

allowed whether or not such amount resulted in a reduction of the tax under section 531 or the tax under section 541 for the prior taxable year; and

(2) where any excluded amount under subsection (a) was not allowable as a deduction for the prior taxable year for purposes of this subtitle other than of section 531 or section 541 but was allowable for the same taxable year under section 531 or section 541, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531 or the tax under section 541.

(Aug. 16, 1954, ch. 736, 68A Stat. 33; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-589, § 2(c), Dec. 24, 1980, 94 Stat. 3396; Pub. L. 98-369, div. A, title I, § 171(a), July 18, 1984, 98 Stat. 698; Pub. L. 99-514, title XVIII, § 1812(a)(1), (2), Oct. 22, 1986, 100 Stat. 2833.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-514, § 1812(a)(1), substituted “did not reduce the amount of tax imposed by this chapter” for “did not reduce income subject to tax”.

Subsec. (c). Pub. L. 99-514, § 1812(a)(2), substituted “reducing tax imposed by this chapter” for “reducing income subject to tax or reducing tax imposed by this chapter, as the case may be”.

1984—Pub. L. 98-369 amended section generally, substituting provisions relating to recovery of tax benefit items for provisions relating to recovery of bad debts, prior taxes, and delinquency amounts.

1980—Subsec. (d). Pub. L. 96-589 added subsec. (d).

1976—Subsec. (b)(4). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 171(c) of Pub. L. 98-369 provided that: “The amendments made by this section [amending this section] shall apply to amounts recovered after December 31, 1983, in taxable years ending after such date.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 applicable to transactions which occur after Dec. 31, 1980, other than transactions which occur in a proceeding in a bankruptcy case or similar judicial proceeding or in a proceeding under Title 11 commencing on or after Dec. 31, 1980, with an exception permitting the debtor to make the amendment applicable to transactions occurring after Sept. 30, 1979, in a specified manner, see section 7(a)(1), (f) of Pub. L. 96-589, set out as a note under section 108 of this title.

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.

§ 112. Certain combat zone compensation of members of the Armed Forces

(a) Enlisted personnel

Gross income does not include compensation received for active service as a member below the grade of commissioned officer in the Armed Forces of the United States for any month during any part of which such member—

(1) served in a combat zone, or

(2) was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone; but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone.

With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month after January 1978.

(b) Commissioned officers

Gross income does not include so much of the compensation as does not exceed the maximum enlisted amount received for active service as a commissioned officer in the Armed Forces of the United States for any month during any part of which such officer—

(1) served in a combat zone, or

(2) was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone; but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone.

With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month after January 1978.

(c) Definitions

For purposes of this section—

(1) The term “commissioned officer” does not include a commissioned warrant officer.

(2) The term “combat zone” means any area which the President of the United States by Executive Order designates, for purposes of this section or corresponding provisions of prior income tax laws, as an area in which Armed Forces of the United States are or have (after June 24, 1950) engaged in combat.

(3) Service is performed in a combat zone only if performed on or after the date designated by the President by Executive Order as the date of the commencing of combatant activities in such zone, and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in such zone; except that June 25, 1950, shall be considered the date of the commencing of combatant activities in the combat zone designated in Executive Order 10195.

(4) The term “compensation” does not include pensions and retirement pay.

(5) The term “maximum enlisted amount” means, for any month, the sum of—

(A) the highest rate of basic pay payable for such month to any enlisted member of the Armed Forces of the United States at the highest pay grade applicable to enlisted members, and

(B) in the case of an officer entitled to special pay under section 310 of title 37, United States Code, for such month, the amount of such special pay payable to such officer for such month.

(d) Prisoners of war, etc.

(1) Members of the Armed Forces

Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status (as defined in section 551(2) of title 37, United States Code) during the Vietnam conflict as a result of such conflict, other than a period with respect to which it is officially determined under section 552(c) of such title 37 that he is officially absent from his post of duty without authority.

(2) Civilian employees

Gross income does not include compensation received for active service as an employee for any month during any part of which such employee is in a missing status during the Vietnam conflict as a result of such conflict. For purposes of this paragraph, the terms "active service", "employee", and "missing status" have the respective meanings given to such terms by section 5561 of title 5 of the United States Code.

(3) Period of conflict

For purposes of this subsection, the Vietnam conflict began February 28, 1961, and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam. For purposes of this subsection, an individual is in a missing status as a result of the Vietnam conflict if immediately before such status began he was performing service in Vietnam or was performing service in Southeast Asia in direct support of military operations in Vietnam.

(Aug. 16, 1954, ch. 736, 68A Stat. 34; Pub. L. 89-739, §1, Nov. 2, 1966, 80 Stat. 1165; Pub. L. 92-279, §1, Apr. 26, 1972, 86 Stat. 124; Pub. L. 93-597, §2(a), (b), Jan. 2, 1975, 88 Stat. 1950; Pub. L. 94-569, §3(b), Oct. 20, 1976, 90 Stat. 2699; Pub. L. 104-117, §1(d), Mar. 20, 1996, 110 Stat. 828; Pub. L. 104-188, title I, §1704(t)(4)(A), Aug. 20, 1996, 110 Stat. 1887.)

AMENDMENTS

1996—Pub. L. 104-188 substituted "combat zone compensation" for "combat pay" in section catchline.

Subsec. (b). Pub. L. 104-117, §1(d)(1), substituted "the maximum enlisted amount" for "\$500" in introductory provisions.

Subsec. (c)(5). Pub. L. 104-117, §1(d)(2), added par. (5).
1976—Subsec. (a). Pub. L. 94-569 substituted "after January 1978" for "beginning more than 2 years after the date of the enactment of this sentence" after "With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month".

Subsec. (b). Pub. L. 94-569 substituted "after January 1978" for "beginning more than 2 years after the date of enactment of this sentence" after "With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month".

1975—Subsec. (a). Pub. L. 93-597, §2(a)(3), inserted provision relating to the applicability of par. (2) with re-

spect to service in the combat zone designated for purposes of the Vietnam conflict.

Subsec. (a)(1). Pub. L. 93-597, §2(a)(1), struck out "during an induction period" after "served in a combat zone".

Subsec. (a)(2). Pub. L. 93-597, §2(a)(2), substituted "; but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone" for "during an induction period; but this paragraph shall not apply for any month during any part of which there are no combatant activities in any combat zone as determined under subsection (c)(3) of this section".

Subsec. (b). Pub. L. 93-597, §2(a)(3), inserted provision relating to applicability of par. (2) with respect to service in the combat zone designated for purposes of the Vietnam conflict.

Subsec. (b)(1). Pub. L. 93-597, §2(a)(1), struck out "during an induction period" after "served in a combat zone".

Subsec. (b)(2). Pub. L. 93-597, §2(a)(2), substituted "; but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone" for "during an induction period; but this paragraph shall not apply for any month during any part of which there are no combatant activities in any combat zone as determined under subsection (c)(3) of this section".

Subsec. (c)(5). Pub. L. 93-597, §2(b), struck out par. (5) which defined "induction period".

1972—Subsec. (d). Pub. L. 92-279 added subsec. (d).

1966—Subsec. (b). Pub. L. 89-739 substituted "\$500" for "\$200".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 2(c) of Pub. L. 93-597 provided that: "The amendments made by this section [amending this section] shall take effect on July 1, 1973."

EFFECTIVE DATE OF 1972 AMENDMENT

Section 3(a)(1) of Pub. L. 92-279 provided that: "The amendment made by the first section of this Act [amending this section] shall apply to taxable years ending on or after February 28, 1961."

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89-739 provided that: "The amendment made by the first section of this Act [amending this section] shall apply with respect to compensation received in taxable years ending after December 31, 1965, for periods of active service after such date."

SENSE OF CONGRESS REGARDING TAX TREATMENT OF MEMBERS RECEIVING SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE OR IMMINENT DANGER

Pub. L. 106-398, §1 [[div. A], title X, §1089], Oct. 30, 2000, 114 Stat. 1654, 1654A-294, provided that: "It is the sense of Congress that members of the Armed Forces who receive special pay under section 310 of title 37, United States Code, for duty subject to hostile fire or imminent danger should receive the same treatment under Federal income tax laws as members serving in combat zones."

SENSE OF CONGRESS REGARDING TREATMENT UNDER INTERNAL REVENUE CODE OF MEMBERS RECEIVING HOSTILE FIRE OR IMMINENT DANGER SPECIAL PAY DURING CONTINGENCY OPERATIONS

Pub. L. 106-65, div. A, title VI, §677, Oct. 5, 1999, 113 Stat. 676, provided that: "It is the sense of Congress that a member of the Armed Forces who is receiving special pay under section 310 of title 37, United States Code, while assigned to duty in support of a contingency operation should be treated under the Internal Revenue Code of 1986 in the same manner as a member of the Armed Forces serving in a combat zone (as defined in section 112 of the Internal Revenue Code of 1986)."

AVAILABILITY OF CERTAIN TAX BENEFITS FOR SERVICES AS PART OF OPERATION ALLIED FORCE

Pub. L. 106-21, § 1, Apr. 19, 1999, 113 Stat. 34, provided that:

“(a) GENERAL RULE.—For purposes of the following provisions of the Internal Revenue Code of 1986, a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone (as determined under section 112 of such Code):

“(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

“(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

“(3) Section 692 (relating to income taxes of members of Armed Forces on death).

“(4) Section 2201 (relating to members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.).

“(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

“(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

“(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

“(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

“(b) QUALIFIED HAZARDOUS DUTY AREA.—For purposes of this section, the term ‘qualified hazardous duty area’ means any area of the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the northern Ionian Sea (above the 39th parallel) during the period (which includes the date of the enactment of this Act [Apr. 19, 1999]) that any member of the Armed Forces of the United States is entitled to special pay under section 310 of title 37, United States Code (relating to special pay: duty subject to hostile fire or imminent danger) for services performed in such area.

“(c) SPECIAL RULE FOR SECTION 7508.—Solely for purposes of applying section 7508 of the Internal Revenue Code of 1986, in the case of an individual who is performing services as part of Operation Allied Force outside the United States while deployed away from such individual’s permanent duty station, the term ‘qualified hazardous duty area’ includes, during the period for which the entitlement referred to in subsection (b) is in effect, any area in which such services are performed.

“(d) EFFECTIVE DATES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on March 24, 1999.

“(2) WITHHOLDING.—Subsection (a)(5) shall apply to remuneration paid after the date of the enactment of this Act [Apr. 19, 1999].”

TREATMENT OF CERTAIN INDIVIDUALS PERFORMING SERVICES IN CERTAIN HAZARDOUS DUTY AREAS; EFFECTIVE DATE

Section 1 of Pub. L. 104-117 provided that:

“(a) GENERAL RULE.—For purposes of the following provisions of the Internal Revenue Code of 1986, a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone (as determined under section 112 of such Code):

“(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

“(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

“(3) Section 692 (relating to income taxes of members of Armed Forces on death).

“(4) Section 2201 (relating to members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.).

“(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

“(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

“(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

“(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

“(b) QUALIFIED HAZARDOUS DUTY AREA.—For purposes of this section, the term ‘qualified hazardous duty area’ means Bosnia and Herzegovina, Croatia, or Macedonia, if as of the date of the enactment of this section [Mar. 20, 1996] any member of the Armed Forces of the United States is entitled to special pay under section 310 of title 37, United States Code (relating to special pay; duty subject to hostile fire or imminent danger) for services performed in such country. Such term includes any such country only during the period such entitlement is in effect. Solely for purposes of applying section 7508 of the Internal Revenue Code of 1986, in the case of an individual who is performing services as part of Operation Joint Endeavor outside the United States while deployed away from such individual’s permanent duty station, the term ‘qualified hazardous duty area’ includes, during the period for which such entitlement is in effect, any area in which such services are performed.

“(c) EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.—[Amended section 3401 of this title.]

“(d) INCREASE IN COMBAT PAY EXCLUSION FOR OFFICERS TO HIGHEST AMOUNT APPLICABLE TO ENLISTED PERSONNEL.—

“(1) IN GENERAL.—[Amended this section.]

“(2) MAXIMUM ENLISTED AMOUNT.—[Amended this section.]

“(e) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of and amendments made by this section shall take effect on November 21, 1995.

“(2) WITHHOLDING.—Subsection (a)(5) and the amendment made by subsection (c) shall apply to remuneration paid after the date of the enactment of this Act [Mar. 20, 1996].”

REFUND OR CREDIT OF OVERPAYMENT; APPLICABLE PERIOD

Section 3(a)(2), (3) of Pub. L. 92-279, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(2) If refund or credit of any overpayment for any taxable year resulting from the application of the amendment made by the first section of this Act [amending this section] (including interest, additions to the tax, and additional amounts) is prevented at any time before the expiration of the applicable period specified in paragraph (3) by the operation of any law or rule of law, such refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such applicable period.

“(3) For purposes of paragraph (2), the applicable period for any individual with respect to any compensation is the period ending on whichever of the following days is the later:

“(A) the day which is one year after the date of the enactment of this Act [Apr. 26, 1972], or

“(B) the day which is 2 years after the date on which it is determined that the individual’s missing status (within the meaning of section 112(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) has terminated for purposes of such section 112.”

EX. ORD. NO. 10585. TERMINATION OF COMBATANT ACTIVITIES IN KOREA

Ex. Ord. No. 10585, Jan. 1, 1955, 20 F.R. 17, provided: By virtue of the authority vested in me by section 112(c)(3) of the Internal Revenue Code of 1954 [now I.R.C. 1986], January 31, 1955, as of midnight thereof, is hereby designated as the date of termination of combatant activities in the zone comprised of the area described in Executive Order No. 10195 of December 20, 1950 (15 F.R. 9177).

DWIGHT D. EISENHOWER.

EX. ORD. NO. 11216. DESIGNATION OF VIETNAM AND ADJACENT WATERS AS COMBAT ZONE

Ex. Ord. No. 11216, Apr. 24, 1965, 30 F.R. 5817, provided: Pursuant to the authority vested in me by section 112 of the Internal Revenue Code of 1954 [now I.R.C. 1986], I hereby designate, for the purposes of that section, as an area in which Armed Forces of the United States are and have been engaged in combat:

Vietnam, including the waters adjacent thereto within the following-described limits: From a point on the East Coast of Vietnam at the juncture of Vietnam with China southeastward to 21° N Lat., 108°15' E Long.; thence southward to 18° N Lat., 108°15' E Long.; thence southeastward to 17°30' N Lat., 111° E Long.; thence southward to 11° N Lat., 111° E Long.; thence southwestward to 7° N Lat., 105° E Long.; thence westward to 7° N Lat., 103° E Long.; thence northward to 9°30' N Lat., 103° E Long.; thence northeastward to 10°15' N Lat., 104°27' E Long.; thence northward to a point on the West Coast of Vietnam at the juncture of Vietnam with Cambodia.

The date of the commencing of combatant activities in such area is hereby designated as January 1, 1964.

LYNDON B. JOHNSON.

EX. ORD. NO. 12744. DESIGNATION OF ARABIAN PENINSULA AREAS, AIRSPACE, AND ADJACENT WATERS AS COMBAT ZONE

Ex. Ord. No. 12744, Jan. 21, 1991, 56 F.R. 2663, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 112 of the Internal Revenue Code of 1986 (26 U.S.C. 112), I hereby designate, for purposes of that section, the following locations, including the airspace above such locations, as an area in which Armed Forces of the United States are and have been engaged in combat:

- the Persian Gulf
- the Red Sea
- the Gulf of Oman
- that portion of the Arabian Sea that lies north of 10 degrees north latitude and west of 68 degrees east longitude
- the Gulf of Aden
- the total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

For the purposes of this order, the date of the commencing of combatant activities in such zone is hereby designated as January 17, 1991.

GEORGE BUSH.

EX. ORD. NO. 13002. TERMINATION OF COMBAT ZONE DESIGNATION IN VIETNAM AND WATERS ADJACENT THERETO

Ex. Ord. No. 13002, May 13, 1996, 61 F.R. 24665, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 112(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 112(c)(3)), June 30, 1996, as of midnight thereof, is hereby designated as the date of termination of combatant activities in the zone comprised of the area described in Executive Order No. 11216 of April 24, 1965 [set out above].

WILLIAM J. CLINTON.

EX. ORD. NO. 13119. DESIGNATION OF FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA/MONTENEGRO), ALBANIA, THE AIRSPACE ABOVE, AND ADJACENT WATERS AS A COMBAT ZONE

Ex. Ord. No. 13119, April 13, 1999, 64 F.R. 18797, provided:

Pursuant to the authority vested in me as President by the Constitution and laws of the United States of America, including section 112 of the Internal Revenue Code of 1986 (26 U.S.C. 112), I designate, for the purposes of that section, the following locations, including the airspace above such locations, as an area in which Armed Forces of the United States are and have been engaged in combat:

—The Federal Republic of Yugoslavia (Serbia/Montenegro);

- Albania;
- the Adriatic Sea;
- the Ionian Sea north of the 39th parallel.

For the purposes of this order, I designate March 24, 1999, as the date of the commencement of combatant activities in such zone.

WILLIAM J. CLINTON.

EX. ORD. NO. 13239. DESIGNATION OF AFGHANISTAN AND THE AIRSPACE ABOVE AS A COMBAT ZONE

Ex. Ord. No. 13239, Dec. 12, 2001, 66 F.R. 64907, provided:

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States of America, including section 112 of the Internal Revenue Code of 1986 (26 U.S.C. 112), I designate, for purposes of that section, Afghanistan, including the airspace above, as an area in which Armed Forces of the United States are and have been engaged in combat.

For purposes of this order, I designate September 19, 2001, as the date of the commencement of combatant activities in such zone.

GEORGE W. BUSH.

[§ 113. Repealed. Pub. L. 101-508, title XI, § 11801(a)(7), Nov. 5, 1990, 104 Stat. 1388-520]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 35, related to mustering-out payments for members of Armed Forces.

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.

[§ 114. Repealed. Pub. L. 108-357, title I, § 101(a), Oct. 22, 2004, 118 Stat. 1423]

Section, added Pub. L. 106-519, §3(a), Nov. 15, 2000, 114 Stat. 2423, related to exclusion of extraterritorial income from gross income.

A prior section 114, act Aug. 16, 1954, ch. 736, 68A Stat. 35, related to sports programs conducted for American National Red Cross, prior to repeal by Pub. L. 101-508, title XI, §11801(a)(8), Nov. 5, 1990, 104 Stat. 1388-520.

EFFECTIVE DATE OF REPEAL

Repeal applicable to transactions after Dec. 31, 2004, see section 101(c) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendments note under section 56 of this title.

TRANSITION PROVISIONS

Pub. L. 108-357, title I, §101(d)-(f), Oct. 22, 2004, 118 Stat. 1423, 1424, as amended by Pub. L. 109-222, title V, §513(b), May 17, 2006, 120 Stat. 366, provided that:

“(d) TRANSITIONAL RULE FOR 2005 AND 2006.—

“(1) IN GENERAL.—In the case of transactions during 2005 or 2006, the amount includible in gross income by reason of the amendments made by this section [amending sections 56, 275, 864, 903, and 999 of this title and repealing this section and sections 941 to 943 of this title] shall not exceed the applicable percentage of the amount which would have been so included but for this subsection.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be as follows:

“(A) For 2005, the applicable percentage shall be 20 percent.

“(B) For 2006, the applicable percentage shall be 40 percent.