

26 USC 4501: Repurchase of corporate stock

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From Title 26-INTERNAL REVENUE CODE

Subtitle D-Miscellaneous Excise Taxes

CHAPTER 37-REPURCHASE OF CORPORATE STOCK

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§4501. Repurchase of corporate stock

(a) General rule

There is hereby imposed on each covered corporation a tax equal to 1 percent of the fair market value of any stock of the corporation which is repurchased by such corporation during the taxable year.

(b) Covered corporation

For purposes of this section, the term "covered corporation" means any domestic corporation the stock of which is traded on an established securities market (within the meaning of section 7704(b)(1)).

(c) Repurchase

For purposes of this section-

(1) In general

The term "repurchase" means-

- (A) a redemption within the meaning of section 317(b) with regard to the stock of a covered corporation, and
- (B) any transaction determined by the Secretary to be economically similar to a transaction described in subparagraph (A).

(2) Treatment of purchases by specified affiliates

(A) In general

The acquisition of stock of a covered corporation by a specified affiliate of such covered corporation, from a person who is not the covered corporation or a specified affiliate of such covered corporation, shall be treated as a repurchase of the stock of the covered corporation by such covered corporation.

(B) Specified affiliate

For purposes of this section, the term "specified affiliate" means, with respect to any corporation-

- (i) any corporation more than 50 percent of the stock of which is owned (by vote or by value), directly or indirectly, by such corporation, and
- (ii) any partnership more than 50 percent of the capital interests or profits interests of which is held, directly or indirectly, by such corporation.

(3) Adjustment

The amount taken into account under subsection (a) with respect to any stock repurchased by a covered corporation shall be reduced by the fair market value of any stock issued by the covered corporation during the taxable year, including the fair market value of any stock issued or provided to employees of such covered corporation or employees of a specified affiliate of such covered corporation during the taxable year, whether or not such stock is issued or provided in response to the exercise of an option to purchase such stock.

(d) Special rules for acquisition of stock of certain foreign corporations

(1) In general

In the case of an acquisition of stock of an applicable foreign corporation by a specified affiliate of such corporation (other than a foreign corporation or a foreign partnership (unless such partnership has a domestic entity as a direct or indirect partner)) from a person who is not the applicable foreign corporation or a specified affiliate of such applicable foreign corporation, for purposes of this section-

- (A) such specified affiliate shall be treated as a covered corporation with respect to such acquisition,
- (B) such acquisition shall be treated as a repurchase of stock of a covered corporation by such covered corporation, and
- (C) the adjustment under subsection (c)(3) shall be determined only with respect to stock issued or provided by such specified affiliate to employees of the specified affiliate.

(2) Surrogate foreign corporations

In the case of a repurchase of stock of a covered surrogate foreign corporation by such covered surrogate foreign corporation, or an acquisition of stock of a covered surrogate foreign corporation by a specified affiliate of such corporation, for purposes of this section-

(A) the expatriated entity with respect to such covered surrogate foreign corporation shall be treated as a covered corporation with respect to such repurchase or acquisition,

(B) such repurchase or acquisition shall be treated as a repurchase of stock of a covered corporation by such covered corporation, and

(C) the adjustment under subsection (c)(3) shall be determined only with respect to stock issued or provided by such expatriated entity to employees of the expatriated entity.

(3) Definitions

For purposes of this subsection-

(A) Applicable foreign corporation

The term "applicable foreign corporation" means any foreign corporation the stock of which is traded on an established securities market (within the meaning of section 7704(b)(1)).

(B) Covered surrogate foreign corporation

The term "covered surrogate foreign corporation" means any surrogate foreign corporation (as determined under section 7874(a)(2)(B) by substituting "September 20, 2021" for "March 4, 2003" each place it appears) the stock of which is traded on an established securities market (within the meaning of section 7704(b)(1)), but only with respect to taxable years which include any portion of the applicable period with respect to such corporation under section 7874(d)(1).

(C) Expatriated entity

The term "expatriated entity" has the meaning given such term by section 7874(a)(2)(A).

(e) Exceptions

Subsection (a) shall not apply-

(1) to the extent that the repurchase is part of a reorganization (within the meaning of section 368(a)) and no gain or loss is recognized on such repurchase by the shareholder under chapter 1 by reason of such reorganization,

(2) in any case in which the stock repurchased is, or an amount of stock equal to the value of the stock repurchased is, contributed to an employer-sponsored retirement plan, employee stock ownership plan, or similar plan,

(3) in any case in which the total value of the stock repurchased during the taxable year does not exceed \$1,000,000,

(4) under regulations prescribed by the Secretary, in cases in which the repurchase is by a dealer in securities in the ordinary course of business,

(5) to repurchases by a regulated investment company (as defined in section 851) or a real estate investment trust, or

(6) to the extent that the repurchase is treated as a dividend for purposes of this title.

(f) Regulations and guidance

The Secretary shall prescribe such regulations and other guidance as are necessary or appropriate to carry out, and to prevent the avoidance of, the purposes of this section, including regulations and other guidance-

(1) to prevent the abuse of the exceptions provided by subsection (e),

(2) to address special classes of stock and preferred stock, and

(3) for the application of the rules under subsection (d).

(Added Pub. L. 117-169, title I, §10201(a), Aug. 16, 2022, 136 Stat. 1829 .)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 4501 to 4503 were repealed by Pub. L. 101-508, title XI, §11801(a)(48), Nov. 5, 1990, 104 Stat. 1388-522 . For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

Section 4501, acts Aug. 16, 1954, ch. 736, 68A Stat. 533 ; May 29, 1956, ch. 342, §19, 70 Stat. 221 ; Sept. 2, 1958, Pub. L. 85-859, title I, §162(b), 72 Stat. 1306 ; July 6, 1960, Pub. L. 86-592, §2, 74 Stat. 330 ; Mar. 31, 1961, Pub. L. 87-15, §2(a), 75 Stat. 40 ; May 24, 1962, Pub. L. 87-456, title III, §302(a), (b), 76 Stat. 77 ; July 13, 1962, Pub. L. 87-535, §18(a), 76 Stat. 166 ; Nov. 8, 1965, Pub. L. 89-331, §13, 79 Stat. 1280 ;

Oct. 14, 1971, Pub. L. 92-138, §18(b), 85 Stat. 390 , related to imposition of tax upon sugar manufactured in United States.

Section 4502, acts Aug. 16, 1954, ch. 736, 68A Stat. 534 ; May 29, 1956, ch. 342, §20, 70 Stat. 221 ; June 25, 1959, Pub. L. 86-70, §22(c), 73 Stat. 146 ; July 12, 1960, Pub. L. 86-624, §18(f), 74 Stat. 416 , provided for applicable definitions.

Section 4503, act Aug. 16, 1954, ch. 736, 68A Stat. 534 , related to exemption for sugar manufactured for home consumption.

Prior sections 4504 and 4511 to 4514 were repealed by Pub. L. 87-456, title III, §302(d), May 24, 1962, 76 Stat. 77 , effective with respect to articles entered or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, as provided by section 501(a) of Pub. L. 87-456.

Section 4504, acts Aug. 16, 1954, ch. 736, 68A Stat. 535 ; May 29, 1956, ch. 342, §21(a), 70 Stat. 221 , required the tax imposed by section 4501(b) to be levied, assessed, collected and paid in the same manner as a duty imposed by the Tariff Act of 1930.

Section 4511, act Aug. 16, 1954, ch. 736, 68A Stat. 536 , imposed a tax upon the processing of coconut oil, etc.

Section 4512, act Aug. 16, 1954, ch. 736, 68A Stat. 536 , defined "first domestic processing".

Section 4513, act Aug. 16, 1954, ch. 736, 68A Stat. 536 , related to exemptions from the tax imposed.

Section 4514, act Aug. 16, 1954, ch. 736, 68A Stat. 536 , set forth a cross-reference to subtitle F for administrative provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 117-169, title I, §10201(d), Aug. 16, 2022, 136 Stat. 1831 , provided that: "The amendments made by this section [enacting this chapter and amending section 275 of this title] shall apply to repurchases (within the meaning of section 4501(c) of the Internal Revenue Code of 1986, as added by this section) of stock after December 31, 2022."