 1988, as a result of (1) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (2) the inability to plant crops because of such a natural disaster shall be treated as insurance proceeds received as a result of destruction or damage to crops. An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary prescribes.

~~(g)~~ Special rule for proceeds from livestock sold on account of drought, flood, or

other weather-related conditions.

- (1) In general. In the case of income derived from the sale or exchange of livestock in excess of the number the taxpayer would sell if he followed his usual business practices, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs if he establishes that, under his usual business practices, the sale or exchange would not have occurred in the taxable year in which it occurred if it were not for drought, flood, or other weather-related conditions, and that such conditions had resulted in the area being designated as eligible for assistance by the Federal Government.
- (2) Limitation. Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3)).
- (3) Special election rules. If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.

(h) Special rule for utility services.

- (1) In general. In the case of a taxpayer the taxable income of which is computed under an accrual method of accounting, any income attributable to the sale or furnishing of utility services to customers shall be included in gross income not later than the taxable year in which such services are provided to such customers.
- (2) Definition and special rule. For purposes of this subsection -
 - (A) Utility services. The term "utility services" includes-
 - (i) the providing of electrical energy, water, or sewage disposal,
 - (ii) the furnishing of gas or steam through a local distribution system,
 - (iii) telephone or other communication services, and
 - (iv) the transporting of gas or steam by pipeline.
 - (B) Year in which services provided. The taxable year in which services are treated as provided to customers shall not, in any manner, be determined by reference to-

- (i) the period in which the customers' meters are read, or
- (ii) the period in which the taxpayer bills (or may bill) the customers for such service.

(g) Treatment of interest on frozen deposits in certain financial institutions.

- (1) In general. In the case of interest credited during any calendar year on a frozen deposit in a qualified financial institution, the amount of such interest includible in the gross income of a qualified individual shall not exceed the sum of-
 - (A) the net amount withdrawn by such individual from such deposit during such calendar year, and
 - (B) the amount of such deposit which is withdrawable as of the close of the taxable year (determined without regard to any penalty for premature withdrawals of a time deposit).
- (2) Interest tested each year. Any interest not included in gross income by reason of paragraph (1) shall be treated as credited in the next calendar year.
- (3) Deferral of interest deduction. No deduction shall be allowed to any qualified financial institution for interest not includible in gross income under paragraph (1) until such interest is includible in gross income.
- (4) Frozen deposit. For purposes of this subsection , the term "frozen deposit" means any deposit if, as of the close of the calendar year, any portion of such deposit may not be withdrawn because of-
 - (A) the bankruptcy or insolvency of the qualified financial institution (or threat thereof), or
 - (B) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in the State.
- (5) Other definitions. For purposes of this subsection , the terms "qualified individual", "qualified financial institution", and "deposit" have the same respective meanings as when used in section 165(l).

(h) Special rule for cash options for receipt of qualified prizes.

- (1) In general. For purposes of this title, in the case of an individual on the cash

receipts and disbursements method of accounting, a qualified prize option shall be disregarded in determining the taxable year for which any portion of the qualified prize is properly includible in gross income of the taxpayer.

(2) Qualified prize option; qualified prize. For purposes of this subsection -

(A) In general. The term "qualified prize option" means an option which-

(i) entitles an individual to receive a single cash payment in lieu of receiving a qualified prize (or remaining portion thereof), and

(ii) is exercisable not later than 60 days after such individual becomes entitled to the qualified prize.

(B) Qualified prize. The term "qualified prize" means any prize or award which-

(i) is awarded as a part of a contest, lottery, jackpot, game, or other similar arrangement,

(ii) does not relate to any past services performed by the recipient and does not require the recipient to perform any substantial future service, and

(iii) is payable over a period of at least 10 years.

(3) Partnership, etc. The Secretary shall provide for the application of this subsection in the case of a partnership or other pass-through entity consisting entirely of individuals described in paragraph (1).

(k†) Special rule for sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.

(1) In general. In the case of any qualifying electric transmission transaction for which the taxpayer elects the application of this section , qualified gain from such transaction shall be recognized-

(A) in the taxable year which includes the date of such transaction to the extent the amount realized from such transaction exceeds-

(i) the cost of exempt utility property which is purchased by the taxpayer during the 4-year period beginning on such date, reduced (but not below zero) by

(ii) any portion of such cost previously taken into account under this subsection , and

(B) ratably over the 8-taxable year period beginning with the taxable year which

includes the date of such transaction, in the case of any such gain not recognized under subparagraph (A) .

- (2) Qualified gain. For purposes of this subsection , the term "qualified gain" means, with respect to any qualifying electric transmission transaction in any taxable year-
 - (A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and
 - (B) any income derived from such transaction in excess of the amount described in subparagraph (A) which is required to be included in gross income for such taxable year (determined without regard to this subsection).
- (3) Qualifying electric transmission transaction. For purposes of this subsection , the term "qualifying electric transmission transaction" means any sale or other disposition before January 1, 2008 (before January 1, 2017, in the case of a qualified electric utility), of-
 - (A) property used in the trade or business of providing electric transmission services, or
 - (B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,but only if such sale or disposition is to an independent transmission company.
- (4) Independent transmission company. For purposes of this subsection , the term "independent transmission company" means-
 - (A) an independent transmission provider approved by the Federal Energy Regulatory Commission,
 - (B) a person-
 - (i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) or by declaratory order is not a market participant within the meaning of such Commission's rules applicable to independent transmission providers, and

- (ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved independent transmission provider before the close of the period specified in such authorization, but not later than the date which is 4 years after the close of the taxable year in which the transaction occurs, or
- (C) in the case of facilities subject to the jurisdiction of the Public Utility Commission of Texas-
 - (i) a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission provider, or
 - (ii) a political subdivision or affiliate thereof whose transmission facilities are under the operational control of a person described in clause (i).
- (5) Exempt utility property. For purposes of this subsection -
 - (A) In general. The term "exempt utility property" means property used in the trade or business of-
 - (i) generating, transmitting, distributing, or selling electricity, or
 - (ii) producing, transmitting, distributing, or selling natural gas.
 - (B) Nonrecognition of gain by reason of acquisition of stock. Acquisition of control of a corporation shall be taken into account under this subsection with respect to a qualifying electric transmission transaction only if the principal trade or business of such corporation is a trade or business referred to in subparagraph (A).
 - (C) Exception for property located outside the United States. The term "exempt utility property" shall not include any property which is located outside the United States.
- (6) Qualified electric utility. For purposes of this subsection , the term "qualified electric utility" means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both-
 - (A) a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23))) with respect to the transmission facilities to which the election under this subsection applies, and

- (B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).
- (7) Special rule for consolidated groups. In the case of a corporation which is a member of an affiliated group filing a consolidated return, any exempt utility property purchased by another member of such group shall be treated as purchased by such corporation for purposes of applying paragraph (1)(A) .
- (8) Time for assessment of deficiencies. If the taxpayer has made the election under paragraph (1) and any gain is recognized by such taxpayer as provided in paragraph (1)(B), then-
- (A) the statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain on the transaction is realized, attributable to such gain shall not expire prior to the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of the purchase of exempt utility property or of an intention not to purchase such property, and
- (B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding any law or rule of law which would otherwise prevent such assessment.
- (9) Purchase. For purposes of this subsection , the taxpayer shall be considered to have purchased any property if the unadjusted basis of such property is its cost within the meaning of section 1012.
- (10) Election. An election under paragraph (1) shall be made at such time and in such manner as the Secretary may require and, once made, shall be irrevocable.
- (11) Nonapplication of installment sales treatment. Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.

Effective date information from H.R. 1

[(c), (d) and (e) references below are to H.R. 1, Sec. 13221]

(c) Effective date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2017.

(d) COORDINATION WITH SECTION 481.—

(1) IN GENERAL.—In the case of any qualified change in method of accounting for the taxpayer's first taxable year beginning after December 31, 2017—

(A) such change shall be treated as initiated by the taxpayer, and

(B) such change shall be treated as made with the consent of the Secretary of the Treasury.

(2) QUALIFIED CHANGE IN METHOD OF ACCOUNTING.—For purposes of this subsection, the term “qualified change in method of accounting” means any change in method of accounting which—

(A) is required by the amendments made by this section, or

(B) was prohibited under the Internal Revenue Code of 1986 prior to such amendments and is permitted under such Code after such amendments.

(e) SPECIAL RULES FOR ORIGINAL ISSUE DISCOUNT.—Notwithstanding subsection (c), in the case of income from a debt instrument having original issue discount—

(1) the amendments made by this section shall apply to taxable years beginning after December 31, 2018, and

(2) the period for taking into account any adjustments under section 481 by reason of a qualified change in method of accounting (as defined in subsection (d)) shall be 6 years.

For additional information - See the [conference report released 12/15/17](#) at pages 272 to 277 including the footnotes.