

its repeal (relating to exchanges in SEC obedience orders), or the respectively corresponding provisions of the Internal Revenue Code of 1939.

(Aug. 16, 1954, ch. 736, 68A Stat. 75; Pub. L. 94-455, title XIX, §1901(a)(35), Oct. 4, 1976, 90 Stat. 1770; Pub. L. 95-600, title III, §301(b)(4), Nov. 6, 1978, 92 Stat. 2820; Pub. L. 101-508, title XI, §11801(c)(8)(C), Nov. 5, 1990, 104 Stat. 1388-524; Pub. L. 104-188, title I, §1704(t)(49), Aug. 20, 1996, 110 Stat. 1890; Pub. L. 109-135, title IV, §402(a)(5), Dec. 21, 2005, 119 Stat. 2610.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsec. (b)(2)(D), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

AMENDMENTS

2005—Subsec. (b)(2)(D). Pub. L. 109-135 inserted “as in effect before its repeal” after “part VI of subchapter O”.

1996—Subsec. (b)(2)(D). Pub. L. 104-188 provided that section 11801(c)(8)(C) of Pub. L. 101-508 shall be applied as if “reorganizations” appeared instead of “reorganization” in the material proposed to be stricken. See 1990 Amendment note below.

1990—Subsec. (b)(2)(D). Pub. L. 101-508 which directed that “, a transaction to which section 371 (relating to insolvency reorganization) applies,” be struck out was executed by striking out “, a transaction to which section 371 (relating to insolvency reorganizations) applies,” after “(as defined in section 368(a))”. See 1996 Amendment note above.

1978—Subsec. (a)(2)(B). Pub. L. 95-600 substituted “the highest rate of tax specified in section 11(b)” for “the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11”.

1976—Subsec. (b)(2). Pub. L. 94-455 divided existing provisions into subpars. (A), (B), (C), and (D), added headings for subpars. (A), (B), (C), and (D), and, in subpar. (C) as so redesignated, substituted “prescribed by the Secretary” for “prescribed by the Secretary or his delegate”.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109-58, to which it relates, but not applicable with respect to any transaction ordered in compliance with the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) before its repeal, see section 402(m) of Pub. L. 109-135, set out as an Effective and Termination Dates of 2005 Amendments note under section 23 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by 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.

§ 248. Organizational expenditures

(a) Election to deduct

If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

(A) the amount of organizational expenditures with respect to the taxpayer, or

(B) \$5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed \$50,000, and

(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.

(b) Organizational expenditures defined

The term “organizational expenditures” means any expenditure which—

(1) is incident to the creation of the corporation;

(2) is chargeable to capital account; and

(3) is of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life.

(c) Time for and scope of election

The election provided by subsection (a) 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 period so elected shall be adhered to in computing the taxable income of the corporation for the taxable year for which the election is made and all subsequent taxable years. The election shall apply only with respect to expenditures paid or incurred on or after August 16, 1954.

(Aug. 16, 1954, ch. 736, 68A Stat. 76; Pub. L. 94-455, title XIX, §§1901(a)(36), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1770, 1834; Pub. L. 108-357, title VIII, §902(b), Oct. 22, 2004, 118 Stat. 1651.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The organizational expenditures of a corporation may, at the election of the corporation (made in accordance with regulations prescribed by the Secretary, 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 corporation (beginning with the month in which the corporation begins business).”

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

Subsec. (c). Pub. L. 94-455, §1901(a)(36), substituted “August 16, 1954” for “the date of enactment of this title”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to amounts paid or incurred after Oct. 22, 2004, see section 902(d) of Pub. L. 108-357, set out as a note under section 195 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(36) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1906(b)(13)(A) of Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

§ 249. Limitation on deduction of bond premium on repurchase

(a) General rule

No deduction shall be allowed to the issuing corporation for any premium paid or incurred upon the repurchase of a bond, debenture, note, or certificate or other evidence of indebtedness which is convertible into the stock of the issuing corporation, or a corporation in control of, or controlled by, the issuing corporation, to the extent the repurchase price exceeds an amount equal to the adjusted issue price plus a normal call premium on bonds or other evidences of indebtedness which are not convertible. The preceding sentence shall not apply to the extent that the corporation can demonstrate to the satisfaction of the Secretary that such excess is attributable to the cost of borrowing and is not attributable to the conversion feature.

(b) Special rules

For purposes of subsection (a)—

(1) Adjusted issue price

The adjusted issue price is the issue price (as defined in sections 1273(b) and 1274) increased by any amount of discount deducted before repurchase, or, in the case of bonds or other evidences of indebtedness issued after February 28, 1913, decreased by any amount of premium included in gross income before repurchase by the issuing corporation.

(2) Control

The term “control” has the meaning assigned to such term by section 368(c).

(Added Pub. L. 91-172, title IV, §414(a), Dec. 30, 1969, 83 Stat. 612; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, §42(a)(5), July 18, 1984, 98 Stat. 557.)

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-369 substituted “sections 1273(b) and 1274” for “section 1232(b)”.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE

Section 414(c) of Pub. L. 91-172, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting this section] shall apply to a convertible bond or other convertible evidence of indebtedness repurchased after April 22, 1969, other than such a bond or other evidence of indebtedness repurchased pursuant to a binding obligation incurred on or before April 22, 1969, to repurchase such bond or other evidence of indebtedness at a specified call premium, but no inference shall be drawn from the fact that section 249 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a) of this section) does not apply to the repurchase of such convertible bond or other convertible evidence of indebtedness.”

[§ 250. Repealed. Pub. L. 101-508, title XI, § 11801(a)(15), Nov. 5, 1990, 104 Stat. 1388-520]

Section, added Pub. L. 91-518, title IX, §901(a), Oct. 30, 1970, 84 Stat. 1341; amended Pub. L. 93-496, §12, Oct. 28, 1974, 88 Stat. 1531; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-473, §2(a)(2)(C), Oct. 17, 1978, 92 Stat. 1464; Pub. L. 96-454, §3(b)(1), Oct. 15, 1980, 94 Stat. 2012; Pub. L. 97-261, §6(d)(3), Sept. 20, 1982, 96 Stat. 1107; Pub. L. 99-521, §4(3), Oct. 22, 1986, 100 Stat. 2993, related to certain payments to National Railroad Passenger Corporation.

SAVINGS PROVISION

For provisions that nothing in repeal by 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.

PART IX—ITEMS NOT DEDUCTIBLE

Sec.	
261.	General rule for disallowance of deductions.
262.	Personal, living, and family expenses.
263.	Capital expenditures.
263A.	Capitalization and inclusion in inventory costs of certain expenses.
264.	Certain amounts paid in connection with insurance contracts.
265.	Expenses and interest relating to tax-exempt income.
266.	Carrying charges.
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268.	Sale of land with unharvested crop.
269.	Acquisitions made to evade or avoid income tax.
269A.	Personal service corporations formed or availed of to avoid or evade income tax.
269B.	Stapled entities.
[270.	Repealed.]
271.	Debts owed by political parties, etc.
272.	Disposal of coal or domestic iron ore.
273.	Holder of life or terminable interest.
274.	Disallowance of certain entertainment, etc., expenses.
275.	Certain taxes.
276.	Certain indirect contributions to political parties.
277.	Deductions incurred by certain membership organizations in transactions with members.
[278.	Repealed.]
279.	Interest on indebtedness incurred by corporation to acquire stock or assets of another corporation.
[280.	Repealed.]