

Internal Revenue Code Section 1371(b)

Coordination with subchapter C.

(a) Application of subchapter C rules. Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter [IRC Sections 1361 et seq.], subchapter C [IRC Sections 301 et seq.] 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 [IRC Sections 301 et seq.] 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) [IRC Sec. 1368(c)(2)].

(d) Coordination with investment credit recapture.

(1) No recapture by reason of election. Any election under section 1362 [IRC Sec. 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) [IRC Sec. 50(a)(4)].

(2) Corporation continues to be liable. Notwithstanding an election under section 1362 [IRC Sec. 1362], an S corporation shall continue to be liable for any increase in tax under section

49(b) or 50(a) [IRC Sec. 49(b) or 50(a)] 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) [IRC Sec. 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) [IRC Sec. 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) [IRC Sec. 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.