

without regard to Revenue Ruling 76-453 or any other regulation, ruling or decision reaching the same or similar result, and with full regard to the rules in effect before that Revenue Ruling, and ceased to have effect on the day after Nov. 8, 1978 pursuant to section 210(a) of that Act.

### § 63. Taxable income defined

#### (a) In general

Except as provided in subsection (b), for purposes of this subtitle, the term “taxable income” means gross income minus the deductions allowed by this chapter (other than the standard deduction).

#### (b) Individuals who do not itemize their deductions

In the case of an individual who does not elect to itemize his deductions for the taxable year, for purposes of this subtitle, the term “taxable income” means adjusted gross income, minus—

- (1) the standard deduction, and
- (2) the deduction for personal exemptions provided in section 151.

#### (c) Standard deduction

For purposes of this subtitle—

##### (1) In general

Except as otherwise provided in this subsection, the term “standard deduction” means the sum of—

- (A) the basic standard deduction,
- (B) the additional standard deduction,
- (C) in the case of any taxable year beginning in 2008 or 2009, the real property tax deduction,
- (D) the disaster loss deduction, and
- (E) the motor vehicle sales tax deduction.

##### (2) Basic standard deduction

For purposes of paragraph (1), the basic standard deduction is—

- (A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—
  - (i) a joint return, or
  - (ii) a surviving spouse (as defined in section 2(a)),
- (B) \$4,400 in the case of a head of household (as defined in section 2(b)), or
- (C) \$3,000 in any other case.

##### (3) Additional standard deduction for aged and blind

For purposes of paragraph (1), the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (f).

##### (4) Adjustments for inflation

In the case of any taxable year beginning in a calendar year after 1988, each dollar amount contained in paragraph (2)(B), (2)(C), or (5) or subsection (f) shall be increased by an amount equal to—

- (A) such dollar amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting for “calendar year 1992” in subparagraph (B) thereof—

- (i) “calendar year 1987” in the case of the dollar amounts contained in paragraph (2)(B), (2)(C), or (5)(A) or subsection (f), and

- (ii) “calendar year 1997” in the case of the dollar amount contained in paragraph (5)(B).

#### (5) Limitation on basic standard deduction in the case of certain dependents

In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual’s taxable year begins, the basic standard deduction applicable to such individual for such individual’s taxable year shall not exceed the greater of—

- (A) \$500, or
- (B) the sum of \$250 and such individual’s earned income.

#### (6) Certain individuals, etc., not eligible for standard deduction

In the case of—

- (A) a married individual filing a separate return where either spouse itemizes deductions,
- (B) a nonresident alien individual,
- (C) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, or
- (D) an estate or trust, common trust fund, or partnership,

the standard deduction shall be zero.

#### (7) Real property tax deduction

For purposes of paragraph (1), the real property tax deduction is the lesser of—

- (A) the amount allowable as a deduction under this chapter for State and local taxes described in section 164(a)(1), or
- (B) \$500 (\$1,000 in the case of a joint return).

Any taxes taken into account under section 62(a) shall not be taken into account under this paragraph.

#### (8) Disaster loss deduction

For the purposes of paragraph (1), the term “disaster loss deduction” means the net disaster loss (as defined in section 165(h)(3)(B)).

#### (9) Motor vehicle sales tax deduction

For purposes of paragraph (1), the term “motor vehicle sales tax deduction” means the amount allowable as a deduction under section 164(a)(6). Such term shall not include any amount taken into account under section 62(a).

#### (d) Itemized deductions

For purposes of this subtitle, the term “itemized deductions” means the deductions allowable under this chapter other than—

- (1) the deductions allowable in arriving at adjusted gross income, and
- (2) the deduction for personal exemptions provided by section 151.

#### (e) Election to itemize

##### (1) In general

Unless an individual makes an election under this subsection for the taxable year, no itemized deduction shall be allowed for the

taxable year. For purposes of this subtitle, the determination of whether a deduction is allowable under this chapter shall be made without regard to the preceding sentence.

**(2) Time and manner of election**

Any election under this subsection shall be made on the taxpayer's return, and the Secretary shall prescribe the manner of signifying such election on the return.

**(3) Change of election**

Under regulations prescribed by the Secretary, a change of election with respect to itemized deductions for any taxable year may be made after the filing of the return for such year. If the spouse of the taxpayer filed a separate return for any taxable year corresponding to the taxable year of the taxpayer, the change shall not be allowed unless, in accordance with such regulations—

(A) the spouse makes a change of election with respect to itemized deductions, for the taxable year covered in such separate return, consistent with the change of treatment sought by the taxpayer, and

(B) the taxpayer and his spouse consent in writing to the assessment (within such period as may be agreed on with the Secretary) of any deficiency, to the extent attributable to such change of election, even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

This paragraph shall not apply if the tax liability of the taxpayer's spouse for the taxable year corresponding to the taxable year of the taxpayer has been compromised under section 7122.

**(f) Aged or blind additional amounts**

**(1) Additional amounts for the aged**

The taxpayer shall be entitled to an additional amount of \$600—

(A) for himself if he has attained age 65 before the close of his taxable year, and

(B) for the spouse of the taxpayer if the spouse has attained age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

**(2) Additional amount for blind**

The taxpayer shall be entitled to an additional amount of \$600—

(A) for himself if he is blind at the close of the taxable year, and

(B) for the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

For purposes of subparagraph (B), if the spouse dies during the taxable year the determination of whether such spouse is blind shall be made as of the time of such death.

**(3) Higher amount for certain unmarried individuals**

In the case of an individual who is not married and is not a surviving spouse, paragraphs

(1) and (2) shall be applied by substituting "\$750" for "\$600".

**(4) Blindness defined**

For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

**(g) Marital status**

For purposes of this section, marital status shall be determined under section 7703.

(Aug. 16, 1954, ch. 736, 68A Stat. 18; Pub. L. 95-30, title I, §102(a), May 23, 1977, 91 Stat. 135; Pub. L. 95-600, title I, §101(b), Nov. 6, 1978, 92 Stat. 2769; Pub. L. 97-34, title I, §§104(b), 111(b)(4), 121(b), (c)(2), Aug. 13, 1981, 95 Stat. 189, 194, 196, 197; Pub. L. 99-514, title I, §102(a), title XII, §1272(d)(6), Oct. 22, 1986, 100 Stat. 2099, 2594; Pub. L. 100-647, title I, §1001(b)(1), Nov. 10, 1988, 102 Stat. 3349; Pub. L. 101-508, title XI, §§11101(d)(1)(D), 11801(a)(4), Nov. 5, 1990, 104 Stat. 1388-405, 1388-520; Pub. L. 103-66, title XIII, §13201(b)(3)(D), Aug. 10, 1993, 107 Stat. 459; Pub. L. 105-34, title XII, §1201(a), Aug. 5, 1997, 111 Stat. 993; Pub. L. 107-16, title III, §301(a), (b), (c)(2), June 7, 2001, 115 Stat. 53, 54; Pub. L. 107-147, title IV, §411(e), Mar. 9, 2002, 116 Stat. 46; Pub. L. 108-27, title I, §103(a), May 28, 2003, 117 Stat. 754; Pub. L. 108-311, title I, §101(b), Oct. 4, 2004, 118 Stat. 1167; Pub. L. 110-289, div. C, title I, §3012(a), (b), July 30, 2008, 122 Stat. 2891, 2892; Pub. L. 110-343, div. C, title II, §204(a), title VII, §706(b)(1), (2), Oct. 3, 2008, 122 Stat. 3865, 3922; Pub. L. 111-5, div. B, title I, §1008(c), Feb. 17, 2009, 123 Stat. 318.)

**INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS**

*For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.*

**AMENDMENT OF SECTION**

*For termination of amendment by section 107 of Pub. L. 108-311, see Effective and Termination Dates of 2004 Amendment note below.*

*For termination of amendment by section 107 of Pub. L. 108-27, see Effective and Termination Dates of 2003 Amendment note below.*

*For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.*

**AMENDMENTS**

2009—Subsec. (c)(1)(E). Pub. L. 111-5, §1008(c)(1), added subpar. (E).

Subsec. (c)(9). Pub. L. 111-5, §1008(c)(2), added par. (9).

2008—Subsec. (c)(1)(C). Pub. L. 110-343, §204(a), inserted "or 2009" after "2008".

Pub. L. 110-289, §3012(a), added subpar. (C).

Subsec. (c)(1)(D). Pub. L. 110-343, §706(b)(1), added subpar. (D).

Subsec. (c)(7). Pub. L. 110-289, §3012(b), added par. (7).

Subsec. (c)(8). Pub. L. 110-343, §706(b)(2), added par. (8).

2004—Subsec. (c)(2). Pub. L. 108-311, §§101(b)(1), 105, temporarily reenacted heading without change and amended text generally, substituting provisions relating to a specific percentage for provisions relating to applicable percentage in subpar. (A), redesignating sub-

par. (D) as (C), and deleting former subpar. (C) relating to married individuals filing separately. See Effective and Termination Dates of 2004 Amendment note below.

Subsec. (c)(4). Pub. L. 108-311, §§101(b)(2)(A), 105, temporarily substituted “(2)(C)” for “(2)(D)” in introductory provisions and in subpar. (B)(i). See Effective and Termination Dates of 2004 Amendment note below.

Subsec. (c)(7). Pub. L. 108-311, §§101(b)(2)(B), 105, temporarily struck out par. (7) which related to applicable percentage for purposes of par. (2). See Effective and Termination Dates of 2004 Amendment note below.

2003—Subsec. (c)(7). Pub. L. 108-27, §§103(a), 107, temporarily inserted table item relating to years 2003 and 2004. See Effective and Termination Dates of 2003 Amendment note below.

2002—Subsec. (c)(2). Pub. L. 107-147, §411(e)(1)(E), inserted “If any amount determined under subparagraph (A) is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.” at end.

Subsec. (c)(2)(A). Pub. L. 107-147, §411(e)(1)(A), substituted “subparagraph (D)” for “subparagraph (C)”.

Subsec. (c)(2)(B). Pub. L. 107-147, §411(e)(1)(B), struck out “or” at end.

Subsec. (c)(2)(C), (D). Pub. L. 107-147, §411(e)(1)(C), (D), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (c)(4). Pub. L. 107-147, §411(e)(2)(C), which directed amendment by striking out the flush sentence at the end added by section 301(c)(2) of Public Law 107-17, was executed by striking out “The preceding sentence shall not apply to the amount referred to in paragraph (2)(A).”, which was inserted by section 301(c)(2) of Pub. L. 107-16, to reflect the probable intent of Congress. See 2001 Amendment note below.

Pub. L. 107-147, §411(e)(2)(A), substituted “paragraph (2)(B), (2)(D), or (5)” for “paragraph (2) or (5)” in introductory provisions.

Subsec. (c)(4)(B)(i). Pub. L. 107-147, §411(e)(2)(B), substituted “paragraph (2)(B), (2)(D),” for “paragraph (2)”.

2001—Subsec. (c)(2)(A). Pub. L. 107-16, §§301(a)(1), 901, temporarily substituted “the applicable percentage of the dollar amount in effect under subparagraph (C) for the taxable year” for “\$5,000”. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(2)(B). Pub. L. 107-16, §§301(a)(2), 901, temporarily substituted “or” at end. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(2)(C). Pub. L. 107-16, §§301(a)(3), 901, temporarily substituted “in any other case.” for “in the case of an individual who is not married and who is not a surviving spouse or head of household, or”. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(2)(D). Pub. L. 107-16, §§301(a)(4), 901, temporarily struck out subpar. (D) which read as follows: “\$2,500 in the case of a married individual filing a separate return.” See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(4). Pub. L. 107-16, §§301(c)(2), 901, temporarily inserted at end “The preceding sentence shall not apply to the amount referred to in paragraph (2)(A).” See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c)(7). Pub. L. 107-16, §§301(b), 901, temporarily added par. (7). See Effective and Termination Dates of 2001 Amendment note below.

1997—Subsec. (c)(4). Pub. L. 105-34, §1201(a)(2), in introductory provisions, substituted “(5)” for “(5)(A)” and, in subpar. (B), substituted “by substituting for ‘calendar year 1992’ in subparagraph (B) thereof—” for “by substituting ‘calendar year 1987’ for ‘calendar year 1992’ in subparagraph (B) thereof” and added cls. (i) and (ii).

Subsec. (c)(5)(B). Pub. L. 105-34, §1201(a)(1), substituted “the sum of \$250 and such individual’s earned income” for “such individual’s earned income”.

1993—Subsec. (c)(4)(B). Pub. L. 103-66 substituted “1992” for “1989”.

1990—Subsec. (c)(4)(B). Pub. L. 101-508, §11101(d)(1)(D), inserted before period at end “, by substituting ‘cal-

endar year 1987’ for ‘calendar year 1989’ in subparagraph (B) thereof”.

Subsec. (h). Pub. L. 101-508, §11801(a)(4), struck out subsec. (h) “Transitional rule for taxable years beginning in 1987” which read as follows: “In the case of any taxable year beginning in 1987, paragraph (2) of subsection (c) shall be applied—

“(1) by substituting ‘\$3,760’ for ‘\$5,000’,

“(2) by substituting ‘\$2,540’ for ‘\$4,400’,

“(3) by substituting ‘\$2,540’ for ‘\$3,000’, and

“(4) by substituting ‘\$1,880’ for ‘\$2,500’.

The preceding sentence shall not apply if the taxpayer is entitled to an additional amount determined under subsection (f) (relating to additional amount for aged and blind) for the taxable year.”

1988—Subsec. (c)(5). Pub. L. 100-647 substituted “basic standard deduction” for “standard deduction” in heading and text.

1986—Subsec. (a). Pub. L. 99-514, §102(a), substituted “In general” for “Corporations” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this subtitle, in the case of a corporation, the term ‘taxable income’ means gross income minus the deductions allowed by this chapter.”

Subsec. (b). Pub. L. 99-514, §102(a), substituted “Individuals who do not itemize their deductions” for “Individuals” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this subtitle, in the case of an individual, the term ‘taxable income’ means adjusted gross income—

“(1) reduced by the sum of—

“(A) the excess itemized deductions,

“(B) the deductions for personal exemptions provided by section 151, and

“(C) the direct charitable deduction, and

“(2) increased (in the case of an individual for whom an unused zero bracket amount computation is provided by subsection (e)) by the unused zero bracket amount (if any).”

Subsec. (c). Pub. L. 99-514, §102(a), substituted “Standard deduction” for “Excess itemized deductions” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this subtitle, the term ‘excess itemized deductions’ means the excess (if any) of—

“(1) the itemized deductions, over

“(2) the zero bracket amount.”

Subsec. (c)(6)(C) to (E). Pub. L. 99-514, §1272(d)(6), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C) which read as follows: “a citizen of the United States entitled to the benefits of section 931 (relating to income from sources within possessions of the United States).”

Subsec. (d). Pub. L. 99-514, §102(a), substituted “Itemized deductions” for “Zero bracket amount” in heading and amended text generally. Prior to amendment, subsec. (d) read as follows: “For purposes of this subtitle, the term ‘zero bracket amount’ means—

“(1) in the case of an individual to whom subsection (a), (b), (c), or (d) of section 1 applies, the maximum amount of taxable income on which no tax is imposed by the applicable subsection of section 1, or

“(2) zero in any other case.”

Subsec. (e). Pub. L. 99-514, §102(a), substituted “Election to itemize” for “Unused zero bracket amount” in heading.

Subsec. (e)(1). Pub. L. 99-514, §102(a), substituted “In general” for “Individuals for whom computation must be made” in heading and amended text generally. Prior to amendment, text read as follows: “A computation for the taxable year shall be made under this subsection for the following individuals:

“(A) a married individual filing a separate return where either spouse itemized deductions,

“(B) a nonresident alien individual,

“(C) a citizen of the United States entitled to the benefits of section 931 (relating to income from sources within possessions of the United States), and

“(D) an individual with respect to whom a deduction under section 151(e) is allowable to another tax-

payer for a taxable year beginning in the calendar year in which the individual's taxable year begins."

Subsec. (e)(2). Pub. L. 99-514, §102(a), substituted "Time and manner of election" for "Computation" in heading and amended text generally. Prior to amendment, text read as follows: "For purposes of this subtitle, an individual's unused zero bracket amount for the taxable year is an amount equal to the excess (if any) of—

"(A) the zero bracket amount, over

"(B) the itemized deductions.

In the case of an individual referred to in paragraph (1)(D), if such individual's earned income (as defined in section 911(d)(2)) exceeds the itemized deductions, such earned income shall be substituted for the itemized deductions in subparagraph (B)."

Subsec. (e)(3). Pub. L. 99-514, §102(a), in amending subsec. (e) generally, added par. (3).

Subsec. (f). Pub. L. 99-514, §102(a), substituted "Aged or blind additional amounts" for "Itemized deductions" in heading and amended text generally. Prior to amendment, text read as follows: "For purposes of this subtitle, the term 'itemized deductions' means the deductions allowable by this chapter other than—

"(1) the deductions allowable in arriving at adjusted gross income,

"(2) the deductions for personal exemptions provided by section 151, and

"(3) the direct charitable deduction."

Subsec. (g). Pub. L. 99-514, §102(a), amended subsec. (g) generally, substituting provision that marital status be determined under section 7703 for provisions relating to election to itemize. See subsec. (e).

Subsec. (h). Pub. L. 99-514, §102(a), substituted "Transitional rule for taxable years beginning in 1987" for "Marital status" in heading and amended text generally. Prior to amendment, text read as follows: "For purposes of this section, marital status shall be determined under section 143."

Subsec. (i). Pub. L. 99-514, §102(a), in amending section generally, struck out subsec. (i), "Direct charitable deduction", which read as follows: "For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(i)."

1981—Subsec. (b)(1)(C). Pub. L. 97-34, §121(b)(1), added subpar. (C).

Subsec. (d). Pub. L. 97-34, §104(b), substituted a blanket reference to individuals to whom subsection (a), (b), (c), or (d) of section 1 applies and the maximum amount of taxable income on which no tax is imposed by the applicable subsection of section 1 for provisions specifically referring to amounts of \$3,400 in the case of (A) a joint return under section 6013, or (B) a surviving spouse (as defined in section 2(a)), \$2,300 in the case of an individual who is not married and who is not a surviving spouse (as so defined), and \$1,700 in the case of a married individual filing a separate return.

Subsec. (e)(2). Pub. L. 97-34, §111(b)(4), substituted "section 911(d)(2)" for "section 911(b)" in provisions following subpar. (B).

Subsec. (f)(3). Pub. L. 97-34, §121(c)(2), added par. (3).

Subsec. (i). Pub. L. 97-34, §121(b)(2), added subsec. (i). 1978—Pub. L. 95-600 substituted "\$3,400" for "\$3,200" in par. (1), "\$2,300" for "\$2,200" in par. (2), and "\$1,700" for "\$1,600" in par. (3).

1977—Pub. L. 95-30 completely revised definition of taxable income from one using the concept of a standard deduction and consisting of subssecs. (a) and (b) entitled, respectively, "General rule" and "Individuals electing standard deduction" to definition using the concepts of zero bracket amounts and excess itemized deductions and consisting of subssecs. (a) to (h) entitled, respectively, "Corporations", "Individuals", "Excess itemized deductions", "Zero bracket amount", "Unused zero bracket amount", "Itemized deductions", "Election to itemize", and "Marital status".

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 applicable to purchases on or after Feb. 17, 2009, in taxable years ending after

such date, see section 1008(e) of Pub. L. 111-5, set out as a note under section 56 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title II, §204(b), Oct. 3, 2008, 122 Stat. 3865, provided that: "The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2008."

Amendment by section 706(b)(1), (2) of Pub. L. 110-343 applicable to disasters declared in taxable years beginning after Dec. 31, 2007, see section 706(d)(1) of Pub. L. 110-343, set out as a note under section 56 of this title.

Pub. L. 110-289, div. C, title I, §3012(c), July 30, 2008, 122 Stat. 2892, provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2007."

#### EFFECTIVE AND TERMINATION DATES OF 2004 AMENDMENT

Amendment by section 101(b) of Pub. L. 108-311 applicable to taxable years beginning after Dec. 31, 2003, see section 101(e) of Pub. L. 108-311, set out as a note under section 1 of this title.

Amendment by section 101(b) of Pub. L. 108-311 subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, §901, to the same extent and in the same manner as the provisions of such Act to which such amendments relate, see section 105 of Pub. L. 108-311, set out as a note under section 1 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Pub. L. 108-27, title I, §103(c), May 28, 2003, 117 Stat. 754, provided that: "The amendments made by this section [amending this section and provisions set out as an Effective and Termination Dates of 2001 Amendment note under section 1 of this title] shall apply to taxable years beginning after December 31, 2002."

Amendments by title I of Pub. L. 108-27 subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, §901, to the same extent and in the same manner as the provisions of such Act to which such amendments relate, see section 107 of Pub. L. 108-27, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, to which such amendment relates, see section 411(x) of Pub. L. 107-147, set out as a note under section 25B of this title.

#### EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2002, see section 301(d) of Pub. L. 107-16, as amended, set out as a note under section 1 of this title.

Amendment by Pub. L. 107-16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years beginning after Dec. 31, 1997, see section 1201(c) of Pub. L. 105-34, set out as a note under section 59 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to taxable years beginning after Dec. 31, 1992, see section 13201(c) of Pub. L. 103-66, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11101(d)(1)(D) of Pub. L. 101-508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub. L. 101-508, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1988 AMENDMENT

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

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 102(a) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 1272(d)(6) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as a note under section 931 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 104(b) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1984, see section 104(e) of Pub. L. 97-34, set out as a note under section 1 of this title.

Amendment by section 111(b)(4) of Pub. L. 97-34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97-34, set out as a note under section 911 of this title.

Amendment by section 121(b), (c)(2) of Pub. L. 97-34 applicable to contributions made after Dec. 31, 1981, in taxable years beginning after such date, see section 121(d) of Pub. L. 97-34, set out as a note under section 170 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective with respect to taxable years beginning after Dec. 31, 1978, see section 101(f)(1) of Pub. L. 95-600, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

## SAVINGS PROVISION

For provisions that nothing in amendment by section 11801 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.

**§ 64. Ordinary income defined**

For purposes of this subtitle, the term “ordinary income” includes any gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b). Any gain from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as “ordinary income,” shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b).

(Added Pub. L. 94-455, title XIX, §1901(a)(10), Oct. 4, 1976, 90 Stat. 1765.)

**§ 65. Ordinary loss defined**

For purposes of this subtitle, the term “ordinary loss” includes any loss from the sale or exchange of property which is not a capital asset. Any loss from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as “ordinary loss” shall be treated as loss from the sale or exchange of property which is not a capital asset.

(Added Pub. L. 94-455, title XIX, §1901(a)(11), Oct. 4, 1976, 90 Stat. 1765.)

**§ 66. Treatment of community income****(a) Treatment of community income where spouses live apart**

If—

(1) 2 individuals are married to each other at any time during a calendar year;

(2) such individuals—

(A) live apart at all times during the calendar year, and

(B) do not file a joint return under section 6013 with each other for a taxable year beginning or ending in the calendar year;

(3) one or both of such individuals have earned income for the calendar year which is community income; and

(4) no portion of such earned income is transferred (directly or indirectly) between such individuals before the close of the calendar year,

then, for purposes of this title, any community income of such individuals for the calendar year shall be treated in accordance with the rules provided by section 879(a).

**(b) Secretary may disregard community property laws where spouse not notified of community income**

The Secretary may disallow the benefits of any community property law to any taxpayer with respect to any income if such taxpayer acted as if solely entitled to such income and failed to notify the taxpayer's spouse before the due date (including extensions) for filing the return for the taxable year in which the income was derived of the nature and amount of such income.

**(c) Spouse relieved of liability in certain other cases**

Under regulations prescribed by the Secretary, if—

(1) an individual does not file a joint return for any taxable year,

(2) such individual does not include in gross income for such taxable year an item of community income properly includible therein which, in accordance with the rules contained in section 879(a), would be treated as the income of the other spouse,

(3) the individual establishes that he or she did not know of, and had no reason to know of, such item of community income, and

(4) taking into account all facts and circumstances, it is inequitable to include such item of community income in such individual's gross income,

then, for purposes of this title, such item of community income shall be included in the