

contract was in effect on December 31, 1980, then any investment tax credit of such electric utility shall be described in this subparagraph. The aggregate amount of investment tax credits allowed solely by reason of being described by this subparagraph shall not exceed \$20,000,000.

“(7) AGREEMENT VESSEL DEPRECIATION ADJUSTMENT.—  
“(A) For purposes of part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986, in the case of a qualified taxpayer, alternative minimum taxable income for the taxable year shall be reduced by an amount equal to the agreement vessel depreciation adjustment.

“(B) For purposes of this paragraph, the agreement vessel depreciation adjustment shall be an amount equal to the depreciation deduction that would have been allowable for such year under section 167 of such Code with respect to agreement vessels placed in service before January 1, 1987, if the basis of such vessels had not been reduced under section 607 of the Merchant Marine Act of 1936 [see 46 U.S.C. 53510], as amended, and if depreciation with respect to such vessel had been computed using the 25-year straight-line method. The aggregate amount by which basis of a qualified taxpayer is treated as not reduced by reason of this subparagraph shall not exceed \$100,000,000.

“(C) For purposes of this paragraph, the term ‘qualified taxpayer’ means a parent corporation incorporated in the State of Delaware on December 1, 1972, and engaged in water transportation, and includes any other corporation which is a member of the affiliated group of which the parent corporation is the common parent. No taxpayer shall be treated as a qualified corporation for any taxable year beginning after December 31, 1991.”

#### SAVINGS PROVISION

For provisions that nothing in amendment by section 11813(b)(5) of 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.

#### TRANSITIONAL PROVISIONS

Section 1007(f)(1) of Pub. L. 100-647 provided that: “In the case of the taxable year of an estate or trust which begins before January 1, 1987, and ends on or after such date, the items of tax preference apportioned to any beneficiary of such estate or trust under section 58(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 [Oct. 22, 1986]) shall be taken into account for purposes of determining the amount of the tax imposed by section 55 of the Internal Revenue Code of 1986 (as amended by the Tax Reform Act of 1986 [Pub. L. 99-514]) on such beneficiary for such beneficiary’s taxable year in which such taxable year of the estate or trust ends.”

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521-523] of title V of Pub. L. 102-318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see

section 523 of Pub. L. 102-318, set out as a note under section 401 of this title.

#### APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(a) of Pub. L. 99-514 [enacting this section] notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

#### HIGH INCOME TAXPAYER REPORT

Section 2123 of Pub. L. 94-455, as amended by Pub. L. 98-369, div. A, title IV, §441(b)(1), July 18, 1984, 98 Stat. 815, provided that: “The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income, and by subtracting any investment expenses incurred in the production of such income to the extent of the investment income. These data are to include the number of such individuals with total income over \$200,000 who owe no Federal income tax (after credits) and the deductions, exclusions, or credits used by them to avoid tax.”

[Section 441(b)(2) of Pub. L. 98-369 provided that: “The amendment made by paragraph (1) [amending section 2123 of Pub. L. 94-455, set out above] shall apply to information published after the date of the enactment of this Act [July 18, 1984].”]

#### § 56. Adjustments in computing alternative minimum taxable income

##### (a) Adjustments applicable to all taxpayers

In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

##### (1) Depreciation

##### (A) In general

##### (i) Property other than certain personal property

Except as provided in clause (ii), the depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1986, shall be determined under the alternative system of section 168(g). In the case of property placed in service after December 31, 1998, the preceding sentence shall not apply but clause (ii) shall continue to apply.

##### (ii) 150-percent declining balance method for certain property

The method of depreciation used shall be—

(I) the 150 percent declining balance method,

(II) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance.

The preceding sentence shall not apply to any section 1250 property (as defined in section 1250(c)) (and the straight line method shall be used for such section 1250 property) or to any other property if the depreciation deduction determined under section 168 with respect to such other property for purposes of the regular tax is determined by using the straight line method.

**(B) Exception for certain property**

This paragraph shall not apply to property described in paragraph (1), (2), (3), or (4) of section 168(f), or in section 168(e)(3)(C)(iv).

**(C) Coordination with transitional rules**

**(i) In general**

This paragraph shall not apply to property placed in service after December 31, 1986, to which the amendments made by section 201 of the Tax Reform Act of 1986 do not apply by reason of section 203, 204, or 251(d) of such Act.

**(ii) Treatment of certain property placed in service before 1987**

This paragraph shall apply to any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply by reason of an election under section 203(a)(1)(B) of such Act without regard to the requirement of subparagraph (A) that the property be placed in service after December 31, 1986.

**(D) Normalization rules**

With respect to public utility property described in section 168(i)(10), the Secretary shall prescribe the requirements of a normalization method of accounting for this section.

**(2) Mining exploration and development costs**

**(A) In general**

With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) or 617(a) (determined without regard to section 291(b)) in computing the regular tax for costs paid or incurred after December 31, 1986, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

**(B) Loss allowed**

If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

- (i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or
- (ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

**(3) Treatment of certain long-term contracts**

In the case of any long-term contract entered into by the taxpayer on or after March

1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting (as modified by section 460(b)). For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(1) by using the simplified procedures for allocation of costs prescribed under section 460(b)(3). The first sentence of this paragraph shall not apply to any home construction contract (as defined in section 460(e)(6)).

**(4) Alternative tax net operating loss deduction**

The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

**(5) Pollution control facilities**

In the case of any certified pollution control facility placed in service after December 31, 1986, the deduction allowable under section 169 (without regard to section 291) shall be determined under the alternative system of section 168(g). In the case of such a facility placed in service after December 31, 1998, such deduction shall be determined under section 168 using the straight line method.

**(6) Adjusted basis**

The adjusted basis of any property to which paragraph (1) or (5) applies (or with respect to which there are any expenditures to which paragraph (2) or subsection (b)(2) applies) shall be determined on the basis of the treatment prescribed in paragraph (1), (2), or (5), or subsection (b)(2), whichever applies.

**(7) Section 87 not applicable**

Section 87 (relating to alcohol fuel credit) shall not apply.

**(b) Adjustments applicable to individuals**

In determining the amount of the alternative minimum taxable income of any taxpayer (other than a corporation), the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

**(1) Limitation on deductions**

**(A) In general**

No deduction shall be allowed—

- (i) for any miscellaneous itemized deduction (as defined in section 67(b)), or
- (ii) for any taxes described in paragraph (1), (2), or (3) of section 164(a) or clause (ii) of section 164(b)(5)(A).

Clause (ii) shall not apply to any amount allowable in computing adjusted gross income.

**(B) Medical expenses**

In determining the amount allowable as a deduction under section 213, subsection (a) of section 213 shall be applied by substituting “10 percent” for “7.5 percent”.

**(C) Interest**

In determining the amount allowable as a deduction for interest, subsections (d) and (h) of section 163 shall apply, except that—

- (i) in lieu of the exception under section 163(h)(2)(D), the term “personal interest”

shall not include any qualified housing interest (as defined in subsection (e)),

(ii) sections 163(d)(6) and 163(h)(5) (relating to phase-ins) shall not apply,

(iii) interest on any specified private activity bond (and any amount treated as interest on a specified private activity bond under section 57(a)(5)(B)), and any deduction referred to in section 57(a)(5)(A), shall be treated as includible in gross income (or as deductible) for purposes of applying section 163(d),

(iv) in lieu of the exception under section 163(d)(3)(B)(i), the term “investment interest” shall not include any qualified housing interest (as defined in subsection (e)), and

(v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d).

**(D) Treatment of certain recoveries**

No recovery of any tax to which subparagraph (A)(ii) applied shall be included in gross income for purposes of determining alternative minimum taxable income.

**(E) Standard deduction and deduction for personal exemptions not allowed**

The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed. The preceding sentence shall not apply to so much of the standard deduction as is determined under subparagraphs (D) and (E) of section 63(c)(1).

**(F) Section 68 not applicable**

Section 68 shall not apply.

**(2) Circulation and research and experimental expenditures**

**(A) In general**

The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1986, shall be capitalized and—

(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

**(B) Loss allowed**

If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

**(C) Special rule for personal holding companies**

In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542).

**(D) Exception for certain research and experimental expenditures**

If the taxpayer materially participates (within the meaning of section 469(h)) in an activity, this paragraph shall not apply to any amount allowable as a deduction under section 174(a) for expenditures paid or incurred in connection with such activity.

**(3) Treatment of incentive stock options**

Section 421 shall not apply to the transfer of stock acquired pursuant to the exercise of an incentive stock option (as defined in section 422). Section 422(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within the same taxable year and such section shall not apply in any other case. The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by this paragraph.

**(c) Adjustments applicable to corporations**

In determining the amount of the alternative minimum taxable income of a corporation, the following treatment shall apply:

**(1) Adjustment for adjusted current earnings**

Alternative minimum taxable income shall be adjusted as provided in subsection (g).

**(2) Merchant marine capital construction funds**

In the case of a capital construction fund established under chapter 535 of title 46, United States Code—

(A) subparagraphs (A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such chapter 535) shall not apply to—

(i) any amount deposited in such fund after December 31, 1986, or

(ii) any earnings (including gains and losses) after December 31, 1986, on amounts in such fund, and

(B) no reduction in basis shall be made under section 7518(f) (or the corresponding provisions of such chapter 535) with respect to the withdrawal from the fund of any amount to which subparagraph (A) applies.

For purposes of this paragraph, any withdrawal of deposits or earnings from the fund shall be treated as allocable first to deposits made before (and earnings received or accrued before) January 1, 1987.

**(3) Special deduction for certain organizations not allowed**

The deduction determined under section 833(b) shall not be allowed.

**(d) Alternative tax net operating loss deduction defined**

**(1) In general**

For purposes of subsection (a)(4), the term “alternative tax net operating loss deduction”

means the net operating loss deduction allowable for the taxable year under section 172, except that—

(A) the amount of such deduction shall not exceed the sum of—

(i) the lesser of—

(I) the amount of such deduction attributable to net operating losses (other than the deduction described in clause (ii)(I)), or

(II) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under section 199, plus

(ii) the lesser of—

(I) the amount of such deduction attributable to an applicable net operating loss with respect to which an election is made under section 172(b)(1)(H), or

(II) alternative minimum taxable income determined without regard to such deduction and the deduction under section 199 reduced by the amount determined under clause (i), and

(B) in determining the amount of such deduction—

(i) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and

(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).

**(2) Adjustments to net operating loss computation**

**(A) Post-1986 loss years**

In the case of a loss year beginning after December 31, 1986, the net operating loss for such year under section 172(c) shall—

(i) be determined with the adjustments provided in this section and section 58, and

(ii) be reduced by the items of tax preference determined under section 57 for such year.

An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c).

**(B) Pre-1987 years**

In the case of loss years beginning before January 1, 1987, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1986, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1986.

**(3) Net operating loss attributable to federally declared disasters**

In the case of a taxpayer which has a qualified disaster loss (as defined by section 172(b)(1)(J)) for the taxable year, paragraph (1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of such loss.

**(e) Qualified housing interest**

For purposes of this part—

**(1) In general**

The term “qualified housing interest” means interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially improving any property which—

(A) is the principal residence (within the meaning of section 121) of the taxpayer at the time such interest accrues, or

(B) is a qualified dwelling which is a qualified residence (within the meaning of section 163(h)(4)).

Such term also includes interest on any indebtedness resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence; but only to the extent that the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness immediately before the refinancing.

**(2) Qualified dwelling**

The term “qualified dwelling” means any—

(A) house,

(B) apartment,

(C) condominium, or

(D) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

**(3) Special rule for indebtedness incurred before July 1, 1982**

The term “qualified housing interest” includes interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued on indebtedness which—

(A) was incurred by the taxpayer before July 1, 1982, and

(B) is secured by property which, at the time such indebtedness was incurred, was—

(i) the principal residence (within the meaning of section 121) of the taxpayer, or

(ii) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

**[(f) Repealed. Pub. L. 101-508, title XI, § 11801(a)(3), Nov. 5, 1990, 104 Stat. 1388-520]**

**(g) Adjustments based on adjusted current earnings**

**(1) In general**

The alternative minimum taxable income of any corporation for any taxable year shall be increased by 75 percent of the excess (if any) of—

(A) the adjusted current earnings of the corporation, over

(B) the alternative minimum taxable income (determined without regard to this subsection and the alternative tax net operating loss deduction).

**(2) Allowance of negative adjustments**

**(A) In general**

The alternative minimum taxable income for any corporation of any taxable year,

shall be reduced by 75 percent of the excess (if any) of—

- (i) the amount referred to in subparagraph (B) of paragraph (1), over
- (ii) the amount referred to in subparagraph (A) of paragraph (1).

**(B) Limitation**

The reduction under subparagraph (A) for any taxable year shall not exceed the excess (if any) of—

- (i) the aggregate increases in alternative minimum taxable income under paragraph (1) for prior taxable years, over
- (ii) the aggregate reductions under subparagraph (A) of this paragraph for prior taxable years.

**(3) Adjusted current earnings**

For purposes of this subsection, the term “adjusted current earnings” means the alternative minimum taxable income for the taxable year—

- (A) determined with the adjustments provided in paragraph (4), and
- (B) determined without regard to this subsection and the alternative tax net operating loss deduction.

**(4) Adjustments**

In determining adjusted current earnings, the following adjustments shall apply:

**(A) Depreciation**

**(i) Property placed in service after 1989**

The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under the alternative system of section 168(g). The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A).

**(ii) Property to which new ACRS system applies**

In the case of any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined—

- (I) by taking into account the adjusted basis of such property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990, and
- (II) by using the straight-line method over the remainder of the recovery period applicable to such property under the alternative system of section 168(g).

**(iii) Property to which original ACRS system applies**

In the case of any property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 and without regard to subsection (d)(1)(A)(ii) thereof) applies and which is placed in service in a taxable year

beginning before 1990, the depreciation deduction shall be determined—

- (I) by taking into account the adjusted basis of such property (as determined for purposes of computing the regular tax) as of the close of the last taxable year beginning before January 1, 1990, and
- (II) by using the straight line method over the remainder of the recovery period which would apply to such property under the alternative system of section 168(g).

**(iv) Property placed in service before 1981**

In the case of any property not described in clause (i), (ii), or (iii), the amount allowable as depreciation or amortization with respect to such property shall be determined in the same manner as for purposes of computing taxable income.

**(v) Special rule for certain property**

In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g).

**(B) Inclusion of items included for purposes of computing earnings and profits**

**(i) In general**

In the case of any amount which is excluded from gross income for purposes of computing alternative minimum taxable income but is taken into account in determining the amount of earnings and profits—

- (I) such amount shall be included in income in the same manner as if such amount were includible in gross income for purposes of computing alternative minimum taxable income, and
- (II) the amount of such income shall be reduced by any deduction which would have been allowable in computing alternative minimum taxable income if such amount were includible in gross income.

The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law) or under section 139A or 1357. In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).

**(ii) Inclusion of buildup in life insurance contracts**

In the case of any life insurance contract—

- (I) the income on such contract (as determined under section 7702(g)) for any taxable year shall be treated as includible in gross income for such year, and
- (II) there shall be allowed as a deduction that portion of any premium which is attributable to insurance coverage.

**(iii) Tax exempt interest on certain housing bonds**

Clause (i) shall not apply in the case of any interest on a bond to which section 57(a)(5)(C)(iii) applies.

**(iv) Tax exempt interest on bonds issued in 2009 and 2010****(I) In general**

Clause (i) shall not apply in the case of any interest on a bond issued after December 31, 2008, and before January 1, 2011.

**(II) Treatment of refunding bonds**

For purposes of subclause (I), a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).

**(III) Exception for certain refunding bonds**

Subclause (II) shall not apply to any refunding bond which is issued to refund any bond which was issued after December 31, 2003, and before January 1, 2009.

**(C) Disallowance of items not deductible in computing earnings and profits****(i) In general**

A deduction shall not be allowed for any item if such item would not be deductible for any taxable year for purposes of computing earnings and profits.

**(ii) Special rule for certain dividends****(I) In general**

Clause (i) shall not apply to any deduction allowable under section 243 or 245 for any dividend which is a 100-percent dividend or which is received from a 20-percent owned corporation (as defined in section 243(c)(2)), but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 30A, 936 (including subsections (a)(4), (i), and (j) thereof) and 921 (as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)).

**(II) 100-percent dividend**

For purposes of subclause (I), the term “100 percent dividend” means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent.

**(iii) Treatment of taxes on dividends from 936 corporations****(I) In general**

For purposes of determining the alternative minimum foreign tax credit, 75 percent of any withholding or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

**(II) Limitation**

If the aggregate amount of the dividends referred to in subclause (I) for any

taxable year exceeds the excess referred to in paragraph (1), the amount treated as tax paid to a foreign country under subclause (I) shall not exceed the amount which would be so treated without regard to this subclause multiplied by a fraction the numerator of which is the excess referred to in paragraph (1) and the denominator of which is the aggregate amount of such dividends.

**(III) Treatment of taxes imposed on 936 corporation**

For purposes of this clause, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated).

**(IV) Separate application of foreign tax credit limitations**

In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

**(V) Coordination with limitation on 936 credit**

Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I).

**(VI) Application to section 30A corporations**

References in this clause to section 936 shall be treated as including references to section 30A.

**(iv) Special rule for certain dividends received by certain cooperatives**

In the case of an organization to which part I of subchapter T (relating to tax treatment of cooperatives) applies which is engaged in the marketing of agricultural or horticultural products, clause (i) shall not apply to any amount allowable as a deduction under section 245(c).

**(v) Deduction for domestic production**

Clause (i) shall not apply to any amount allowable as a deduction under section 199.

**(vi) Special rule for certain distributions from controlled foreign corporations**

Clause (i) shall not apply to any deduction allowable under section 965.

**(D) Certain other earnings and profits adjustments****(i) Intangible drilling costs**

The adjustments provided in section 312(n)(2)(A) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1989. In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.

**(ii) Certain amortization provisions not to apply**

Sections 173 and 248 shall not apply to expenditures paid or incurred in taxable years beginning after December 31, 1989.

**(iii) LIFO inventory adjustments**

The adjustments provided in section 312(n)(4) shall apply, but only with respect to taxable years beginning after December 31, 1989.

**(iv) Installment sales**

In the case of any installment sale in a taxable year beginning after December 31, 1989, adjusted current earnings shall be computed as if the corporation did not use the installment method. The preceding sentence shall not apply to the applicable percentage (as determined under section 453A) of the gain from any installment sale with respect to which section 453A(a)(1) applies.

**(E) Disallowance of loss on exchange of debt pools**

No loss shall be recognized on the exchange of any pool of debt obligations for another pool of debt obligations having substantially the same effective interest rates and maturities.

**(F) Depletion****(i) In general**

The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

**(ii) Exception for independent oil and gas producers and royalty owners**

In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c).

**(G) Treatment of certain ownership changes**

If—

(i) there is an ownership change (within the meaning of section 382) in a taxable year beginning after 1989 with respect to any corporation, and

(ii) there is a net unrealized built-in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the owner-

ship change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of such corporation (determined under section 382(h)) immediately before the ownership change.

**(H) Adjusted basis**

The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph.

**(I) Treatment of charitable contributions**

Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings.

**(5) Other definitions**

For purposes of paragraph (4)—

**(A) Earnings and profits**

The term “earnings and profits” means earnings and profits computed for purposes of subchapter C.

**(B) Treatment of alternative minimum taxable income**

The treatment of any item for purposes of computing alternative minimum taxable income shall be determined without regard to this subsection.

**(6) Exception for certain corporations**

This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, or REMIC.

(Added Pub. L. 99-514, title VII, §701(a), Oct. 22, 1986, 100 Stat. 2322; amended Pub. L. 100-203, title X, §§10202(d), 10243(a), Dec. 22, 1987, 101 Stat. 1330-392, 1330-423; Pub. L. 100-647, title I, §§1002(a)(12), 1007(b)(1)-(14)(A), (15)-(19), title II, §§2001(c)(3)(A), 2004(b)(2), (3), title V, §5041(b)(4), title VI, §§6079(a)(1), 6303(a), Nov. 10, 1988, 102 Stat. 3355, 3428-3432, 3594, 3599, 3674, 3709, 3755; Pub. L. 101-239, title VII, §§7205(b), 7611(a)-(f)(4), 7612(c)(1), (d)(1), 7811(d)(3), 7815(e)(2), (4), Dec. 19, 1989, 103 Stat. 2335, 2371-2374, 2408, 2419; Pub. L. 101-508, title XI, §§11103(b), 11301(b), 11531(a), (b)(1), 11704(a)(1), 11801(a)(3), (c)(2)(A)-(C), (9)(G), 11812(b)(4), Nov. 5, 1990, 104 Stat. 1388-406, 1388-449, 1388-488, 1388-490, 1388-518, 1388-520, 1388-522, 1388-523, 1388-526, 1388-535; Pub. L. 102-486, title XIX, §1915(a)(2), (b)(2), (c)(1), (2), Oct. 24, 1992, 106 Stat. 3023, 3024; Pub. L. 103-66, title XIII, §§13115(a), 13171(b), 13227(c), Aug. 10, 1993, 107 Stat. 432, 454, 493; Pub. L. 104-188, title I, §§1601(b)(2)(B), (C), 1621(b)(2), 1702(c)(1), (e)(1)(A), (g)(4), (h)(12), 1704(t)(1), (48), Aug. 20, 1996, 110 Stat. 1832, 1833, 1867, 1869, 1870, 1873, 1874, 1887, 1889; Pub. L. 105-34, title III, §312(d)(1), title IV, §§402, 403(a), title XII, §1212(a), Aug. 5, 1997, 111 Stat. 839, 844, 1000; Pub. L. 105-277, div. J, title IV, §4006(c)(2), Oct. 21, 1998, 112 Stat. 2681-912; Pub. L. 106-519, §4(1), Nov. 15, 2000, 114 Stat. 2432; Pub. L. 106-554, §1(a)(7) [title III, §314(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-643; Pub. L. 107-147, title I, §102(c)(1), title IV, §417(5), Mar. 9, 2002, 116 Stat. 26, 56; Pub. L. 108-173, title XII, §1202(b), Dec. 8, 2003, 117 Stat.

2480; Pub. L. 108-311, title IV, §403(b)(4), Oct. 4, 2004, 118 Stat. 1187; Pub. L. 108-357, title I, §§101(b)(4), 102(b), title II, §248(b)(1), title IV, §422(b), title VIII, §835(b)(1), Oct. 22, 2004, 118 Stat. 1423, 1428, 1457, 1519, 1593; Pub. L. 109-58, title XIII, §1326(d), Aug. 8, 2005, 119 Stat. 1017; Pub. L. 109-135, title IV, §403(a)(14), (r)(2), Dec. 21, 2005, 119 Stat. 2619, 2628; Pub. L. 109-304, §17(e)(1), Oct. 6, 2006, 120 Stat. 1707; Pub. L. 110-172, §11(g)(1), (2), Dec. 29, 2007, 121 Stat. 2489, 2490; Pub. L. 110-289, div. C, title I, §3022(a)(2), July 30, 2008, 122 Stat. 2894; Pub. L. 110-343, div. C, title VII, §§706(b)(3), 708(c), Oct. 3, 2008, 122 Stat. 3922, 3925; Pub. L. 111-5, div. B, title I, §§1008(d), 1503(b), Feb. 17, 2009, 123 Stat. 318, 354; Pub. L. 111-92, §13(b), Nov. 6, 2009, 123 Stat. 2993.)

## REFERENCES IN TEXT

Section 201 of the Tax Reform Act of 1986, referred to in subsecs. (a)(1)(C) and (g)(4)(A)(ii), is section 201 of Pub. L. 99-514, which amended sections 46, 167, 168, 178, 179, 280F, 291, 312, 465, 467, 514, 751, 1245, 4162, 6111, and 7701 of this title.

Sections 203, 204, and 251(d) of such Act, referred to in subsec. (a)(1)(C), are sections 203, 204, and 251(d) of the Tax Reform Act of 1986, Pub. L. 99-514. Sections 203 and 204 are set out as notes under section 168 of this title. Section 251(d) is set out as a note under section 46 of this title.

The date of the enactment of the Tax Reform Act of 1986, referred to in subsec. (g)(4)(A)(iii), is the date of enactment of Pub. L. 99-514, which was approved Oct. 22, 1986.

The FSC Repeal and Extraterritorial Income Exclusion Act of 2000, referred to in subsec. (g)(4)(C)(ii)(I), is Pub. L. 106-519, Nov. 15, 2000, 114 Stat. 2423. For complete classification of this Act to the Code, see Short Title of 2000 Amendments note set out under section 1 of this title and Tables.

## PRIOR PROVISIONS

A prior section 56, added Pub. L. 91-172, title III, §301(a), Dec. 30, 1969, 83 Stat. 580; amended Pub. L. 91-614, title V, §501(a), Dec. 31, 1970, 84 Stat. 1846; Pub. L. 92-178, title VI, §601(c)(4), (5), Dec. 10, 1971, 85 Stat. 558; Pub. L. 93-406, title II, §§2001(g)(2)(D), 2002(g)(4), 2005(c)(7), Sept. 2, 1974, 88 Stat. 957, 968, 991; Pub. L. 94-12, title II, §§203(b)(2), (3), 208(d)(2), (3), Mar. 29, 1975, 89 Stat. 30, 35; Pub. L. 94-455, title III, §301(a), (b), (c)(4)(B), Oct. 4, 1976, 90 Stat. 1549, 1552; Pub. L. 95-30, title II, §202(d)(2), May 23, 1977, 91 Stat. 148; Pub. L. 95-600, title I, §141(d), Nov. 6, 1978, 92 Stat. 2794; Pub. L. 95-618, title I, §101(b)(2), Nov. 9, 1978, 92 Stat. 3179; Pub. L. 96-222, title I, §101(a)(7)(L)(iii)(IV), Apr. 1, 1980, 94 Stat. 200; Pub. L. 97-34, title III, §331(c)(2), Aug. 13, 1981, 95 Stat. 293; Pub. L. 97-248, title II, §201(d)(1), formerly §201(c)(1), Sept. 3, 1982, 96 Stat. 419, renumbered §201(d)(1), Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 98-369, div. A, title IV, §474(r)(1), July 18, 1984, 98 Stat. 839; Pub. L. 99-514, title XI, §1171(b)(3), Oct. 22, 1986, 100 Stat. 2513, related to a corporate minimum tax, prior to the general revision of this part by Pub. L. 99-514, §701(a).

## AMENDMENTS

2009—Subsec. (b)(1)(E). Pub. L. 111-5, §1008(d), substituted “subparagraphs (D) and (E) of section 63(c)(1)” for “section 63(c)(1)(D)”.

Subsec. (d)(1)(A)(ii)(I). Pub. L. 111-92 amended subcl. (I) generally. Prior to amendment, subcl. (I) read as follows: “the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001 or 2002 and carryovers of net operating losses to taxable years ending during 2001 and 2002, or”.

Subsec. (g)(4)(B)(iv). Pub. L. 111-5, §1503(b), added cl. (iv).

2008—Subsec. (b)(1)(E). Pub. L. 110-343, §706(b)(3), inserted at end “The preceding sentence shall not apply to so much of the standard deduction as is determined under section 63(c)(1)(D).”

Subsec. (d)(3). Pub. L. 110-343, §708(c), added par. (3).  
Subsec. (g)(4)(B)(iii). Pub. L. 110-289 added cl. (iii).

2007—Subsec. (g)(4)(C)(ii)(I). Pub. L. 110-172, §11(g)(1), substituted “921 (as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)” for “921”.

Subsec. (g)(4)(C)(iv). Pub. L. 110-172, §11(g)(2), which directed the amendment of section 54(g)(4)(C)(iv) of this title by substituting “an organization to which part I of subchapter T (relating to tax treatment of cooperatives) applies which is engaged in the marketing of agricultural or horticultural products” for “a cooperative described in section 927(a)(4)”, was executed to this section, to reflect the probable intent of Congress.

2006—Subsec. (c)(2). Pub. L. 109-304, in introductory provisions, substituted “chapter 535 of title 46, United States Code” for “section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)”, and, in subpars. (A) and (B), substituted “such chapter 535” for “such section 607”.

2005—Subsec. (a)(1)(B). Pub. L. 109-58 inserted “, or in section 168(e)(3)(C)(iv)” before period at end.

Subsec. (b)(1)(A)(ii). Pub. L. 109-135, §403(r)(2), inserted “or clause (ii) of section 164(b)(5)(A)” before period at end.

Subsec. (d)(1)(A)(i)(II), (ii)(II). Pub. L. 109-135, §403(a)(14), substituted “such deduction and the deduction under section 199” for “such deduction”.

2004—Subsec. (d)(1)(A)(i)(I). Pub. L. 108-311, §403(b)(4)(A), struck out “attributable to carryovers” after “other than the deduction”.

Subsec. (d)(1)(A)(ii)(I). Pub. L. 108-311, §403(b)(4)(B), substituted “from taxable years” for “for taxable years” and “carryovers” for “carryforwards”.

Subsec. (g)(4)(B)(i). Pub. L. 108-357, §248(b)(1), inserted “or 1357” after “section 139A” in concluding provisions.

Pub. L. 108-357, §101(b)(4), struck out “114 or” before “139A” in concluding provisions.

Subsec. (g)(4)(C)(v). Pub. L. 108-357, §102(b), added cl. (v).

Subsec. (g)(4)(C)(vi). Pub. L. 108-357, §422(b), added cl. (vi).

Subsec. (g)(6). Pub. L. 108-357, §835(b)(1), substituted “or REMIC” for “REMIC, or FASIT”.

2003—Subsec. (g)(4)(B)(i). Pub. L. 108-173 inserted “or 139A” after “section 114” in concluding provisions.

2002—Subsec. (a)(1)(A)(ii). Pub. L. 107-147, §417(5), substituted “such section 1250” for “such 1250” in concluding provisions.

Subsec. (d)(1)(A). Pub. L. 107-147, §102(c)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and”.

2000—Subsec. (a)(1)(A)(ii). Pub. L. 106-554 inserted “(and the straight line method shall be used for such 1250 property)” before “or to any other property” in concluding provisions.

Subsec. (g)(4)(B)(i). Pub. L. 106-519 inserted “or under section 114” before the period at end of first sentence in concluding provisions.

1998—Subsec. (a)(3). Pub. L. 105-277 substituted “section 460(b)(1)” for “section 460(b)(2)” and “section 460(b)(3)” for “section 460(b)(4)”.

1997—Subsec. (a)(1)(A)(i). Pub. L. 105-34, §402(a), inserted at end “In the case of property placed in service after December 31, 1998, the preceding sentence shall not apply but clause (ii) shall continue to apply.”

Subsec. (a)(5). Pub. L. 105-34, §402(b), inserted at end “In the case of such a facility placed in service after December 31, 1998, such deduction shall be determined under section 168 using the straight line method.”

Subsec. (a)(6) to (8). Pub. L. 105-34, §403(a), redesignated pars. (7) and (8) as (6) and (7), respectively, and struck out former par. (6) which read as follows:

“(6) INSTALLMENT SALES OF CERTAIN PROPERTY.—In the case of any disposition after March 1, 1986, of any

property described in section 1221(1), income from such disposition shall be determined without regard to the installment method under section 453. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453(l)(2)(B).”

Subsec. (e)(1)(A), (3)(B)(i). Pub. L. 105-34, § 312(d)(1), substituted “section 121” for “section 1034”.

Subsec. (g)(4)(B)(i). Pub. L. 105-34, § 1212(a), inserted at end of concluding provisions “In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).”

1996—Subsec. (b)(3). Pub. L. 104-188, § 1702(h)(12), provided that the amendment made by section 11801(c)(9)(G)(ii) of Pub. L. 101-508 shall be applied as if it struck “Section 422A(c)(2)” and inserted “Section 422(c)(2)”. See 1990 Amendment note below.

Subsec. (d)(1)(B)(ii). Pub. L. 101-508, § 1702(e)(1)(A), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “in the case of taxable years beginning after December 31, 1986, section 172(b)(2) shall be applied by substituting ‘90 percent of alternative minimum taxable income determined without regard to the alternative tax net operating loss deduction’ for ‘taxable income’ each place it appears.”

Subsec. (g)(1), (2)(A). Pub. L. 104-188, § 1704(t)(48), provided that section 11801(c)(2)(B) of Pub. L. 101-508 shall be applied as if “section 56(g)” appeared instead of “section 59(g)”. See 1990 Amendment note below.

Subsec. (g)(4)(C)(ii)(I). Pub. L. 104-188, § 1601(b)(2)(B), inserted “30A,” before “936” and substituted “, (i), and (j)” for “and (i)”.

Subsec. (g)(4)(C)(ii)(II). Pub. L. 104-188, § 1704(t)(1), substituted “of subclause” for “of the subclause”.

Subsec. (g)(4)(C)(iii)(VI). Pub. L. 104-188, § 1601(b)(2)(C), added subcl. (VI).

Subsec. (g)(4)(D)(iii). Pub. L. 104-188, § 1702(g)(4), inserted “, but only with respect to taxable years beginning after December 31, 1989” before period at end.

Subsec. (g)(4)(H) to (J). Pub. L. 104-188, § 1702(c)(1), re-designated subpars. (I) and (J) as (H) and (I), respectively.

Subsec. (g)(6). Pub. L. 104-188, § 1621(b)(2), substituted “REMIC, or FASIT” for “or REMIC”.

1993—Subsec. (g)(4)(A)(i). Pub. L. 103-66, § 13115(a), inserted at end “The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A).”

Subsec. (g)(4)(C)(ii)(I). Pub. L. 103-66, § 13227(c)(1), substituted “sections 936 (including subsections (a)(4) and (i) thereof) and 921” for “sections 936 and 921”.

Subsec. (g)(4)(C)(iii)(IV), (V). Pub. L. 103-66, § 13227(c)(2), added subcls. (IV) and (V).

Subsec. (g)(4)(J). Pub. L. 103-66, § 13171(b), added subpar. (J).

1992—Subsec. (d)(1)(A). Pub. L. 102-486, § 1915(c)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the amount of such deduction shall not exceed the excess (if any) of—

“(i) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under subsection (h), over

“(ii) the deduction under subsection (h), and”.

Subsec. (g)(4)(D)(i). Pub. L. 102-486, § 1915(b)(2), inserted at end “In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.”

Subsec. (g)(4)(F). Pub. L. 102-486, § 1915(a)(2), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “The allowance for depletion with respect to any property placed in service in a taxable year beginning after 1989 shall be cost depletion determined under section 611.”

Subsec. (h). Pub. L. 102-486, § 1915(c)(1), struck out subsec. (h) which related to adjustment based on energy preferences.

1990—Subsec. (a)(1)(D). Pub. L. 101-508, § 11812(b)(4), substituted “section 168(i)(10)” for “section 167(l)(3)(A)”.

Subsec. (b)(1)(F). Pub. L. 101-508, § 11103(b), added subpar. (F).

Subsec. (b)(3). Pub. L. 101-508, § 11801(c)(9)(G)(i), substituted “section 422” for “section 422A”.

Pub. L. 101-508, § 11801(c)(9)(G)(ii), which directed the substitution of “section 422(c)(2)” for “section 422A(c)(2)”, was executed by substituting “Section 422(c)(2)” for “Section 422A(c)(2)”. See 1996 Amendment note above.

Subsec. (c)(1). Pub. L. 101-508, § 11801(c)(2)(A), substituted heading for one which read: “Adjustment for book income or adjusted current earnings” and amended text generally. Prior to amendment, text read as follows:

“(A) BOOK INCOME ADJUSTMENT.—For taxable years beginning in 1987, 1988, and 1989, alternative minimum taxable income shall be adjusted as provided under subsection (f).

“(B) ADJUSTED CURRENT EARNINGS.—For taxable years beginning after 1989, alternative minimum taxable income shall be adjusted as provided under subsection (g).”

Subsec. (d)(1)(A). Pub. L. 101-508, § 11531(b)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the amount of such deduction shall not exceed 90 percent of alternative minimum taxable income determined without regard to such deduction, and”.

Subsec. (f). Pub. L. 101-508, § 11801(a)(3), struck out subsec. (f) which related to adjustments for book income of corporations with respect to minimum taxable income, adjusted net book income, adjustments for certain taxes, special rules for related corporations for consolidated returns, treatment of dividends, statements covering different periods, special rule for cooperatives, treatment and limitation of taxes on dividends from 936 corporations, rules for Alaska native corporations, special rules for life insurance companies, exclusion of certain income from transfer of stock for debt, secretarial authority to adjust items, applicable financial statements, earnings and profits used, special rules for more than one statement and exception for certain corporations.

Subsec. (g)(1), (2)(A). Pub. L. 101-508, § 11801(c)(2)(B), which directed that pars. (1) and (2) “of section 59(g) are each amended by striking ‘beginning after 1989’”, was executed to pars. (1) and (2)(A) of subsec. (g) of this section after “any taxable year”. See 1996 Amendment note above.

Subsec. (g)(4)(C)(iii). Pub. L. 101-508, § 11801(c)(2)(C), substituted heading for one which read: “Special rule for dividends from section 936 companies” and amended text generally. Prior to amendment, text read as follows: “In the case of any dividend received from a corporation eligible for the credit provided by section 936, rules similar to the rules of subparagraph (F) of subsection (f)(1) shall apply, except that ‘75 percent’ shall be substituted for ‘50 percent’ in clause (i) thereof.”

Subsec. (g)(4)(D)(ii). Pub. L. 101-508, § 11704(a)(1), substituted “years” for “year”.

Subsec. (g)(4)(F) to (H). Pub. L. 101-508, § 11301(b), re-designated subpars. (G) and (H) as (F) and (G), respectively, and struck out former subpar. (F) which provided that acquisition expenses for life insurance companies be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subparagraph applied to all taxable years.

Subsec. (h). Pub. L. 101-508, § 11531(a), added subsec. (h).

1989—Subsec. (a)(3). Pub. L. 101-239, § 7815(e)(2)(B), substituted “The first sentence of this paragraph shall not” for “The preceding sentence shall not”.

Pub. L. 101-239, § 7815(e)(2)(A), made clarifying amendment to directory language of Pub. L. 100-647, § 5041(b)(4), see 1988 Amendment note below.

Pub. L. 101-239, § 7612(c)(1), struck out “with respect to which the requirements of clauses (i) and (ii) of section 460(e)(1)(B) are met” after “section 460(e)(6)”.

Subsec. (b)(2)(D). Pub. L. 101-239, §7612(d)(1), added subpar. (D).

Subsec. (b)(3). Pub. L. 101-239, §7811(d)(3), inserted after first sentence "Section 422A(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within the same taxable year and such section shall not apply in any other case." and substituted "this paragraph" for "the preceding sentence" in last sentence.

Subsec. (g)(4)(A)(i). Pub. L. 101-239, §7611(a)(1)(A), amended cl. (i) generally. Prior to amendment cl. (i) read as follows: "The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under whichever of the following methods yields deductions with a smaller present value:

"(I) The alternative system of section 168(g), or

"(II) The method used for book purposes."

Subsec. (g)(4)(A)(iii). Pub. L. 101-239, §7611(a)(2), inserted "and which is placed in service in a taxable year beginning before 1990" after "thereof applies".

Subsec. (g)(4)(A)(v) to (vii). Pub. L. 101-239, §7611(a)(1)(B), redesignated cl. (vii) as (v), and struck out former cl. (v), which related to use of slower method if used for book purposes, and cl. (vi), which related to election to have cumulative limitation.

Subsec. (g)(4)(B)(i). Pub. L. 101-239, §7611(f)(2), inserted at end "The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law)."

Subsec. (g)(4)(B)(iii). Pub. L. 101-239, §7611(f)(3), repealed cl. (iii) which read as follows: "In the case of any annuity contract, the income on such contract (as determined under section 72(u)(2)) shall be treated as includible in gross income for such year. The preceding sentence shall not apply to any annuity contract which is held under a plan described in section 403(a) or which is described in section 72(u)(3)(C)."

Subsec. (g)(4)(C)(ii). Pub. L. 101-239, §7611(d), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "Clause (i) shall not apply to any deduction allowable under section 243 or 245 for a 100-percent dividend—

"(I) if the corporation receiving such dividend and the corporation paying such dividend could not be members of the same affiliated group under section 1504 by reason of section 1504(b),

"(II) but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 936 and 921).

For purposes of the preceding sentence, the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent."

Subsec. (g)(4)(C)(iv). Pub. L. 101-239, §7611(e), added cl. (iv).

Subsec. (g)(4)(D). Pub. L. 101-239, §7611(b), amended subpar. (D) generally, in cl. (i), substituting provisions directing that adjustments in section 312(n)(2)(A) be applied, for provisions directing adjustments in section 312(n) be applied, with certain exceptions, in cl. (ii), substituting provisions directing that sections 173 and 248 not apply to expenditures paid or incurred in taxable years beginning after December 31, 1989, for material relating to special rule for intangible drilling costs and mineral exploration and development costs, and adding cls. (iii) and (iv).

Subsec. (g)(4)(D)(i)(IV), (V). Pub. L. 101-239, §7815(e)(4), added subcl. (IV) relating to inapplicability of pars. (6) to (8) and struck out former subcls. (IV) and (V), which read as follows:

"(IV) paragraph (6) shall apply only to contracts entered into on or after March 1, 1986, and

"(V) paragraphs (7) and (8) shall not apply."

Subsec. (g)(4)(G). Pub. L. 101-239, §7611(c), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: "The allowances for depletion with re-

spect to any property placed in service in a taxable year beginning after 1989, shall be determined under whichever of the following methods yields deductions with a smaller present value:

"(i) cost depletion determined under section 611, or

"(ii) the method used for book purposes."

Subsec. (g)(4)(H). Pub. L. 101-239, §7205(b), added cl. (ii) and concluding provision and struck out former cl. (ii) and concluding provision which read as follows:

"(ii)(I) the aggregate adjusted bases of the assets of such corporation (immediately after the change), exceeded

"(II) the value of the stock of such corporation (as determined for purposes of section 382), properly adjusted for liabilities and other relevant items, then the adjusted basis of each asset of such corporation (as of such time) shall be its proportionate share (determined on the basis of respective fair market values) of the amount referred to in clause (ii)(I)."

Subsec. (g)(4)(H)(i). Pub. L. 101-239, §7611(f)(1), substituted "in a taxable year beginning after 1989" for "after the date of the enactment of the Tax Reform Act of 1986".

Subsec. (g)(5)(A). Pub. L. 101-239, §7611(f)(4), redesignated subpar. (B) as (A) and struck out former subpar. (A) which defined "book purposes".

Subsec. (g)(5)(B). Pub. L. 101-239, §7611(f)(4), redesignated subpar. (D) as (B). Former subpar. (B) redesignated (A).

Subsec. (g)(5)(C). Pub. L. 101-239, §7611(f)(4), struck out subpar. (C) which read as follows: "PRESENT VALUE.—Present value shall be determined as of the time the property is placed in service (or, if later, as of the beginning of the first taxable year beginning after 1989) and under regulations prescribed by the Secretary."

Subsec. (g)(5)(D). Pub. L. 101-239, §7611(f)(4), redesignated subpar. (D) as (B).

1988—Subsec. (a)(1)(A)(i). Pub. L. 100-647, §1007(b)(15), substituted "personal" for "real" in heading.

Subsec. (a)(1)(C)(i). Pub. L. 100-647, §1002(a)(12), inserted "by reason of section 203, 204, or 251(d) of such Act" after "do not apply".

Subsec. (a)(3). Pub. L. 100-647, §5041(b)(4), as amended by Pub. L. 101-239, §7815(e)(2)(A), inserted at end "The preceding sentence shall not apply to any home construction contract (as defined in section 460(e)(6)) with respect to which the requirements of clauses (i) and (ii) of section 460(e)(1)(B) are met."

Pub. L. 100-647, §1007(b)(1), inserted at end "For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(2) by using the simplified procedures for allocation of costs prescribed under section 460(b)(4)."

Subsec. (a)(8). Pub. L. 100-647, §1007(b)(19), added par. (8).

Subsec. (b)(1). Pub. L. 100-647, §1007(b)(16), struck out "itemized" after "Limitation on" in heading.

Subsec. (b)(1)(C)(ii). Pub. L. 100-647, §2004(b)(2), substituted "163(h)(5)" for "163(h)(6)".

Subsec. (b)(1)(C)(iii). Pub. L. 100-647, §1007(b)(4), substituted "specified private activity bond" for "specified activity bond" before "under", and "57(a)(5)(B)" for "56(a)(5)(B)".

Subsec. (b)(1)(C)(iv), (v). Pub. L. 100-647, §1007(b)(3), added cls. (iv) and (v).

Subsec. (b)(1)(E). Pub. L. 100-647, §1007(b)(2), substituted "and deduction for personal exemptions not allowed" for "not allowed" in heading and amended text generally. Prior to amendment, text read as follows: "The standard deduction provided in section 63(c) shall not be allowed."

Subsec. (b)(3). Pub. L. 100-647, §1007(b)(14)(A), added par. (3).

Subsec. (c)(1). Pub. L. 100-647, §1007(b)(13)(A), substituted "adjusted current earnings" for "adjusted earnings and profits" in heading.

Subsec. (c)(1)(B). Pub. L. 100-647, §1007(b)(13)(B), substituted "Adjusted current earnings" for "Adjusted earnings and profits" in heading.

Subsec. (d)(2)(A). Pub. L. 100-647, §1007(b)(5), struck out “(other than subsection (a)(6) thereof)” after “for such year” in cl. (ii) and inserted sentence at end providing that an item of tax preference shall be taken into account under clause (ii).

Subsec. (e)(1). Pub. L. 100-647, §2004(b)(3)(A), substituted “improving” for “rehabilitating” in introductory text.

Pub. L. 100-647, §1007(b)(6)(A)(i), inserted “qualified residence interest (as defined in section 163(h)(3)) and is” after “interest which is” in introductory text.

Subsec. (e)(1)(A). Pub. L. 100-647, §2004(b)(3)(B), struck out “or is paid” after “accrues”.

Subsec. (e)(1)(B). Pub. L. 100-647, §1007(b)(6)(A)(ii), substituted “section 163(h)(4)” for “section 163(h)(3)”.

Subsec. (e)(3). Pub. L. 100-647, §1007(b)(6)(B), substituted “interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued” for “interest paid or accrued”.

Subsec. (f)(2)(B). Pub. L. 100-647, §2001(c)(3)(A), inserted at end “No adjustment shall be made under this subparagraph for the tax imposed by section 59A.”

Pub. L. 100-647, §1007(b)(7), inserted “(otherwise eligible for the credit provided by section 901 without regard to section 901(j))” after “any such taxes”.

Subsec. (f)(2)(F). Pub. L. 100-647, §1007(b)(11)(A), substituted “Treatment of taxes on dividends from 936 corporations” for “Treatment of dividends from 936 corporations” in heading and amended text generally, substituting cls. (i) to (iii) for former cls. (i) and (ii).

Subsec. (f)(2)(I), (J). Pub. L. 100-647, §6303(a), added subpar. (I) and redesignated former subpar. (I) as (J).

Subsec. (f)(3)(A)(iii). Pub. L. 100-647, §1007(b)(8), inserted “for a substantial nontax purpose” after “an income statement”.

Subsec. (f)(3)(B). Pub. L. 100-647, §1007(b)(9), substituted “this subsection” for “paragraph (3)(A)” in penultimate sentence.

Subsec. (f)(3)(C). Pub. L. 100-647, §1007(b)(10), inserted at end “If the taxpayer has 2 or more statements described in the clause (or subclause) with the lowest number designation, the applicable financial statement shall be the one of such statements specified in regulations.”

Subsec. (g)(4)(A)(vi), (vii). Pub. L. 100-647, §1007(b)(17), added cls. (vi) and (vii).

Subsec. (g)(4)(B)(iii). Pub. L. 100-647, §6079(a)(1), amended last sentence generally, inserting “which is” after “any annuity contract” and “or which is described in section 72(u)(3)(C)” after “in section 403(a)”.

Pub. L. 100-647, §1007(b)(12), inserted at end “The preceding sentence shall not apply to any annuity contract held under a plan described in section 403(a).”

Subsec. (g)(4)(C)(iii). Pub. L. 100-647, §1007(b)(11)(B), substituted “clause (i)” for “clause (ii)(I)”.

Subsec. (g)(4)(I). Pub. L. 100-647, §1007(b)(18), added subpar. (I).

1987—Subsec. (a)(6). Pub. L. 100-203, §10202(d), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “In the case of any—

“(A) disposition after March 1, 1986, of property described in section 1221(1), or

“(B) other disposition if an obligation arising from such disposition would be an applicable installment obligation (as defined in section 453C(e)) to which section 453C applies,

income from such disposition shall be determined without regard to the installment method under section 453 or 453A and all payments to be received for the disposition shall be deemed received in the taxable year of the disposition. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453C(e)(4).”

Subsec. (f)(2)(H), (I). Pub. L. 100-203, §10243(a), added subpar. (H) and redesignated former subpar. (I) as (I).

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-92, §13(e), (f), Nov. 6, 2009, 123 Stat. 2994, 2995, provided that:

“(e) EFFECTIVE DATES.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 172 and 810 of this title] shall apply to net operating losses arising in taxable years ending after December 31, 2007.

“(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) [amending this section] shall apply to taxable years ending after December 31, 2002.

“(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) [probably means subsec. (c), amending section 810 of this title] shall apply to losses from operations arising in taxable years ending after December 31, 2007.

“(4) TRANSITIONAL RULE.—In the case of any net operating loss (or, in the case of a life insurance company, any loss from operations) for a taxable year ending before the date of the enactment of this Act [Nov. 6, 2009]—

“(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the due date (including extension of time) for filing the return for the taxpayer’s last taxable year beginning in 2009, and

“(B) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before such due date.

“(f) EXCEPTION FOR TARP RECIPIENTS.—The amendments made by this section [amending this section and sections 172 and 810 of this title] shall not apply to—

“(1) any taxpayer if—

“(A) the Federal Government acquired before the date of the enactment of this Act [Nov. 6, 2009] an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008 [div. A of Pub. L. 110-343, see Tables for classification],

“(B) the Federal Government acquired before such date of enactment any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

“(C) such taxpayer receives after such date of enactment funds from the Federal Government in exchange for an interest described in subparagraph (A) or (B) pursuant to a program established under title I of division A of the Emergency Economic Stabilization Act of 2008 [see Tables for classification] (unless such taxpayer is a financial institution (as defined in section 3 of such Act [12 U.S.C. 5202]) and the funds are received pursuant to a program established by the Secretary of the Treasury for the stated purpose of increasing the availability of credit to small businesses using funding made available under such Act [Pub. L. 110-343, see Tables for classification]), or

“(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

“(3) any taxpayer which at any time in 2008 or 2009 was or is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).”

Pub. L. 111-5, div. B, title I, §1008(e), Feb. 17, 2009, 123 Stat. 318, provided that: “The amendments made by this section [amending this section and sections 63 and 164 of this title] shall apply to purchases on or after the date of the enactment of this Act [Feb. 17, 2009] in taxable years ending after such date.”

Pub. L. 111-5, div. B, title I, §1503(c), Feb. 17, 2009, 123 Stat. 355, provided that: “The amendments made by this section [amending this section and section 57 of this title] shall apply to obligations issued after December 31, 2008.”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title VII, §706(d), Oct. 3, 2008, 122 Stat. 3923, provided that:

“(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section [amending

this section and sections 63, 139, 165, 172, 1033, and 7508A of this title] shall apply to disasters declared in taxable years beginning after December 31, 2007.

“(2) INCREASE IN LIMITATION ON INDIVIDUAL LOSS PER CASUALTY.—The amendment made by subsection (c) [amending section 165 of this title] shall apply to taxable years beginning after December 31, 2008.”

Pub. L. 110-343, div. C, title VII, §708(e), Oct. 3, 2008, 122 Stat. 3925, provided that: “The amendments made by this section [amending this section and section 172 of this title] shall apply to losses arising in taxable years beginning after December 31, 2007, in connection with disasters declared after such date.”

Pub. L. 110-289, div. C, title I, §3022(d)(1), July 30, 2008, 122 Stat. 2894, provided that: “The amendments made by subsection (a) [amending this section and section 57 of this title] shall apply to bonds issued after the date of the enactment of this Act [July 30, 2008].”

#### EFFECTIVE DATE OF 2005 AMENDMENTS

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nm) of Pub. L. 109-135, set out as a note under section 26 of this title.

Pub. L. 109-58, title XIII, §1326(e), Aug. 8, 2005, 119 Stat. 1017, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 168 of this title] shall apply to property placed in service after April 11, 2005.

“(2) EXCEPTION.—The amendments made by this section [amending this section and section 168 of this title] shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.”

#### EFFECTIVE DATE OF 2004 AMENDMENTS

Pub. L. 108-357, title I, §101(c), Oct. 22, 2004, 118 Stat. 1423, provided that: “The amendments made by this section [amending this section and sections 275, 864, 903, and 999 of this title and repealing sections 114 and 941 to 943 of this title] shall apply to transactions after December 31, 2004.”

Pub. L. 108-357, title I, §102(e), Oct. 22, 2004, 118 Stat. 1429, as amended by Pub. L. 109-135, title IV, §403(a)(19), Dec. 21, 2005, 119 Stat. 2619, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting section 199 of this title and amending this section and sections 86, 135, 137, 219, 221, 222, 246, 469, 613, and 1402 of this title] shall apply to taxable years beginning after December 31, 2004.

“(2) APPLICATION TO PASS-THRU ENTITIES, ETC.—In determining the deduction under section 199 of the Internal Revenue Code of 1986 (as added by this section), items arising from a taxable year of a partnership, S corporation, estate, or trust beginning before January 1, 2005, shall not be taken into account for purposes of subsection (d)(1) of such section.”

Pub. L. 108-357, title II, §248(c), Oct. 22, 2004, 118 Stat. 1457, provided that: “The amendments made by this section [enacting subchapter R of this chapter and amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 2004].”

Pub. L. 108-357, title IV, §422(d), Oct. 22, 2004, 118 Stat. 1519, provided that: “The amendments made by this section [enacting section 965 of this title and amending this section] shall apply to taxable years ending on or after the date of the enactment of this Act [Oct. 22, 2004].”

Pub. L. 108-357, title VIII, §835(c), Oct. 22, 2004, 118 Stat. 1594, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 382, 582, 856, 860G, 1202, and 7701 of this title and repealing part V of subchapter M of this chapter] shall take effect on January 1, 2005.

“(2) EXCEPTION FOR EXISTING FASITS.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act [Oct. 22, 2004] to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.”

Pub. L. 108-311, title IV, §403(f), Oct. 4, 2004, 118 Stat. 1188, provided that: “The amendments made by this section [amending this section, sections 137, 168, 172, and 1400L of this title, section 1306 of Title 29, Labor, and provisions set out as a note under this section] shall take effect as if included in the provisions of the Job Creation and Worker Assistance Act of 2002 [Pub. L. 107-147] to which they relate.”

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-173, title XII, §1202(d), Dec. 8, 2003, 117 Stat. 2480, provided that: “The amendments made by this section [enacting section 139A of this title and amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Dec. 8, 2003].”

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title I, §102(c)(2), Mar. 9, 2002, 116 Stat. 26, as amended Pub. L. 108-311, title IV, §403(b)(3), Oct. 4, 2004, 118 Stat. 1187, provided that: “The amendment made by this subsection [amending this section] shall apply to taxable years ending after December 31, 1990.”

#### EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106-554, §1(a)(7) [title III, §314(g)], Dec. 21, 2000, 114 Stat. 2763, 2763A-643, provided that: “The amendments made by this section [amending this section and sections 403, 414, 415, 3405, 6211 and 7436 of this title and provisions set out as a note under section 1 of this title] shall take effect as if included in the provisions of the Taxpayer Relief [Act] of 1997 [Pub. L. 105-34] to which they relate.”

Pub. L. 106-519, §5, Nov. 15, 2000, 114 Stat. 2433, as amended by Pub. L. 109-222, title V, §513(a), May 17, 2006, 120 Stat. 366, provided that:

“(a) IN GENERAL.—The amendments made by this Act [enacting sections 114 and 941 to 943 of this title, amending this section and sections 275, 864, 903, and 999 of this title, and repealing sections 921 to 927 of this title] shall apply to transactions after September 30, 2000.

“(b) NO NEW FSCS; TERMINATION OF INACTIVE FSCS.—

“(1) NO NEW FSCS.—No corporation may elect after September 30, 2000, to be a FSC (as defined in section 922 of the Internal Revenue Code of 1986, as in effect before the amendments made by this Act).

“(2) TERMINATION OF INACTIVE FSCS.—If a FSC has no foreign trade income (as defined in section 923(b) of such Code, as so in effect) for any period of 5 consecutive taxable years beginning after December 31, 2001, such FSC shall cease to be treated as a FSC for purposes of such Code for any taxable year beginning after such period.

“(c) TRANSITION PERIOD FOR EXISTING FOREIGN SALES CORPORATIONS.—

“(1) IN GENERAL.—In the case of a FSC (as so defined) in existence on September 30, 2000, and at all times thereafter, the amendments made by this Act shall not apply to any transaction in the ordinary course of trade or business involving a FSC which occurs before January 1, 2002.

“(2) ELECTION TO HAVE AMENDMENTS APPLY EARLIER.—A taxpayer may elect to have the amendments made by this Act apply to any transaction by a FSC or any related person to which such amendments would apply but for the application of paragraph (1). Such election shall be effective for the taxable year for which made and all subsequent taxable years, and, once made, may be revoked only with the consent of the Secretary of the Treasury.

“(3) EXCEPTION FOR OLD EARNINGS AND PROFITS OF CERTAIN CORPORATIONS.—

“(A) IN GENERAL.—In the case of a foreign corporation to which this paragraph applies—

“(i) earnings and profits of such corporation accumulated in taxable years ending before October 1, 2000, shall not be included in the gross income of the persons holding stock in such corporation by reason of section 943(e)(4)(B)(i); and

“(ii) rules similar to the rules of clauses (ii), (iii), and (iv) of section 953(d)(4)(B) shall apply with respect to such earnings and profits.

The preceding sentence shall not apply to earnings and profits acquired in a transaction after September 30, 2000, to which section 381 applies unless the distributor or transferor corporation was immediately before the transaction a foreign corporation to which this paragraph applies.

“(B) EXISTING FSCS.—This paragraph shall apply to any controlled foreign corporation (as defined in section 957) if—

“(i) such corporation is a FSC (as so defined) in existence on September 30, 2000;

“(ii) such corporation is eligible to make the election under section 943(e) by reason of being described in paragraph (2)(B) of such section; and

“(iii) such corporation makes such election not later than for its first taxable year beginning after December 31, 2001.

“(C) OTHER CORPORATIONS.—This paragraph shall apply to any controlled foreign corporation (as defined in section 957), and such corporation shall (notwithstanding any provision of section 943(e)) be treated as an applicable foreign corporation for purposes of section 943(e), if—

“(i) such corporation is in existence on September 30, 2000;

“(ii) as of such date, such corporation is wholly owned (directly or indirectly) by a domestic corporation (determined without regard to any election under section 943(e));

“(iii) for each of the 3 taxable years preceding the first taxable year to which the election under section 943(e) by such controlled foreign corporation applies—

“(I) all of the gross income of such corporation is subpart F income (as defined in section 952), including by reason of section 954(b)(3)(B); and

“(II) in the ordinary course of such corporation's trade or business, such corporation regularly sold (or paid commissions) to a FSC which on September 30, 2000, was a related person to such corporation;

“(iv) such corporation has never made an election under section 922(a)(2) (as in effect before the date of the enactment of this paragraph [Nov. 15, 2000]) to be treated as a FSC; and

“(v) such corporation makes the election under section 943(e) not later than for its first taxable year beginning after December 31, 2001.

The preceding sentence shall cease to apply as of the date that the domestic corporation referred to in clause (ii) ceases to wholly own (directly or indirectly) such controlled foreign corporation.

“(4) RELATED PERSON.—For purposes of this subsection, the term ‘related person’ has the meaning given to such term by section 943(b)(3).

“(5) SECTION REFERENCES.—Except as otherwise expressly provided, any reference in this subsection to a section or other provision shall be considered to be a reference to a section or other provision of the Internal Revenue Code of 1986, as amended by this Act.

“(d) SPECIAL RULES RELATING TO LEASING TRANSACTIONS.—

“(1) SALES INCOME.—If foreign trade income in connection with the lease or rental of property described in section 927(a)(1)(B) of such Code (as in effect before the amendments made by this Act) is treated as exempt foreign trade income for purposes of section 921(a) of such Code (as so in effect), such property shall be treated as property described in section

941(c)(1)(B) of such Code (as added by this Act) for purposes of applying section 941(c)(2) of such Code (as so added) to any subsequent transaction involving such property to which the amendments made by this Act apply.

“(2) LIMITATION ON USE OF GROSS RECEIPTS METHOD.—If any person computed its foreign trade income from any transaction with respect to any property on the basis of a transfer price determined under the method described in section 925(a)(1) of such Code (as in effect before the amendments made by this Act), then the qualifying foreign trade income (as defined in section 941(a) of such Code, as in effect after such amendment) of such person (or any related person) with respect to any other transaction involving such property (and to which the amendments made by this Act apply) shall be zero.”

[Pub. L. 109-222, title V, §513(c), May 17, 2006, 120 Stat. 366, provided that: “The amendments made by this section [amending section 5 of Pub. L. 106-519, set out above, and provisions set out as a note under section 114 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [May 17, 2006].”]

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(d)(1) of Pub. L. 105-34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

Section 403(b) of Pub. L. 105-34 provided that:

“(1) IN GENERAL.—The amendment made by this section [amending this section] shall apply to dispositions in taxable years beginning after December 31, 1987.

“(2) SPECIAL RULE FOR 1987.—In the case of taxable years beginning in 1987, the last sentence of section 56(a)(6) of the Internal Revenue Code of 1986 (as in effect for such taxable years) shall be applied by inserting ‘or in the case of a taxpayer using the cash receipts and disbursements method of accounting, any disposition described in section 453C(e)(1)(B)(ii) after ‘section 453C(e)(4)’.”

Section 1212(b) of Pub. L. 105-34 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1997.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1601(b)(2)(B), (C) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1995, except as otherwise provided, see section 1601(c) of Pub. L. 104-188, set out as an Effective Date note under section 30A of this title.

Amendment by section 1621(b)(2) of Pub. L. 104-188 effective Sept. 1, 1997, see section 1621(d) of Pub. L. 104-188, set out as a note under section 26 of this title.

Amendment by section 1702(c)(1), (e)(1)(A), (g)(4), and (h)(12) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 13115(b) of Pub. L. 103-66 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to property placed in service after December 31, 1993.

“(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) thereof.”

Amendment by section 13171(b) of Pub. L. 103-66 applicable to contributions made after June 30, 1992, except that in case of any contribution of capital gain property which is not tangible personal property, such

amendment applicable only if the contribution is made after Dec. 31, 1992, see section 13171(d) of Pub. L. 103-66, set out as a note under section 53 of this title.

Section 13227(f) of Pub. L. 103-66 provided that: "The amendments made by this section [amending this section and sections 904, 936, and 7652 of this title] shall apply to taxable years beginning after December 31, 1993; except that the amendment made by subsection (e) [amending section 7652 of this title] shall take effect on October 1, 1993."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 1915(d) of Pub. L. 102-486 provided that: "The amendments made by this section [amending this section and sections 57, 59, and 59A of this title] shall apply to taxable years beginning after December 31, 1992."

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11103(b) of Pub. L. 101-508 applicable to taxable years beginning after Dec. 31, 1990, see section 11103(e) of Pub. L. 101-508, set out as a note under section 1 of this title.

Section 11301(d)(2) of Pub. L. 101-508 provided that:

"(A) IN GENERAL.—The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning on or after September 30, 1990, except that, in the case of a small insurance company, such amendment shall apply to taxable years beginning after December 31, 1989. For purposes of this paragraph, the term 'small insurance company' means any insurance company which meets the requirements of section 806(a)(3) of the Internal Revenue Code of 1986; except that paragraph (2) of section 806(c) of such Code shall not apply.

"(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) by a company which is not a small insurance company shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F)."

Section 11531(c) of Pub. L. 101-508 provided that: "The amendments made by this section [amending this section and sections 59 and 59A of this title] shall apply to taxable years beginning after December 31, 1990."

Section 11704(b) of Pub. L. 101-508 provided that: "The amendments made by this section [amending this section, sections 172, 351, 413, 461, 469, 597, 857, 860D, 860G, 892, 927, 936, 1017, 1245, 1441, 2056A, 2642, 3231, 4091, 4093, 5061, 6013, 6038A, 6039D, 6045, 6323, 6332, 6655, 7519, 7522, 7608, and 7701 of this title, and provisions set out as a note under section 231n of Title 45, Railroads] shall take effect on the date of the enactment of this Act."

Amendment by section 11812(b)(4) of Pub. L. 101-508 applicable to property placed in service after Nov. 5, 1990, but not applicable to any property to which section 168 of this title does not apply by reason of subsection (f)(5) of section 168, and not applicable to rehabilitation expenditures described in section 252(f)(5) of Pub. L. 99-514, see section 11812(c) of Pub. L. 101-508, set out as a note under section 42 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 7205(c) of Pub. L. 101-239 provided that:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and section 382 of this title] shall apply to ownership changes and acquisitions after October 2, 1989, in taxable years ending after such date.

"(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any ownership change or

acquisition pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such change or acquisition.

"(3) BANKRUPTCY PROCEEDINGS.—In the case of a reorganization described in section 368(a)(1)(G) of the Internal Revenue Code of 1986, or an exchange of debt for stock in a title 11 or similar case (as defined in section 368(a)(3) of such Code), the amendments made by this section shall not apply to any ownership change resulting from such a reorganization or proceeding if a petition in such case was filed with the court before October 3, 1989.

"(4) SUBSIDIARIES OF BANKRUPT PARENT.—The amendments made by this section shall not apply to any built-in loss of a corporation which is a member (on October 2, 1989) of an affiliated group the common parent of which (on such date) was subject to title 11 or similar case (as defined in section 368(a)(3) of such Code). The preceding sentence shall apply only if the ownership change or acquisition is pursuant to the plan approved in such proceeding and is before the date 2 years after the date on which the petition which commenced such proceeding was filed."

Section 7611(g) of Pub. L. 101-239 provided that:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 59 and 312 of this title] shall apply to taxable years beginning after December 31, 1989.

"(2) INTANGIBLE DRILLING COSTS.—The amendments made by subsection (f)(5) [amending sections 59 and 312 of this title] shall apply to costs paid or incurred in taxable years beginning after December 31, 1989.

"(3) REGULATIONS ON EARNINGS AND PROFITS RULES.—Not later than March 15, 1991, the Secretary of the Treasury or his delegate shall prescribe initial regulations providing guidance as to which items of income are included in adjusted current earnings under section 56(g)(4)(B)(i) of the Internal Revenue Code of 1986 and which items of deduction are disallowed under section 56(g)(4)(C) of such Code."

Section 7612(c)(2) of Pub. L. 101-239 provided that: "The amendment made by paragraph (1) [amending this section] shall apply to contracts entered into in taxable years beginning after September 30, 1990."

Section 7612(d)(2) of Pub. L. 101-239 provided that: "The amendment made by paragraph (1) [amending this section] shall apply to taxable years beginning after December 31, 1990."

Amendment by sections 7811(d)(3) and 7815(e)(2), (4) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 1007(b)(14)(C) of Pub. L. 100-647 provided that: "The amendments made by this paragraph [amending this section and section 57 of this title] shall apply with respect to options exercised after December 31, 1987."

Amendment by sections 1002(a)(12) and 1007(b)(1)-(13), (15)-(19) of 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.

Section 2001(e) of Pub. L. 100-647 provided that: "Except as otherwise provided in this section, the amendments made by this section [amending this section, sections 59A, 882, 4041, 4081, 4091, 4662, 4672, 6416, 6421, and 6427 of this title, and provisions set out as a note under section 4081 of this title] shall take effect as if included in the provision of the Superfund Revenue Act of 1986 [Pub. L. 99-499, title V] to which it relates."

Section 2004(u) of Pub. L. 100-647 provided that: "Except as otherwise provided in this section, any amendment made by this section [amending this section, sections 163, 244, 280H, 301, 304, 355, 384, 444, 453, 453A, 469, 514, 811, 812, 816, 842, 904, 1201, 1363, 1503, 1561, 4093, 5113,

5123, 5276, 5881, 6427, 6655, 7519, and 7704 of this title, and provisions set out as notes under sections 21, 219, 243, 301, 304, 444, 453, 1503, and 7704 of this title] shall take effect as if included in the provisions of the Revenue Act of 1987 [Pub. L. 100-203, title X] to which such amendment relates.”

Amendment by section 5041(b)(4) of Pub. L. 100-647 applicable to contracts entered into on or after June 21, 1988, but not applicable to any contract resulting from the acceptance of a bid made before June 21, 1988, if the bid could not have been revoked or altered at any time on or after June 21, 1988, and not applicable in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of Pub. L. 100-203, set out as a note under section 460 of this title), see section 5041(e) of Pub. L. 100-647, set out as a note under section 460 of this title.

Section 6079(a)(2) of Pub. L. 100-647 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendments made by section 701 of the Reform Act [Pub. L. 99-514].”

Section 6303(b) of Pub. L. 100-647 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1986.”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10202(d) of Pub. L. 100-203 applicable to dispositions in taxable years beginning after Dec. 31, 1986, with coordination with Tax Reform Act of 1986, see section 10202(e)(4), (5) of Pub. L. 100-203, set out as a note under section 453 of this title.

Section 10243(b) of Pub. L. 100-203 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1987.”

#### EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as a note under section 55 of this title.

#### SAVINGS PROVISION

For provisions that nothing in amendment by sections 11801 and 11812 of 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.

#### COORDINATION WITH HEARTLAND DISASTER RELIEF

Pub. L. 110-343, div. C, title VII, §712, Oct. 3, 2008, 122 Stat. 3929, provided that: “The amendments made by this subtitle [subtitle B (§§706-712) of title VII of div. C of Pub. L. 110-343, enacting section 198A of this title and amending this section and sections 63, 139, 143, 165, 168, 172, 179, 1033, and 7508A of this title], other than the amendments made by sections 706(a)(2) [amending sections 139, 165, 172, 1033, and 7508A of this title], 710 [amending section 168 of this title], and 711 [amending section 179 of this title], shall not apply to any disaster described in section 702(c)(1)(A) [section 702(c)(1) has no subpar. (A)], or to any expenditure or loss resulting from such disaster.”

#### APPLICATION OF SUBSECTION (g)(1) AND (3) TO TAXABLE YEARS BEGINNING IN 1991 AND 1992

Section 1702(e)(1)(B) of Pub. L. 104-188 provided that: “For purposes of applying sections 56(g)(1) and 56(g)(3) of the Internal Revenue Code of 1986 with respect to taxable years beginning in 1991 and 1992, the reference in such sections to the alternative tax net operating loss deduction shall be treated as including a reference to the deduction under section 56(h) of such Code as in effect before the amendments made by section 1915 of the Energy Policy Act of 1992 [Pub. L. 102-486].”

#### INSTALLMENT SALES; TAXABLE YEARS BEGINNING IN 1987

Section 7821(a)(5) of Pub. L. 101-239 provided that: “In the case of taxable years beginning in 1987, the reference to section 453 contained in section 56(a)(6) of the Internal Revenue Code of 1986 shall be treated as including a reference to section 453A.”

#### APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(a) of Pub. L. 99-514 [enacting this section] notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

#### STUDY OF BOOK AND EARNINGS AND PROFITS ADJUSTMENTS

Section 702 of Pub. L. 99-514 required Secretary of the Treasury or his delegate to conduct a study of operation and effect of provisions of sections 56(f) and 56(g) of the Internal Revenue Code of 1986, prior to repeal by Pub. L. 101-508, title XI, §11832(4), Nov. 5, 1990, 104 Stat. 1388-559.

### § 57. Items of tax preference

#### (a) General rule

For purposes of this part, the items of tax preference determined under this section are—

##### (1) Depletion

With respect to each property (as defined in section 614), the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year). Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).

##### (2) Intangible drilling costs

###### (A) In general

With respect to all oil, gas, and geothermal properties of the taxpayer, the amount (if any) by which the amount of the excess intangible drilling costs arising in the taxable year is greater than 65 percent of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year.

###### (B) Excess intangible drilling costs

For purposes of subparagraph (A), the amount of the excess intangible drilling costs arising in the taxable year is the excess of—

(i) the intangible drilling and development costs paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a non-productive well) allowable under section 263(c) or 291(b) for the taxable year, over

(ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in sub-