

TITLE 26 - INTERNAL REVENUE CODE**Subtitle A - Income Taxes****CHAPTER 1 - NORMAL TAXES AND SURTAXES****Subchapter B - Computation of Taxable Income****PART VI - ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS****§ 165. Losses****(a) General rule**

There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) Amount of deduction

For purposes of subsection (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) Limitation on losses of individuals

In the case of an individual, the deduction under subsection (a) shall be limited to—

- (1) losses incurred in a trade or business;
- (2) losses incurred in any transaction entered into for profit, though not connected with a trade or business; and
- (3) except as provided in subsection (h), losses of property not connected with a trade or business or a transaction entered into for profit, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft.

(d) Wagering losses

Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(e) Theft losses

For purposes of subsection (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) Capital losses

Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in sections 1211 and 1212.

(g) Worthless securities**(1) General rule**

If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this subtitle, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset.

(2) Security defined

For purposes of this subsection, the term “security” means—

- (A) a share of stock in a corporation;
- (B) a right to subscribe for, or to receive, a share of stock in a corporation; or
- (C) a bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.

(3) Securities in affiliated corporation

For purposes of paragraph (1), any security in a corporation affiliated with a taxpayer which is a domestic corporation shall not be treated as a capital asset. For purposes of the preceding sentence, a corporation shall be treated as affiliated with the taxpayer only if—

(A) the taxpayer owns directly stock in such corporation meeting the requirements of section 1504 (a)(2), and

(B) more than 90 percent of the aggregate of its gross receipts for all taxable years has been from sources other than royalties, rents (except rents derived from rental of properties to employees of the corporation in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities.

In computing gross receipts for purposes of the preceding sentence, gross receipts from sales or exchanges of stocks and securities shall be taken into account only to the extent of gains therefrom.

(h) Treatment of casualty gains and losses

(1) \$100 limitation per casualty

Any loss of an individual described in subsection (c)(3) shall be allowed only to the extent that the amount of the loss to such individual arising from each casualty, or from each theft, exceeds \$100.

(2) Net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income

(A) In general

If the personal casualty losses for any taxable year exceed the personal casualty gains for such taxable year, such losses shall be allowed for the taxable year only to the extent of the sum of—

(i) the amount of the personal casualty gains for the taxable year, plus

(ii) so much of such excess as exceeds 10 percent of the adjusted gross income of the individual.

(B) Special rule where personal casualty gains exceed personal casualty losses

If the personal casualty gains for any taxable year exceed the personal casualty losses for such taxable year—

(i) all such gains shall be treated as gains from sales or exchanges of capital assets, and

(ii) all such losses shall be treated as losses from sales or exchanges of capital assets.

(3) Definitions of personal casualty gain and personal casualty loss

For purposes of this subsection—

(A) Personal casualty gain

The term “personal casualty gain” means the recognized gain from any involuntary conversion of property which is described in subsection (c)(3) arising from fire, storm, shipwreck, or other casualty, or from theft.

(B) Personal casualty loss

The term “personal casualty loss” means any loss described in subsection (c)(3). For purposes of paragraph (2), the amount of any personal casualty loss shall be determined after the application of paragraph (1).

(4) Special rules

(A) Personal casualty losses allowable in computing adjusted gross income to the extent of personal casualty gains

In any case to which paragraph (2)(A) applies, the deduction for personal casualty losses for any taxable year shall be treated as a deduction allowable in computing adjusted gross income to the extent such losses do not exceed the personal casualty gains for the taxable year.

(B) Joint returns

For purposes of this subsection, a husband and wife making a joint return for the taxable year shall be treated as 1 individual.

(C) Determination of adjusted gross income in case of estates and trusts

For purposes of paragraph (2), the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

(D) Coordination with estate tax

No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return.

(E) Claim required to be filed in certain cases

Any loss of an individual described in subsection (c)(3) to the extent covered by insurance shall be taken into account under this section only if the individual files a timely insurance claim with respect to such loss.

(i) Disaster losses

(1) Election to take deduction for preceding year

Notwithstanding the provisions of subsection (a), any loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

(2) Year of loss

If an election is made under this subsection, the casualty resulting in the loss shall be treated for purposes of this title as having occurred in the taxable year for which the deduction is claimed.

(3) Amount of loss

The amount of the loss taken into account in the preceding taxable year by reason of paragraph (1) shall not exceed the uncompensated amount determined on the basis of the facts existing at the date the taxpayer claims the loss.

(4) Use of disaster loan appraisals to establish amount of loss

Nothing in this title shall be construed to prohibit the Secretary from prescribing regulations or other guidance under which an appraisal for the purpose of obtaining a loan of Federal funds or a loan guarantee from the Federal Government as a result of a Presidentially declared disaster (as defined by section 1033 (h)(3)) may be used to establish the amount of any loss described in paragraph (1) or (2).

(j) Denial of deduction for losses on certain obligations not in registered form

(1) In general

Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for any loss sustained on any registration-required obligation unless such obligation is in registered form (or the issuance of such obligation was subject to tax under section 4701).

(2) Definitions

For purposes of this subsection—

(A) Registration-required obligation

The term “registration-required obligation” has the meaning given to such term by section 163 (f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

(B) Registered form

The term “registered form” has the same meaning as when used in section 163 (f).

(3) Exceptions

The Secretary may, by regulations, provide that this subsection and section 1287 shall not apply with respect to obligations held by any person if—

(A) such person holds such obligations in connection with a trade or business outside the United States,

(B) such person holds such obligations as a broker dealer (registered under Federal or State law) for sale to customers in the ordinary course of his trade or business,

(C) such person complies with reporting requirements with respect to ownership, transfers, and payments as the Secretary may require, or

(D) such person promptly surrenders the obligation to the issuer for the issuance of a new obligation in registered form,

but only if such obligations are held under arrangements provided in regulations or otherwise which are designed to assure that such obligations are not delivered to any United States person other than a person described in subparagraph (A), (B), or (C).

(k) Treatment as disaster loss where taxpayer ordered to demolish or relocate residence in disaster area because of disaster

In the case of a taxpayer whose residence is located in an area which has been determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, if—

(1) not later than the 120th day after the date of such determination, the taxpayer is ordered, by the government of the State or any political subdivision thereof in which such residence is located, to demolish or relocate such residence, and

(2) the residence has been rendered unsafe for use as a residence by reason of the disaster,

any loss attributable to such disaster shall be treated as a loss which arises from a casualty and which is described in subsection (i).

(l) Treatment of certain losses in insolvent financial institutions**(1) In general**

If—

(A) as of the close of the taxable year, it can reasonably be estimated that there is a loss on a qualified individual’s deposit in a qualified financial institution, and

(B) such loss is on account of the bankruptcy or insolvency of such institution,

then the taxpayer may elect to treat the amount so estimated as a loss described in subsection (c)(3) incurred during the taxable year.

(2) Qualified individual defined

For purposes of this subsection, the term “qualified individual” means any individual, except an individual—

(A) who owns at least 1 percent in value of the outstanding stock of the qualified financial institution,

(B) who is an officer of the qualified financial institution,

(C) who is a sibling (whether by the whole or half blood), spouse, aunt, uncle, nephew, niece, ancestor, or lineal descendant of an individual described in subparagraph (A) or (B), or

(D) who otherwise is a related person (as defined in section 267 (b)) with respect to an individual described in subparagraph (A) or (B).

(3) Qualified financial institution

For purposes of this subsection, the term “qualified financial institution” means—

- (A) any bank (as defined in section 581),
- (B) any institution described in section 591,
- (C) any credit union the deposits or accounts in which are insured under Federal or State law or are protected or guaranteed under State law, or
- (D) any similar institution chartered and supervised under Federal or State law.

(4) Deposit

For purposes of this subsection, the term “deposit” means any deposit, withdrawable account, or withdrawable or repurchasable share.

(5) Election to treat as ordinary loss

(A) In general

In lieu of any election under paragraph (1), the taxpayer may elect to treat the amount referred to in paragraph (1) for the taxable year as an ordinary loss described in subsection (c)(2) incurred during the taxable year.

(B) Limitations

- (i) Deposit may not be federally insured

No election may be made under subparagraph (A) with respect to any loss on a deposit in a qualified financial institution if part or all of such deposit is insured under Federal law.

- (ii) Dollar limitation

With respect to each financial institution, the aggregate amount of losses attributable to deposits in such financial institution to which an election under subparagraph (A) may be made by the taxpayer for any taxable year shall not exceed \$20,000 (\$10,000 in the case of a separate return by a married individual). The limitation of the preceding sentence shall be reduced by the amount of any insurance proceeds under any State law which can reasonably be expected to be received with respect to losses on deposits in such institution.

(6) Election

Any election by the taxpayer under this subsection for any taxable year—

- (A) shall apply to all losses for such taxable year of the taxpayer on deposits in the institution with respect to which such election was made, and
- (B) may be revoked only with the consent of the Secretary.

(7) Coordination with section 166

Section 166 shall not apply to any loss to which an election under this subsection applies.

(m) Cross references

- (1) For special rule for banks with respect to worthless securities, see section 582.
- (2) For disallowance of deduction for worthlessness of securities to which subsection (g)(2)(C) applies, if issued by a political party or similar organization, see section 271.
- (3) For special rule for losses on stock in a small business investment company, see section 1242.
- (4) For special rule for losses of a small business investment company, see section 1243.
- (5) For special rule for losses on small business stock, see section 1244.

(Aug. 16, 1954, ch. 736, 68A Stat. 49; Pub. L. 85–866, title I, §§ 7, 57 (c)(1), title II, § 202(a), Sept. 2, 1958, 72 Stat. 1608, 1646, 1676; Pub. L. 87–426, § 2(a), Mar. 31, 1962, 76 Stat. 51; Pub. L. 88–272, title II, §§ 208(a), 238, Feb. 26, 1964, 78 Stat. 43, 128; Pub. L. 88–348, § 3(a), June 30, 1964, 78 Stat. 237; Pub. L. 91–606, title III, § 301(h), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 91–677, § 1(a), Jan. 12, 1971, 84 Stat. 2061; Pub. L. 91–687, § 1, Jan. 12, 1971, 84 Stat. 2071; Pub. L. 92–336, § 2(a), July 1, 1972, 86 Stat. 406; Pub. L. 92–418, § 2(a), Aug. 29, 1972, 86 Stat. 656, 657; Pub. L. 93–288, title VII, §

702(h), formerly title VI, § 602(h), May 22, 1974, 88 Stat. 164, renumbered title VII, § 702(h), Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 94–455, title XIX, § 1901(a)(26), Oct. 4, 1976, 90 Stat. 1767; Pub. L. 97–248, title II, § 203(a), (b), title III, § 310(b)(5), Sept. 3, 1982, 96 Stat. 422, 598; Pub. L. 98–369, div. A, title I, § 42(a)(4), title VII, § 711(c)(1), (2)(A)(i), (ii), title X, § 1051(a), July 18, 1984, 98 Stat. 556, 943, 1044; Pub. L. 99–514, title IX, § 905(a), title X, § 1004(a), Oct. 22, 1986, 100 Stat. 2385, 2388; Pub. L. 100–647, title I, § 1009(d)(1), Nov. 10, 1988, 102 Stat. 3449; Pub. L. 100–707, title I, § 109(l), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 105–34, title IX, § 912(a), Aug. 5, 1997, 111 Stat. 878; Pub. L. 106–554, § 1(a)(7) [title III, § 318(b)(1), (2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–645; Pub. L. 108–311, title IV, § 408(a)(7)(A), (B), Oct. 4, 2004, 118 Stat. 1191.)

References in Text

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsecs. (i)(1) and (k), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

Amendments

2004—Subsecs. (i)(1), (k). Pub. L. 108–311 inserted “Robert T. Stafford” before “Disaster Relief and Emergency Assistance Act”.

2000—Subsec. (g)(3). Pub. L. 106–554, § 1(a)(7) [title III, § 318(b)(2)], struck out last sentence of concluding provisions which read as follows: “As used in subparagraph (A), the term ‘stock’ does not include nonvoting stock which is limited and preferred as to dividends.”

Subsec. (g)(3)(A). Pub. L. 106–554, § 1(a)(7) [title III, § 318(b)(1)], amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “stock possessing at least 80 percent of the voting power of all classes of its stock and at least 80 percent of each class of its nonvoting stock is owned directly by the taxpayer, and”.

1997—Subsec. (i)(4). Pub. L. 105–34 added par. (4).

1988—Subsecs. (i)(1), (k). Pub. L. 100–707 substituted “and Emergency Assistance Act” for “Act of 1974”.

Subsec. (l)(5) to (7). Pub. L. 100–647 added pars. (5) and (6), redesignated former par. (6) as (7), and struck out former par. (5) which read as follows: “Election.—Any election by the taxpayer under this subsection may be revoked only with the consent of the Secretary and shall apply to all losses of the taxpayer on deposits in the institution with respect to which such election was made.”

1986—Subsec. (h)(4)(E). Pub. L. 99–514, § 1004(a), added subpar. (E).

Subsecs. (l), (m). Pub. L. 99–514, § 905(a), added subsec. (l) and redesignated former subsec. (l) as (m).

1984—Subsec. (c)(3). Pub. L. 98–369, § 711(c)(2)(A)(i), extended limitation to losses of property not connected with a transaction entered into for profit.

Subsec. (h). Pub. L. 98–369, § 711(c)(2)(A)(ii), substituted heading “Treatment of casualty gains and losses” for “Casualty and theft losses”; substituted par. (1) “\$100 limitation per casualty” provision for former par. (1) “General rule” provision stating that: “Any loss of an individual described in subsection (c)(3) shall be allowed for any taxable year only to the extent that—

“(A) the amount of loss to such individual arising from each casualty, or from each theft, exceeds \$100, and

“(B) the aggregate amount of all such losses sustained by such individual during the taxable year (determined after application of subparagraph (A)) exceeds 10 percent of the adjusted gross income of the individual.”;

added par. (2) “Net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income” provision and par. (3) “Definitions of personal casualty gain and personal casualty loss” provisions; redesignated as par. (4) former par. (2) catchline; added par. (4)(A) “Personal casualty losses allowable in computing adjusted gross income to the extent of personal casualty gains” provision; redesignated as par. (4)(B) former par. (2)(A) joint returns provision, substituting “For purposes of this section” for “For purposes of the \$100 and 10 percent limitations described in paragraph (1)” and “individual” for “one individual”; redesignated as par. (4)(C) former par. (2)(B), substituting therein paragraph “(2)” for “(1)”; and redesignated as par. (4)(D) former par. (2)(C).

Pub. L. 98–369, § 711(c)(1), amended par. (2) by redesignating subpar. (B) as (C) and by adding a new subpar. (B) relating to the determination of adjusted gross income in case of estates and trusts.

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Subsec. (j)(3). Pub. L. 98-369, § 42(a)(4), substituted “section 1287” for “subsection (d) of section 1232”.

Subsecs. (k), (l). Pub. L. 98-369, § 1051(a), added subsec. (k) and redesignated former subsec. (k) as (l).

1982—Subsec. (c)(3). Pub. L. 97-248, § 203(b), inserted “except as provided in subsection (h),” before “losses of property” and struck out provisions that a loss described in this paragraph would be allowed only to the extent that the amount of loss to such individual arising from each casualty, or from each theft, exceeded \$100, that, for purposes of the \$100 limitation, a husband and wife making a joint return under section 6013 for the taxable year in which the loss was allowed as a deduction would be treated as one individual, and that no loss described in this paragraph would be allowed if, at the time of filing the return, such loss had been claimed for estate tax purposes in the estate tax return.

Subsec. (h). Pub. L. 97-248, § 203(a), added subsec. (h) relating to casualty and theft losses. Former subsec. (h), relating to disaster losses, redesignated (i).

Subsec. (i). Pub. L. 97-248, § 203(a), redesignated former subsec. (h), relating to disaster losses, as (i), in subsec. (i), as so redesignated, further redesignated existing unnumbered provisions as pars. (1) and (2), in par. (1), as so redesignated, substituted “be taken into account for the taxable year” for “be deducted for the taxable year”, in par. (2), as so redesignated, substituted “shall be treated for purposes of this title as having occurred” for “will be deemed to have occurred”, added par. (3), and struck out provision that a deduction under this subsection could not be in excess of so much of the loss as would have been deductible in the taxable year in which the casualty occurred, based on facts existing at the date the taxpayer claimed the loss. Former subsec. (i), setting forth cross references, redesignated (j).

Subsec. (j). Pub. L. 97-248, § 310(b)(5), added subsec. (j) relating to denial of deduction for losses on certain obligations not in registered form. Former subsec. (j), setting forth cross references, redesignated (k).

Pub. L. 97-248, § 203(a), redesignated former subsec. (i), setting forth cross references, as (j).

Subsec. (k). Pub. L. 97-248, § 310(b)(5), redesignated former subsec. (j), setting forth cross references, as (k).

1976—Subsecs. (i), (j). Pub. L. 94-455 redesignated subsec. (j) as subsec. (i). Former subsec. (i), which related to property confiscated by Cuba, was struck out.

1974—Subsec. (h). Pub. L. 93-288 substituted “Disaster Relief Act of 1974” for “Disaster Relief Act of 1970”.

1972—Subsec. (h). Pub. L. 92-418 struck out par. (1) provisions relating to losses attributable to a disaster occurring during period following close of taxable year and on or before time prescribed by law for filing the income tax return for the taxable year without regard to any extension of time, struck out par. (2) designation, and inserted “attributable to a disaster” before “occurring in an area”, and at end of second sentence, inserted “based on facts existing at the date the taxpayer claims the loss”.

Subsec. (h)(1). Pub. L. 92-336 substituted provisions relating to losses attributable to a disaster which occurs during the period after the close of the taxable year and on or before the last day of the 6th calendar month beginning after the close of the taxable year, for provisions relating to losses attributable to a disaster which occurs during the period following the close of the taxable year and on or before the time prescribed by law for filing the income tax return for the taxable year, determined without regard to any extension of time.

1971—Subsec. (g)(3). Pub. L. 91-687 substituted “stock possessing at least 80 percent of the voting power of all classes of its stock and at least 80 percent of each class of its nonvoting stock” for “at least 95 percent of each class of its stock” in subpar. (A), and inserted at the end of the subsection the sentence providing that the term “stock”, as used in subpar. (A), does not include nonvoting stock which is limited and preferred as to dividends.

Subsec. (i)(1). Pub. L. 91-677, § 1(a)(1), (2), struck out “or (2)” after “paragraph (1)” in cl. (B), and substituted “one or more days in the period beginning on December 31, 1958, and ending on May 16, 1959” for “December 31, 1958”.

Subsec. (i)(2)(B). Pub. L. 91-677, § 1(a)(3), substituted “one or more days during the period beginning on December 31, 1958, and ending on May 16, 1959” for “December 31, 1958” and “the first day in such period on which the property was held by the taxpayer” for “December 31, 1958”.

Subsec. (i)(3). Pub. L. 91-677, § 1(a)(4), struck out subsec. (i)(3) which authorized a refund or credit to be given for any overpayment attributable to the application of par. (1), provided that a claim was filed for such refund or credit before Jan. 1, 1965.

1970—Subsec. (h)(2). Pub. L. 91-606 substituted “the Disaster Relief Act of 1970” for “sections 1855-1855g of title 42”.

1964—Subsec. (c)(3). Pub. L. 88-272, § 208(a), inserted requirement that losses must exceed \$100 to be deductible.

Subsec. (i). Pub. L. 88-348 designated existing provisions as par. (1), substituted provisions permitting individuals who were citizens of the United States or resident aliens on Dec. 31, 1958, who sustained any loss of property prior to Jan. 1, 1964, and which was not a loss described in par. (1) or (2) of subsec. (c), to treat such loss as a loss under subsec. (c)(3), except that in cases of tangible property, the property had to be held by the taxpayer, and located in

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Cuba, on Dec. 31, 1958, for provisions which permitted any loss of tangible property to be treated as a loss from a casualty within subsec. (c)(3), therein, and added pars. (2) and (3).

Pub. L. 88-272, § 238, added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 88-272, § 238, redesignated former subsec. (i) as (j).

1962—Subsecs. (h), (i). Pub. L. 87-426 added subsec. (h) and redesignated former subsec. (h) as (i).

1958—Subsec. (g)(3)(B). Pub. L. 85-866, § 7, substituted “rental of” for “rental from”.

Subsec. (h)(3), (4). Pub. L. 85-866, § 57(c)(1), added pars. (3) and (4).

Subsec. (h)(5). Pub. L. 85-866, § 202(a), added par. (5).

Effective Date of 2000 Amendment

Pub. L. 106-554, § 1(a)(7) [title III, § 318(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-645, provided that: “The amendments made by this subsection [amending this section] shall apply to taxable years beginning after December 31, 1984.”

Effective Date of 1997 Amendment

Section 912(b) of Pub. L. 105-34 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].”

Effective Date of 1988 Amendment

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Effective Date of 1986 Amendment

Amendment by section 905(a) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1981, see section 905(c)(1) of Pub. L. 99-514, as amended, set out as a note under section 451 of this title.

Section 1004(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this section] shall apply to losses sustained in taxable years beginning after December 31, 1986.”

Effective Date of 1984 Amendment

Amendment by section 42(a)(4) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

Amendment by section 711(c)(1) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Section 711(c)(2)(A)(v) of Pub. L. 98-369 provided that: “The amendments made by this subparagraph [amending this section and sections 873, 931, and 1231 of this title] shall apply to taxable years beginning after December 31, 1983.”

Section 1051(b) of Pub. L. 98-369 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after December 31, 1981, with respect to residences in areas determined by the President of the United States, after such date, to warrant assistance by the Federal Government under the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.]”

Effective Date of 1982 Amendment

Section 203(c) of Pub. L. 97-248, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1982. Such amendments shall also apply to the taxpayer’s last taxable year beginning before January 1, 1983, solely for purposes of determining the amount allowable as a deduction with respect to any loss taken into account for such year by reason of an election under section 165(i) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this section).”

Amendment by section 310(b)(5) of Pub. L. 97-248 applicable to obligations issued after Dec. 31, 1982, with exceptions for certain warrants, see section 310(d) of Pub. L. 97-248, set out as a note under section 103 of this title.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

Effective Date of 1972 Amendments

Section 2(c) of Pub. L. 92–418 provided in part that: “The amendment made by subsection (a) [amending this section] shall apply to disasters occurring after December 31, 1971, in taxable years ending after such date.”

Section 2(b) of Pub. L. 92–336 provided that: “The amendment made by subsection (a) [amending this section] shall apply to disasters occurring after December 31, 1971, in taxable years ending after such date.”

Effective Date of 1971 Amendments

Section 2 of Pub. L. 91–687 provided that: “The amendments made by this Act [amending this section] shall apply with respect to taxable years beginning on or after January 1, 1970.”

Section 1(b)(1) of Pub. L. 91–677 provided that: “The amendments made by subsection (a) [amending this section] shall apply in respect of losses sustained in taxable years ending after December 31, 1958.”

Effective Date of 1970 Amendment

Section 304 of Pub. L. 91–606 provided that: “This Act [enacting sections 4401 to 4485 of Title 42, The Public Health and Welfare, amending this section, sections 5064 and 5708 of this title, sections 1706e, 1709, 17151 of Title 12, Banks and Banking, sections 241–1, 646 and 758 of Title 20, Education, section 1820 [now 3720] of Title 38, Veterans’ Benefits, section 461 of former Title 40, Public Buildings, Property, and Works, section 1681 note of Title 42, repealing sections 1855 to 1855g, 1855aa, 1855aa note, 1855bb to 1855ii, 1855aaa, 1855aaa note, 1855bbb to 1855nnn of Title 42, and section 1926 of Title 7, Agriculture, and enacting provisions set out as notes under section 4401 and section 4434 of Title 42] shall take effect immediately upon its enactment [Dec. 31, 1970], except that sections 226 (b), 237, 241, 252 (a), and 254 [sections 4436 (b), 4456, 4460, 4482 (a), and 4484 of Title 42, respectively] shall take effect as of August 1, 1969, and sections 231, 232, and 233 [sections 4451, 4452 of Title 42 and amendments to section 1820 [now 3720] of Title 38, respectively] shall take effect as of April 1, 1970.”

Effective Date of 1964 Amendments

Section 208(b) of Pub. L. 88–272 provided that: “The amendment made by subsection (a) [amending this section] shall apply to losses sustained after December 31, 1963, in taxable years ending after such date.”

Section 3(b) of Pub. L. 88–348 provided that: “The amendment made by subsection (a) [amending this section] shall apply in respect of losses sustained in taxable years ending after December 31, 1958.”

Effective Date of 1962 Amendment

Section 2(b) of Pub. L. 87–426 provided that: “The amendments made by this section [amending this section] shall be effective with respect to any disaster occurring after December 31, 1961.”

Effective Date of 1958 Amendment

Section 1(c) of title I of Pub. L. 85–866, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Except as otherwise expressly provided—

“(1) amendments made by this title to subtitle A of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to income taxes) [enacting section 558 of this title and amending this section and sections 152, 166, 168, 170, 172, 213, 337, 404, 421, 535, 545, 556, 582, 611, 613, 851, 1015, 1031, 1033, 1034, 1053, 1232, 1233, 1234, 1237, 1341, and 1347 of this title] shall apply to taxable years beginning after December 31, 1953, and ending after August 16, 1954; and

“(2) amendments made by this title to subtitle F of such Code (relating to procedure and administration) [enacting sections 7513 and 7514 of this title and amending sections 6013, 6015, 6212, 6325, 6338, 6339, 6501, 6504, 6511, 6601, 6652, 6653, 6851, 6871, 7213, 7324, 7325, and 7422 of this title] shall take effect as of August 17, 1954, and such subtitle, as so amended, shall apply as provided in section 7851 of the Internal Revenue Code of 1986”.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2007 (see <http://www.law.cornell.edu/uscode/uscp.html>).

Amendment by section 57(c)(1) of Pub. L. 85–866 applicable with respect to taxable years beginning after Sept. 2, 1958, see section 57(d) of Pub. L. 85–866, set out as a note under section 243 of this title.

Transitional Rule for 1984 Amendment

Section 711(c)(2)(B) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “In the case of taxable years beginning before January 1, 1984—

“(i) For purposes of paragraph (1)(B) of section 165(h) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], adjusted gross income shall be determined without regard to the application of section 1231 of such Code to any gain or loss from an involuntary conversion of property described in subsection (c)(3) of section 165 of such Code arising from fire, storm, shipwreck, or other casualty or from theft.

“(ii) Section 1231 of such Code shall be applied after the application of paragraph (1) of section 165(h) of such Code.”

Clarification of Treatment of Certain FSLIC Financial Assistance

Pub. L. 103–66, title XIII, § 13224, Aug. 10, 1993, 107 Stat. 485, provided that:

“(a) General Rule.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

“(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

“(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

“(b) FSLIC Assistance.—For purposes of this section, the term ‘FSLIC assistance’ means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act [former 12 U.S.C. 1729 (f)] or section 21A of the Federal Home Loan Bank Act [12 U.S.C. 1441a] (or under any similar provision of law).

“(c) Effective Date.—

“(1) In general.—Except as otherwise provided in this subsection—

“(A) The provisions of this section shall apply to taxable years ending on or after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

“(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

“(2) Exceptions.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101–73, amending section 597 of this title and repealing provisions set out as a note under section 597 of this title] apply.”

Overpayments or Underpayments of Tax Attributable to Certain Amendments by Pub. L. 99–514 or Pub. L. 100–647

Section 1009(d)(4) of Pub. L. 100–647 provided that: “If on the date of the enactment of this Act [Nov. 10, 1988] (or at any time before the date 1 year after such date of enactment) credit or refund of any overpayment of tax attributable to amendments made by section 905 of the Reform Act [section 905 of Pub. L. 99–514, amending this section and section 451 of this title] or by this subsection [amending this section and section 451 of this title and provisions set out as a note under section 451 of this title] (or the assessment of any underpayment of tax so attributable) is barred by any law or rule of law—

“(A) credit or refund of any such overpayment may nevertheless be made if claim therefore [sic] is filed before the date 1 year after such date of enactment, and

“(B) assessment of any such underpayment may nevertheless be made if made before the date 1 year after such date of enactment.”

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2007 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Deduction for Bus and Freight Forwarder Operating Authority

Section 243 of Pub. L. 99-514, as amended by Pub. L. 100-647, title I, § 1002(j), Nov. 10, 1988, 102 Stat. 3371, provided that:

“(a) Bus Operating Authority.—

“(1) In general.—Subject to the modifications contained in paragraph (2), section 266 of the Economic Recovery Tax Act of 1981 [section 266 of Pub. L. 97-34, set out below] shall be applied as if the term ‘motor carrier operating authority’ included a bus operating authority.

“(2) Modifications.—For purposes of paragraph (1), section 266 of such Act shall be applied—

“(A) by substituting ‘November 19, 1982’ for ‘July 1, 1980’ each place it appears, and

“(B) by substituting ‘November 1982’ for ‘July 1980’ in subsection (a) thereof.

“(3) Bus operating authority defined.—For purposes of this subsection and section 266 of such Act, the term ‘bus operating authority’ means—

“(A) a certificate or permit held by a motor common or contract carrier of passengers which was issued pursuant to subchapter II of chapter 109 of title 49, United States Code, and

“(B) a certificate or permit held by a motor carrier authorizing the transportation of passengers, as a common carrier, over regular routes in intrastate commerce which was issued by the appropriate State agency.

“(b) Freight Forwarder Operating Authority.—

“(1) In general.—Subject to the modifications contained in paragraph (2), section 266 of the Economic Recovery Tax Act of 1981 [section 266 of Pub. L. 97-34, set out below] shall be applied as if subsection (b) thereof contained ‘or a freight forwarder’ after ‘contract carrier of property’.

“(2) Modifications.—The modifications referred to in this paragraph are:

“(A) 60-month period.—The 60-month period referred to in section 266(a) of such Act shall begin with the later of—

“(i) the deregulation month, or

“(ii) at the election of the taxpayer, the 1st month of the taxpayer’s 1st taxable year beginning after the deregulation month.

“(B) Authority must be held as of beginning of 60-month period.—A motor carrier operating authority shall not be taken into account unless such authority is held by the taxpayer at the beginning of the 60-month period applicable to the taxpayer under subparagraph (A).

“(C) Adjusted basis not to exceed adjusted basis at beginning of 60-month period.—The adjusted basis taken into account with respect to any motor carrier operating authority shall not exceed the adjusted basis of such authority as of the beginning of the 60-month period applicable to the taxpayer under subparagraph (A).

“(3) Deregulation month.—For purposes of this section, the term ‘deregulation month’ means the month in which the Secretary of the Treasury or his delegate determines that a Federal law has been enacted which deregulates the freight forwarding industry.

“(c) Special Rule for Motor Carrier Operating Authority.—In the case of a corporation which was incorporated on December 29, 1969, in the State of Delaware, notwithstanding any other provision of law, there shall be allowed as a deduction for the taxable year of the taxpayer beginning in 1980 an amount equal to \$2,705,188 for its entire loss due to a decline in value of its motor carrier operating authority by reason of deregulation.

“(d) Application of Section 334(b)(2).—For purposes of subsections (a) and (b), the reference to section 334 (b)(2) in section 266(c)(2)(A)(ii) of the Economic Recovery Tax Act of 1981 [section 266(c)(2)(A)(ii) of Pub. L. 97-34, set out below] shall be a reference to such section as in effect before its repeal.

“(e) Effective Dates.—

“(1) Bus operating authority.—

“(A) In general.—Subsection (a) shall apply to taxable years ending after November 18, 1982.

“(B) Statute of limitations.—If refund or credit of any overpayment of tax resulting from subsection (a) is prevented at any time on or before the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by the operation of any law or rule of law (including *res judicata*), refund or credit of such overpayment (to the extent attributable to the application of such subsection) may, notwithstanding such law or rule of law, be made or allowed if claim therefore [sic] is filed on or before the date which is 18 months after such date of enactment.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2007 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

“(2) Freight forwarder operating authority.—Subsection (b) shall apply to taxable years ending after the month preceding the deregulation month.”

Deduction for Motor Carrier Operating Authority

Pub. L. 97–34, title II, § 266, Aug. 13, 1981, 95 Stat. 265, as amended by Pub. L. 97–424, title V, § 517(a), Jan. 6, 1983, 96 Stat. 2183; Pub. L. 97–448, title I, § 102(n), Jan. 12, 1983, 96 Stat. 2374; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) General Rule.—For purposes of chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [this chapter], in computing the taxable income of a taxpayer who, on July 1, 1980, held one or more motor carrier operating authorities, an amount equal to the aggregate adjusted basis of all motor carrier operating authorities held by the taxpayer on July 1, 1980, or acquired subsequent thereto pursuant to a binding contract in effect on July 1, 1980, shall be allowed as a deduction ratably over a period of 60 months. Such 60-month period shall begin with the month of July 1980 (or if later, the month in which acquired), or at the election of the taxpayer, the first month of the taxpayer’s first taxable year beginning after July 1, 1980.

“(b) Definition of Motor Carrier Operating Authority.—For purposes of this section, the term ‘motor carrier operating authority’ means a certificate or permit held by a motor common or contract carrier of property and issued pursuant to subchapter II of chapter 109 of title 49 of the United States Code.

“(c) Special Rules.—

“(1) Adjusted basis.—For purposes of the Internal Revenue Code of 1986, proper adjustments shall be made in the adjusted basis of any motor carrier operating authority held by the taxpayer on July 1, 1980, for the amounts allowable as a deduction under this section.

“(2) Certain stock acquisitions.—

“(A) In general.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which a corporation—

“(i) on or before July 1, 1980 (or after such date pursuant to a binding contract in effect on such date), acquired stock in a corporation which held, directly or indirectly, any motor carrier operating authority at the time of such acquisition, and

“(ii) would have been able to allocate to the basis of such authority that portion of the acquiring corporation’s cost basis in such stock attributable to such authority if the acquiring corporation had received such authority in the liquidation of the acquired corporation immediately following such acquisition and such allocation would have been proper under section 334(b)(2) of such Code,

the holder of the authority may, for purposes of this section, allocate a portion of the basis of the acquiring corporation in the stock of the acquired corporation to the basis of such authority in such manner as the Secretary may prescribe in such regulations.

“(B) Treatment of certain noncorporate taxpayers.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which—

“(i) a noncorporate taxpayer or group of noncorporate taxpayers on or before July 1, 1980, acquired in one purchase stock in a corporation which held, directly or indirectly, any motor carrier operating authority at the time of such acquisition, and

“(ii) the acquisition referred to in clause (i) would have satisfied the requirements of subparagraph (A) if the stock had been acquired by a corporation,

then, for purposes of subparagraphs (A) and (C), the noncorporate taxpayer or group of noncorporate taxpayers referred to in clause (i) shall be treated as a corporation. The preceding sentence shall apply only if such noncorporate taxpayer (or group of noncorporate taxpayers) on July 1, 1980, held stock constituting control (within the meaning of section 368(c) of the Internal Revenue Code of 1986) of the corporation holding (directly or indirectly) the motor carrier operating authority.

“(C) Adjustment to basis.—Under regulations prescribed by the Secretary of the Treasury or his delegate, proper adjustment shall be made to the basis of the stock or other assets in the manner provided by such regulations to take into account any allocation under subparagraph (A).

“(3) Section 381 of the internal revenue code of 1986 to apply.—For purposes of section 381 of the Internal Revenue Code of 1986, any item described in this section shall be treated as an item described in subsection (c) of such section 381.

“(d) Effective Date.—The provisions of this section shall apply to taxable years ending after June 30, 1980.”

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2007 (see <http://www.law.cornell.edu/uscode/uscript.html>).

[Section 517(b) of Pub. L. 97-424 provided that: "The amendment made by subsection (a) [adding subsec. (c)(2)(B) of this note] shall apply to taxable years ending after July 30, 1980."]

Tax Treatment of Certain 1972 Disaster Loans

Section 2103 of Pub. L. 94-455, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) Application of Section.—This section shall apply to any individual—

“(1) who was allowed a deduction under section 165 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to losses) for a loss attributable to a disaster occurring during calendar year 1972 which was determined by the President, under section 102 of the Disaster Relief Act of 1970, to warrant disaster assistance by the Federal Government.

“(2) who in connection with such disaster—

“(A) received income in the form of cancellation of a disaster loan under section 7 of the Small Business Act [section 636 of Title 15, Commerce and Trade] or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act [section 1961 et seq. of Title 7, Agriculture], or

“(B) received income in the form of compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person’s liability in tort for the damage or destruction of that taxpayer’s property in connection with the disaster, and

“(3) who elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to take the benefits of this section.

“(b) Effect of Election.—In the case of any individual to whom this section applies—

“(1) the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year in which the income taken into account is received or accrued which is attributable to such income shall not exceed the additional tax under such chapter which would have been payable for the year in which the deduction for the loss was taken if such deduction had not been taken for such year,

“(2) any amount of tax imposed by chapter 1 attributable to the income taken into account which, on October 1, 1975, was unpaid may be paid in 3 equal annual installments (with the first such installment due and payable on April 15, 1977), and

“(3) no interest on any deficiency shall be payable for any period before April 16, 1977, to the extent such deficiency is attributable to the receipt of such compensation, and no interest on any installment referred to in paragraph (2) shall be payable for any period before the due date of such installment.

“(c) Income Taken Into Account.—For purposes of this section, the income taken into account is—

“(1) in the case of an individual described in subsection (a)(2)(A), the amount of income (not in excess of \$5,000) attributable to the cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act received by reason of the disaster described in subsection (a)(1), or

“(2) in the case of an individual described in subsection (a)(2)(B), the amount of compensation (not in excess of \$5,000) for the loss in settlement of any claim of the taxpayer against a person for that person’s liability in tort for the damage or destruction of that taxpayer’s property in connection with the disaster described in subsection (a)(1).

“(d) Phaseout Where Adjusted Gross Income Exceeds \$15,000.—If for the taxable year for which the deduction for the loss was taken the individual’s adjusted gross income exceeded \$15,000, the \$5,000 limit set forth in paragraph (1) or (2) of subsection (c) (whichever applies) shall be reduced by one dollar for each full dollar that such adjusted gross income exceeds \$15,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting ‘\$7,500’ for ‘\$15,000’.

“(e) Statute of Limitations.—If refund or credit of any overpayment of income tax resulting from an election made under this section is prevented on the date of the enactment of this Act [Oct. 4, 1976], or at any time within one year after such date, by the operation of any law, or rule of law, refund or credit of such overpayment (to the extent attributable to such election) may, nevertheless, be made or allowed if claim therefor is filed within one year after such date. If the taxpayer makes an election under this section and if assessment of any deficiency for any taxable year resulting from such election is prevented on the date of the enactment of this Act [Oct. 4, 1976], or at any time within one year after such date, by the operation of any law or rule of law, such assessment (to the extent attributable to such election) may, nevertheless, be made if made within one year after such date.”

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2007 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Refund or Credit of Overpayment; Time for Filing Claim; Interest

Section 1(b)(2) of Pub. L. 91-677 authorized refund or credit of overpayment attributable to the amendments made by subsec. (a) to subsec. (i) of this section if claim therefor was filed after Jan. 12, 1971, and before July 1, 1971, without interest for any period before Jan. 1, 1972.