

Sections 101(14), 102, 104, and 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsecs. (c)(2) and (d), are classified to sections 9601(14), 9602, 9604, and 9605(a)(8)(B), respectively, of Title 42, The Public Health and Welfare.

AMENDMENTS

2008—Subsec. (h). Pub. L. 110-343 substituted “December 31, 2009” for “December 31, 2007”.

2006—Subsec. (d)(1)(C). Pub. L. 109-432, §109(b), added subpar. (C).

Subsec. (h). Pub. L. 109-432, §109(a), substituted “2007” for “2005”.

2004—Subsec. (h). Pub. L. 108-311 substituted “2005” for “2003”.

2000—Subsec. (c). Pub. L. 106-554, §1(a)(7) [title I, §162(a)], amended subsec. (c) generally. Prior to amendment, subsec. (c) defined the term “qualified contaminated site” to include certain property described in section 1221(a)(1) of this title, within a targeted area, and at which there had been a release or disposal of any hazardous substance, provided that an area could be treated as a qualified contaminated site only if the taxpayer received a certain statement from an appropriate State agency, provided for designation of appropriate State agencies, and defined targeted area.

Subsec. (h). Pub. L. 106-554, §1(a)(7) [title I, §162(b)], substituted “2003” for “2001”.

1999—Subsec. (c)(1)(A)(i). Pub. L. 106-170, §532(c)(2)(A), substituted “section 1221(a)(1)” for “section 1221(1)”.

Subsec. (h). Pub. L. 106-170, §511, substituted “2001” for “2000”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title III, §318(b), Oct. 3, 2008, 122 Stat. 3873, provided that: “The amendment made by this section [amending this section] shall apply to expenditures paid or incurred after December 31, 2007.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title I, §109(c), Dec. 20, 2006, 120 Stat. 2939, provided that: “The amendments made by this section [amending this section] shall apply to expenditures paid or incurred after December 31, 2005.”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-311, title III, §308(b), Oct. 4, 2004, 118 Stat. 1179, provided that: “The amendment made by subsection (a) [amending this section] shall apply to expenditures paid or incurred after December 31, 2003.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(7) [title I, §162(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-625, provided that: “The amendments made by this section [amending this section] shall apply to expenditures paid or incurred after the date of the enactment of this Act [Dec. 21, 2000].”

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 532(c)(2)(A) of Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

EFFECTIVE DATE

Section 941(c) of Pub. L. 105-34 provided that: “The amendments made by this section [enacting this section] shall apply to expenditures paid or incurred after the date of the enactment of this Act [Aug. 5, 1997], in taxable years ending after such date.”

§ 198A. Expensing of qualified disaster expenses

(a) In general

A taxpayer may elect to treat any qualified disaster expenses which are paid or incurred by

the taxpayer as an expense which is not chargeable to capital account. Any expense which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

(b) Qualified disaster expense

For purposes of this section, the term “qualified disaster expense” means any expenditure—

(1) which is paid or incurred in connection with a trade or business or with business-related property,

(2) which is—

(A) for the abatement or control of hazardous substances that were released on account of a federally declared disaster occurring before January 1, 2010,

(B) for the removal of debris from, or the demolition of structures on, real property which is business-related property damaged or destroyed as a result of a federally declared disaster occurring before such date, or

(C) for the repair of business-related property damaged as a result of a federally declared disaster occurring before such date, and

(3) which is otherwise chargeable to capital account.

(c) Other definitions

For purposes of this section—

(1) Business-related property

The term “business-related property” means property—

(A) held by the taxpayer for use in a trade or business or for the production of income, or

(B) described in section 1221(a)(1) in the hands of the taxpayer.

(2) Federally declared disaster

The term “federally declared disaster” has the meaning given such term by section 165(h)(3)(C)(i).

(d) Deduction recaptured as ordinary income on sale, etc.

Solely for purposes of section 1245, in the case of property to which a qualified disaster expense would have been capitalized but for this section—

(1) the deduction allowed by this section for such expense shall be treated as a deduction for depreciation, and

(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

(e) Coordination with other provisions

Sections 198, 280B, and 468 shall not apply to amounts which are treated as expenses under this section.

(f) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 110-343, div. C, title VII, §707(a), Oct. 3, 2008, 122 Stat. 3923.)

EFFECTIVE DATE

Pub. L. 110-343, div. C, title VII, §707(c), Oct. 3, 2008, 122 Stat. 3924, provided that: “The amendments made

by this section [enacting this section] shall apply to amounts paid or incurred after December 31, 2007[,] in connection with disaster[s] declared after such date.”

§ 199. Income attributable to domestic production activities

(a) Allowance of deduction

(1) In general

There shall be allowed as a deduction an amount equal to 9 percent of the lesser of—

- (A) the qualified production activities income of the taxpayer for the taxable year, or
- (B) taxable income (determined without regard to this section) for the taxable year.

(2) Phasein

In the case of any taxable year beginning after 2004 and before 2010, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

For taxable years beginning in:	The transition percentage is:
2005 or 2006	3
2007, 2008, or 2009	6.

(b) Deduction limited to wages paid

(1) In general

The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W-2 wages of the taxpayer for the taxable year.

(2) W-2 wages

For purposes of this section—

(A) In general

The term “W-2 wages” means, with respect to any person for any taxable year of such person, the sum of the amounts described in paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year.

(B) Limitation to wages attributable to domestic production

Such term shall not include any amount which is not properly allocable to domestic production gross receipts for purposes of subsection (c)(1).

(C) Return requirement

Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.

(D) Special rule for qualified film

In the case of a qualified film, such term shall include compensation for services performed in the United States by actors, production personnel, directors, and producers.

(3) Acquisitions and dispositions

The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

(c) Qualified production activities income

For purposes of this section—

(1) In general

The term “qualified production activities income” for any taxable year means an amount equal to the excess (if any) of—

- (A) the taxpayer’s domestic production gross receipts for such taxable year, over
- (B) the sum of—
 - (i) the cost of goods sold that are allocable to such receipts, and
 - (ii) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such receipts.

(2) Allocation method

The Secretary shall prescribe rules for the proper allocation of items described in paragraph (1) for purposes of determining qualified production activities income. Such rules shall provide for the proper allocation of items whether or not such items are directly allocable to domestic production gross receipts.

(3) Special rules for determining costs

(A) In general

For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

(B) Exports for further manufacture

In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

(4) Domestic production gross receipts

(A) In general

The term “domestic production gross receipts” means the gross receipts of the taxpayer which are derived from—

- (i) any lease, rental, license, sale, exchange, or other disposition of—
 - (I) qualifying production property which was manufactured, produced, grown, or extracted by the taxpayer in whole or in significant part within the United States,
 - (II) any qualified film produced by the taxpayer, or
 - (III) electricity, natural gas, or potable water produced by the taxpayer in the United States,

(ii) in the case of a taxpayer engaged in the active conduct of a construction trade or business, construction of real property