PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1171–1177] or title XVIII [§§1800–1899A] of Pub. L. 99–514 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, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

REFUND OR CREDIT OF OVERPAYMENT; LIMITATIONS; INTEREST

Section 14 of Pub. L. 85–866 provided that if any refund or credit of any overpayment resulting from application of subsecs. (a) and (b) of Pub. L. 85–866, amending former subsecs. (f)(3), (4) and (g)(3), (4), was prevented on Sept. 2, 1958 or 6 months thereafter, by operation of any law or rule of law, refund was to be allowed if a claim was filed within six months of the date of such date but such refund was to be without interest.

INTEREST ATTRIBUTABLE TO NET OPERATING LOSS CARRYBACK FOR CERTAIN TAXABLE YEARS ENDING IN 1954

For payment of interest attributable to net operating loss carryback, see section 83(e) of Pub. L. 85–866, set out as a note under section 6601 of this title.

§173. Circulation expenditures

(a) General rule

Notwithstanding section 263, all expenditures (other than expenditures for the purchase of land or depreciable property or for the acquisition of circulation through the purchase of any part of the business of another publisher of a newspaper, magazine, or other periodical) to establish, maintain, or increase the circulation of a newspaper, magazine, or other periodical shall be allowed as a deduction; except that the deduction shall not be allowed with respect to the portion of such expenditures as, under regulations prescribed by the Secretary, is chargeable to capital account if the taxpayer elects, in accordance with such regulations, to treat such portion as so chargeable. Such election, if made, must be for the total amount of such portion of the expenditures which is so chargeable to capital account, and shall be binding for all subsequent taxable years unless, upon application by the taxpayer, the Secretary permits a revocation of such election subject to such conditions as he deems necessary.

(b) Cross reference

For election of 3-year amortization of expenditures allowable as a deduction under subsection (a), see section 59(e).

(Aug. 16, 1954, ch. 736, 68A Stat. 65; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title II, §201(d)(9)(A), formerly §201(c)(9)(A), Sept. 3, 1982, 96 Stat. 420, renumbered §201(d)(9)(A), Pub. L. 97–448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 98–369, div. A, title VII, §711(a)(3)(C), July 18, 1984, 98 Stat. 942; Pub. L. 99–514, title VII, §701(e)(4)(D), Oct. 22, 1986, 100 Stat. 2343; Pub. L. 100–647, title I, §1007(g)(5), Nov. 10, 1988, 102 Stat. 3435.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–647 substituted ''section 59(e)'' for ''section 59(d)''.

1986—Subsec. (b). Pub. L. 99–514 substituted ''section 59(d)'' for ''section 58(i)''.

1984—Subsec. (b). Pub. L. 98–369 substituted ''3-year'' for ''10-year''.

1982—Pub. L. 97–248, §201(d)(9)(A), designated existing provisions as subsec. (a), added subsec. (a) heading, and added subsec. (b).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' in two places.

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 Pub. L. 99–514 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 an Effective Date note under section 55 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

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

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97–248, set out as a note under section 5 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 Pub. L. 99–514 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.

§174. Research and experimental expenditures

(a) Treatment as expenses

(1) In general

A taxpayer may treat research or experimental expenditures which are paid or incurred by him during the taxable year in connection with his trade or business as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(2) When method may be adopted

(A) Without consent

A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year—

(i) which begins after December 31, 1953, and ends after August 16, 1954, and

(ii) for which expenditures described in paragraph (1) are paid or incurred.

(B) With consent

A taxpayer may, with the consent of the Secretary, adopt at any time the method provided in this subsection.

(3) Scope

The method adopted under this subsection shall apply to all expenditures described in

paragraph (1). The method adopted shall be adhered to in computing taxable income for the taxable year and for all subsequent taxable years unless, with the approval of the Secretary, a change to a different method is authorized with respect to part or all of such expenditures.

(b) Amortization of certain research and experimental expenditures

(1) In general

At the election of the taxpayer, made in accordance with regulations prescribed by the Secretary, research or experimental expenditures which are—

(A) paid or incurred by the taxpayer in connection with his trade or business,

(B) not treated as expenses under subsection (a), and

(C) chargeable to capital account but not chargeable to property of a character which is subject to the allowance under section 167 (relating to allowance for depreciation, etc.) or section 611 (relating to allowance for depletion),

may be treated as deferred expenses. In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the taxpayer first realizes benefits from such expenditures). Such deferred expenses are expenditures properly chargeable to capital account for purposes of section 1016(a)(1) (relating to adjustments to basis of property).

(2) Time for and scope of election

The election provided by paragraph (1) may be made for any taxable year beginning after December 31, 1953, but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The method so elected, and the period selected by the taxpayer, shall be adhered to in computing taxable income for the taxable year for which the election is made and for all subsequent taxable years unless, with the approval of the Secretary, a change to a different method (or to a different period) is authorized with respect to part or all of such expenditures. The election shall not apply to any expenditure paid or incurred during any taxable year before the taxable year for which the taxpayer makes the election.

(c) Land and other property

This section shall not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of property to be used in connection with the research or experimentation and of a character which is subject to the allowance under section 167 (relating to allowance for depreciation, etc.) or section 611 (relating to allowance for depletion); but for purposes of this section allowances under section 167, and allowances under section 611, shall be considered as expenditures.

(d) Exploration expenditures

This section shall not apply to any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(e) Only reasonable research expenditures eligible

This section shall apply to a research or experimental expenditure only to the extent that the amount thereof is reasonable under the circumstances.

(f) Cross references

(1) For adjustments to basis of property for amounts allowed as deductions as deferred expenses under subsection (b), see section 1016(a)(14).

(2) For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 59(e).

(Aug. 16, 1954, ch. 736, 68A Stat. 66; Pub. L. 94–455, title XIX, §§1901(a)(30), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1769, 1834; Pub. L. 97–248, title II, §201(d)(9)(B) formerly §201(c)(9)(B), Sept. 3, 1982, 96 Stat. 420, renumbered §201(d)(9)(B), Pub. L. 97–448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; amended Pub. L. 99–514, title VII, §701(e)(4)(D), Oct. 22, 1986, 100 Stat. 2343; Pub. L. 100–647, title I, §1007(g)(5), Nov. 10, 1988, 102 Stat. 3435; Pub. L. 101–239, title VII, §7110(d), Dec. 19, 1989, 103 Stat. 2325.)

AMENDMENTS

1989—Subsecs. (e), (f). Pub. L. 101–239 added subsec. (e) and redesignated former subsec. (e) as (f).

1988—Subsec. (e)(2). Pub. L. 100–647 substituted ''section 59(e)'' for ''section 59(d)''.

1986—Subsec. (e)(2). Pub. L. 99–514 substituted ''section 59(d)'' for ''section 58(i)''.

1982—Subsec. (e). Pub. L. 97–248, §201(d)(9)(B), substituted ''Cross references'' for ''Cross reference'' in heading, designated existing provisions as par. (1), and added par. (2).

1976—Subsec. (a)(2)(A). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (a)(2)(A)(i). Pub. L. 94–455, §1901(a)(30), substituted ''August 16, 1954'' for ''the date on which this title is enacted'' after ''ends after''.

Subsecs. (a)(3), (b)(1), (2). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to taxable years beginning after Dec. 31, 1989, see section 7110(e) of Pub. L. 101–239, set out as a note under section 41 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 Pub. L. 99–514 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 an Effective Date note under section 55 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1)

of Pub. L. 97–248, set out as a note under section 5 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 Pub. L. 99–514 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.

ALLOCATION OR APPORTIONMENT TO SOURCES WITHIN UNITED STATES OF RESEARCH AND EXPERIMENTAL EXPENDITURES PAID OR INCURRED FOR RESEARCH ACTIVITIES CONDUCTED IN UNITED STATES; 2-YEAR PROGRAM

Pub. L. 97–34, title II, §223(a), Aug. 13, 1981, 95 Stat. 249, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''In the case of the taxpayer's first 2 taxable years beginning within 2 years after the date of the enactment of this Act [Aug. 13, 1981], all research and experimental expenditures (within the meaning of section 174 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) which are paid or incurred in such year for research activities conducted in the United States shall be allocated or apportioned to sources within the United States.''

§175. Soil and water conservation expenditures; endangered species recovery expenditures

(a) In general

A taxpayer engaged in the business of farming may treat expenditures which are paid or incurred by him during the taxable year for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming, or for endangered species recovery, as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(b) Limitation

The amount deductible under subsection (a) for any taxable year shall not exceed 25 percent of the gross income derived from farming during the taxable year. If for any taxable year the total of the expenditures treated as expenses which are not chargeable to capital account exceeds 25 percent of the gross income derived from farming during the taxable year, such excess shall be deductible for succeeding taxable years in order of time; but the amount deductible under this section for any one such succeeding taxable year (including the expenditures actually paid or incurred during the taxable year) shall not exceed 25 percent of the gross income derived from farming during the taxable year.

(c) Definitions

For purposes of subsection (a)—

(1) The term ''expenditures which are paid or incurred by him during the taxable year for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming, or for endangered species recovery'' means expenditures paid or incurred for the treatment or moving of earth, including (but not limited to) leveling, grading and terracing, contour furrowing, the construction, control, and protection of diversion channels, drainage ditches, earthen dams, watercourses, outlets, and ponds, the eradication of brush, and the planting of windbreaks. Such term shall include expenditures paid or incurred for the purpose of achieving site-specific management actions recommended in recovery plans approved pursuant to the Endangered Species Act of 1973. Such term does not include—

(A) the purchase, construction, installation, or improvement of structures, appliances, or facilities which are of a character which is subject to the allowance for depreciation provided in section 167, or

(B) any amount paid or incurred which is allowable as a deduction without regard to this section.

Notwithstanding the preceding sentences, such term also includes any amount, not otherwise allowable as a deduction, paid or incurred to satisfy any part of an assessment levied by a soil or water conservation or drainage district to defray expenditures made by such district (i) which, if paid or incurred by the taxpayer, would without regard to this sentence constitute expenditures deductible under this section, or (ii) for property of a character subject to the allowance for depreciation provided in section 167 and used in the soil or water conservation or drainage district's business as such (to the extent that the taxpayer's share of the assessment levied on the members of the district for such property does not exceed 10 percent of such assessment).

(2) The term ''land used in farming'' means land used (before or simultaneously with the expenditures described in paragraph (1)) by the taxpayer or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock.

(3) ADDITIONAL LIMITATIONS.—

(A) EXPENDITURES MUST BE CONSISTENT WITH SOIL CONSERVATION PLAN OR ENDANGERED SPECIES RECOVERY PLAN.—Notwithstanding any other provision of this section, subsection (a) shall not apply to any expenditures unless such expenditures are consistent with—

(i) the plan (if any) approved by the Soil Conservation Service of the Department of Agriculture or the recovery plan approved pursuant to the Endangered Species Act of 1973 for the area in which the land is located, or

(ii) if there is no plan described in clause (i), any soil conservation plan of a comparable State agency.

(B) CERTAIN WETLAND, ETC., ACTIVITIES NOT QUALIFIED.—Subsection (a) shall not apply to any expenditures in connection with the draining or filling of wetlands or land preparation for center pivot irrigation systems.

(d) When method may be adopted

(1) Without consent

A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year—

(A) which begins after December 31, 1953, and ends after August 16, 1954, and