

“(iii) a ratable portion of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.”

Subsec. (c)(2). Pub. L. 109-135, § 403(a)(4), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.”

Subsec. (c)(4)(A)(ii), (iii). Pub. L. 109-135, § 403(a)(5), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

“(ii) construction performed in the United States, or  
“(iii) engineering or architectural services performed in the United States for construction projects in the United States.”

Subsec. (c)(4)(B)(iii). Pub. L. 109-135, § 403(a)(6), added cl. (iii).

Subsec. (c)(4)(C), (D). Pub. L. 109-135, § 403(a)(7), added subpars. (C) and (D).

Subsec. (d)(1). Pub. L. 109-135, § 403(a)(8), reenacted heading without change and amended text generally. Prior to amendment, text consisted of subpars. (A) and (B) relating to general application of section to pass-thru entities and application of wage limitation.

Subsec. (d)(3). Pub. L. 109-135, § 403(a)(9), amended heading and text of par. (3) generally. Prior to amendment, text related to deductions allowed to patrons of agricultural and horticultural cooperatives.

Subsec. (d)(4)(B)(i). Pub. L. 109-135, § 403(a)(10), substituted “more than 50 percent” for “50 percent” and “at least 80 percent” for “80 percent”.

Subsec. (d)(6). Pub. L. 109-135, § 403(a)(11)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, the deduction under subsection (a) shall be 9 percent of the lesser of—

“(A) qualified production activities income (determined without regard to part IV of subchapter A), or  
“(B) alternative minimum taxable income (determined without regard to this section) for the taxable year.

In the case of an individual, subparagraph (B) shall be applied by substituting ‘adjusted gross income’ for ‘alternative minimum taxable income’. For purposes of the preceding sentence, adjusted gross income shall be determined in the same manner as provided in paragraph (2).”

Subsec. (d)(7). Pub. L. 109-135, § 403(a)(12), added par. (7). Former par. (7) redesignated (8).

Subsec. (d)(8). Pub. L. 109-135, § 403(a)(12), (13), redesignated par. (7) as (8) and inserted before period at end “, including regulations which prevent more than 1 taxpayer from being allowed a deduction under this section with respect to any activity described in subsection (c)(4)(A)(i)”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title IV, § 401(c), Oct. 3, 2008, 122 Stat. 3851, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2008.”

Pub. L. 110-343, div. C, title III, § 312(b), Oct. 3, 2008, 122 Stat. 3869, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2007.”

Amendment by section 502(c) of Pub. L. 110-343 applicable to taxable years beginning after Dec. 31, 2007, see section 502(e)(2) of Pub. L. 110-343, set out as a note under section 181 of this title.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, § 401(b), Dec. 20, 2006, 120 Stat. 2953, provided that: “The amendments made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 2005.”

Pub. L. 109-222, title V, § 514(c), May 17, 2006, 120 Stat. 367, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [May 17, 2006].”

#### EFFECTIVE DATE OF 2005 AMENDMENT

Amendments by Pub. L. 109-135 effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which they relate, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

#### EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2004, subject to transition rule, see section 102(e) of Pub. L. 108-357, as amended, set out as an Effective Date of 2004 Amendments note under section 56 of this title.

### PART VII—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS

Sec. 211.	Allowance of deductions.
212.	Expenses for production of income.
213.	Medical, dental, etc., expenses.
[214.]	Repealed.]
215.	Alimony, etc., payments.
216.	Deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder.
217.	Moving expenses.
[218.]	Repealed.]
219.	Retirement savings.
220.	Archer MSAs.
221.	Interest on education loans.
222.	Qualified tuition and related expenses.
223.	Health savings accounts.
224.	Cross reference.

#### AMENDMENTS

2003—Pub. L. 108-173, title XII, § 1201(j), Dec. 8, 2003, 117 Stat. 2479, added items 223 and 224 and struck out former item 223 “Cross reference”.

2001—Pub. L. 107-16, title IV, § 431(c)(4), June 7, 2001, 115 Stat. 68, added items 222 and 223 and struck out former item 222 “Cross reference”.

2000—Pub. L. 106-554, § 1(a)(7) [title II, § 202(b)(9)], Dec. 21, 2000, 114 Stat. 2763, 2763A-629, substituted “Archer MSAs” for “Medical savings accounts” in item 220.

1997—Pub. L. 105-34, title II, § 202(d), Aug. 5, 1997, 111 Stat. 809, added items 221 and 222 and struck out former item 221 “Cross reference”.

1996—Pub. L. 104-191, title III, § 301(i), Aug. 21, 1996, 110 Stat. 2052, added items 220 and 221 and struck out former item 220 “Cross reference”.

1990—Pub. L. 101-508, title XI, § 11802(e)(3), Nov. 5, 1990, 104 Stat. 1388-530, added item 220 and struck out former items 220 “Jury duty pay remitted to employer” and 221 “Cross references”.

1988—Pub. L. 100-647, title VI, § 6007(c), Nov. 10, 1988, 102 Stat. 3687, added item 220 and redesignated former item 220 as 221.

1986—Pub. L. 99-514, title I, §§ 131(b)(3), 135(b)(2), title III, § 301(b)(5)(B), Oct. 22, 1986, 100 Stat. 2113, 2116, 2217, added item 220, struck out items 221 “Deduction for two-earner married couples” and 222 “Adoption expenses”, substituted “reference” for “references” in item 223, and struck out item 223 “Cross reference”.

1981—Pub. L. 97-34, title I, §§ 103(c)(3), 125(b), title III, § 311(h)(11), Aug. 13, 1981, 95 Stat. 188, 201, 282, repealed item 220 “Retirement savings for certain married individuals”, added items 221 and 222 and redesignated former item 221 as 223.

1978—Pub. L. 95-600, title I, § 113(a)(2)(A), Nov. 6, 1978, 92 Stat. 2778, struck out item 218 “Contributions to candidates for public office”.

1976—Pub. L. 94-455, title V, § 504(b)(2), Oct. 4, 1976, 90 Stat. 1565, struck out item 214 “Expenses for household

and dependent care services necessary for gainful employment”.

Pub. L. 94-455, title XV, §1501(c), Oct. 4, 1976, 90 Stat. 1737, added item 220 and redesignated former item 220 as 221.

1974—Pub. L. 93-406, title II, §2002(h)(1), Sept. 2, 1974, 88 Stat. 970, added item 219 and redesignated former item 219 as 220.

1971—Pub. L. 92-178, title II, §210(b), title VII, §702(c), Dec. 10, 1971, 85 Stat. 520, 562, substituted “Expenses for household and dependent care services necessary for gainful employment” for “expenses for care of certain dependents” in item 214, added item 218, and redesignated former item 218 as 219.

1964—Pub. L. 88-272, title II, §213(a)(2), Feb. 26, 1964, 78 Stat. 52, added item 217 and redesignated former item 217 as 218.

1962—Pub. L. 87-834, §28(b), Oct. 16, 1962, 76 Stat. 1068, substituted “Deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder” for “Amounts representing taxes and interest paid to cooperative housing corporation” in item 216.

### § 211. Allowance of deductions

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (section 261 and following, relating to items not deductible).

(Aug. 16, 1954, ch. 736, 68A Stat. 69; Pub. L. 95-30, title I, §102(b)(3), May 23, 1977, 91 Stat. 137.)

#### AMENDMENTS

1977—Pub. L. 95-30 substituted “section 63” for “section 63(a)”.

#### 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.

### § 212. Expenses for production of income

In the case of an individual, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year—

(1) for the production or collection of income;

(2) for the management, conservation, or maintenance of property held for the production of income; or

(3) in connection with the determination, collection, or refund of any tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 69.)

#### DENIAL OF DEDUCTION FOR AMOUNTS PAID OR INCURRED ON JUDGMENTS IN SUITS BROUGHT TO RECOVER PRICE INCREASES IN PURCHASE OF NEW PRINCIPAL RESIDENCE

No deductions to be allowed in computing taxable income for two-thirds of any amount paid or incurred on a judgment entered against any person in a suit brought under section 208(b) of Pub. L. 94-12, see section 208(c) of Pub. L. 94-12, set out as a note under section 44 of this title.

### § 213. Medical, dental, etc., expenses

#### (a) Allowance of deduction

There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for med-

ical care of the taxpayer, his spouse, or a dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof), to the extent that such expenses exceed 7.5 percent of adjusted gross income.

#### (b) Limitation with respect to medicine and drugs

An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

#### (c) Special rule for decedents

##### (1) Treatment of expenses paid after death

For purposes of subsection (a), expenses for the medical care of the taxpayer which are paid out of his estate during the 1-year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred.

##### (2) Limitation

Paragraph (1) shall not apply if the amount paid is allowable under section 2053 as a deduction in computing the taxable estate of the decedent, but this paragraph shall not apply if (within the time and in the manner and form prescribed by the Secretary) there is filed—

(A) a statement that such amount has not been allowed as a deduction under section 2053, and

(B) a waiver of the right to have such amount allowed at any time as a deduction under section 2053.

#### (d) Definitions

For purposes of this section—

(1) The term “medical care” means amounts paid—

(A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body,

(B) for transportation primarily for and essential to medical care referred to in subparagraph (A),

(C) for qualified long-term care services (as defined in section 7702B(c)), or

(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care referred to in subparagraphs (A) and (B) or for any qualified long-term care insurance contract (as defined in section 7702B(b)).

In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D).

(2) AMOUNTS PAID FOR CERTAIN LODGING AWAY FROM HOME TREATED AS PAID FOR MEDICAL CARE.—Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a