

810-3-8-.11 Election to Recognize Gain on Certain Liquidations.

(1) For transactions occurring after July 31, 1986 - the election to recognize gain on certain liquidations pertaining to 26 U.S.C. § 333 has been repealed under the provisions of Act 90-583 and Public Law 99-514.

(2) For Transactions after December 31, 1984, and before August 1, 1986 - In the case of a shareholder who has made a valid election pursuant to 26 U.S.C. § 333 to recognize gain in certain liquidations for federal income tax purposes, then in the case of property distributed in complete liquidation of a corporation incorporated under the laws of the United States, or any state or political subdivision thereof, if -

(a) the liquidation is made in pursuance of a plan of liquidation adopted, and

(b) the distribution is in complete cancellation or redemption of all the stock, and the transfer of all the property under the liquidation occurs within some one calendar month, then in the case of each qualified electing shareholder (as defined in 26 U.S.C. § 333), gain on the shares owned by him at the time of the adoption of the plan of liquidation shall be recognized only to the extent provided in paragraph (2) below.

(3) (a) In the case of a qualified electing shareholder other than a corporation -

1. there shall be recognized, and treated as a dividend, so much of the gain as is not in excess of his ratable share of the earnings and profits of the corporation accumulated after December 31, 1932. Such earnings and profits are to be determined as of the close of the month in which the transfer in liquidation occurred under subparagraph (1)(b) above, but without diminution by reason of distributions made during such month; but by including in the computation thereof all amounts accrued up to the date on which the transfer of all the property under the liquidation is completed; and

2. there shall be recognized, and treated as a gain from the sale or exchange of property, so much of the remainder of the gain as is not in excess of the amount by which the value of that portion of the assets received by him which consists of money, or of stock or securities acquired by the corporation after December 31, 1932, exceeds his ratable share of such earnings and profits.

(b) In the case of a qualified electing shareholder which is a corporation, the gain shall be recognized only to the extent of the greater of the following -

1. the portion of the assets received by it which consists of money, or of stock or securities acquired by the liquidating corporation after December 31, 1932; or

2. its ratable share of the earnings and profits of the liquidating corporation accumulated after December 31, 1932, such earnings and profits to be determined as of the close of the month in which the transfer in liquidation occurred under subparagraph (1)(b) above, but without diminution by reason of distributions made during such month, but by including in the computation thereof all amounts accrued up to the date on which the transfer of all the property under the liquidation is completed.

Author: Verlon R. Frost, Jeff Taylor

Authority: Sections 40-2A-7(a)(5) and 40-18-8, Code of Alabama 1975

History: Effective December 4, 1992.

Amended: Filed March 4, 1997, effective April 8, 1997.

Amended: Filed April 28, 1999, effective June 2, 1999.