

shareholder sells his stock or when the corporation no longer qualifies as a DISC. ¶ 4399C-4399X.

Downstairs merger

A downstairs merger is effected when a parent corporation is merged into the subsidiary in a statutory merger and transfers the subsidiary's shares to its own shareholders in exchange for its own shares, which are then cancelled, as steps in consummation of the merger. This is also called a downstream merger. ¶ 2551.

Downstream merger

See "Downstairs merger."

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Earned income

"Earned income" is a technical term that means (1) the income of a U.S. citizen working in a foreign country (for which an exclusion is granted), (2) the earnings of a retired person who is receiving retirement income in addition to income he earns, or (3) the earnings of a self-employed individual engaged in a business where both capital and personal services are income-producing factors. ¶ 509, 513, 4333-4336.

Earnings and profits

Accumulated earnings and profits, as well as earnings and profits of the current taxable year, measure the amount of a distribution by a corporation to its shareholders which represents a dividend. See "Dividends", above. The earnings and profits of a distributing corporation are not the same as net income or taxable income. They include nontaxable as well as taxable income, but do not include realized gains or losses which are not recognized for income tax purposes. ¶ 2375-2378.

Employee

For income tax purposes, an employee is distinguishable from an independent contractor. This is important, for the withholding of income taxes on wages applies only to employees. Also, employee status will affect the manner and extent of allowance of some deductions. An employee is one who is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is not an employee. However, officers and elected officials of the United States, state, and local governments are employees, as are also officers of corporations. ¶ 203, 716.032, 717.067-717.0696, 4938, 4939.

Employee stock ownership plan (ESOP)

A stock bonus plan is established and maintained to provide benefits similar to those of a profit-sharing plan, but the contributions are not necessarily dependent upon profits and the benefits are distributable in the stock of the employer. A stock bonus plan is often referred to as an employee stock ownership plan (ESOP) or employee stock ownership trust (ESOT). Under the Pension Reform Act of 1974, ESOPs and ESOTs are granted favorable treatment by being exempted from the 10% limitation on the amount of employer securities that a plan may hold and by permitting the employer to sell its stock to the plan or guarantee loans to it without violating the prohibited transaction rules. ¶ 542, 2605.013.

Estate

The meaning of this word, as used in income tax law, is much narrower than its general meaning, which, broadly speaking, is an interest in property. For federal tax purposes, it has two specific meanings. The gross estate of a decedent is the assets of the decedent for estate tax purposes. Taxable estate is the gross estate less deductions and exemptions. In its most widely used sense, for income tax purposes, however, an estate is a taxpayer. It is an executorship or administration of a decedent's estate, subject to a court having probate jurisdiction throughout its administration by a fiduciary, and is treated as a separate taxpayer. The estate of a bankrupt individual or partnership comes within the meaning of the term, for income tax purposes, but the estate of a minor or incompetent