

his death) during the 9 succeeding taxable years, any amount of the excess described in paragraph (1) which has not been treated as paid or incurred for a taxable year ending on or before the sale or other disposition shall be added to the adjusted basis of such land immediately prior to its sale or other disposition and shall not thereafter be treated as paid or incurred ratably under paragraph (1).

**(3) Disposition by reason of death**

If paragraph (1) applies to an assessment and the taxpayer dies during the 9 succeeding taxable years, any amount of the excess described in paragraph (1) which has not been treated as paid or incurred for a taxable year ending before his death shall be treated as paid or incurred in the taxable year in which he dies.

(Aug. 16, 1954, ch. 736, 68A Stat. 67; Pub. L. 90-630, § 5(a), (b), Oct. 22, 1968, 82 Stat. 1329; Pub. L. 94-455, title XIX, §§ 1901(a)(30), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1769, 1834; Pub. L. 99-514, title IV, § 401(a), Oct. 22, 1986, 100 Stat. 2221; Pub. L. 110-234, title XV, § 15303(a)(1)-(2)(B), (b), May 22, 2008, 122 Stat. 1501, 1502; Pub. L. 110-246, § 4(a), title XV, § 15303(a)(1)-(2)(B), (b), June 18, 2008, 122 Stat. 1664, 2263, 2264.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (c)(1), (3)(A)(i), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Pub. L. 110-246, § 15303(a)(2)(B), inserted “; endangered species recovery expenditures” after “conservation expenditures” in section catchline.

Subsec. (a). Pub. L. 110-246, § 15303(a)(2)(A), inserted “, or for endangered species recovery” after “erosion of land used in farming”.

Subsec. (c)(1). Pub. L. 110-246, § 15303(a)(1), (2)(A), in introductory provisions, inserted “, or for endangered species recovery” after “erosion of land used in farming” and “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.” after first sentence.

Subsec. (c)(3)(A). Pub. L. 110-246, § 15303(b)(1), inserted “or endangered species recovery plan” after “conservation plan” in heading.

Subsec. (c)(3)(A)(i). Pub. L. 110-246, § 15303(b)(2), inserted “or the recovery plan approved pursuant to the Endangered Species Act of 1973” after “Department of Agriculture”.

1986—Subsec. (c)(3). Pub. L. 99-514 added par. (3).

1976—Subsec. (d)(1). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(1)(A). Pub. L. 94-455, § 1901(a)(30), substituted “August 16, 1954” for “the date on which this title is enacted” after “and ends after”.

Subsecs. (d)(2), (e). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

1968—Subsec. (c)(1). Pub. L. 90-630, § 5(a), in text following subpar. (B), designated as cl. (i) existing provisions covering amounts which, if paid or incurred by the taxpayer, would without regard to the exception constitute deductible expenditures, and added cl. (ii).

Subsec. (f). Pub. L. 90-630, § 5(b), added subsec. (f).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title XV, § 15303(c), May 22, 2008, 122 Stat. 1502, and Pub. L. 110-246, § 4(a), title XV, § 15303(c), June 18, 2008, 122 Stat. 1664, 2264, provided that: “The amendments made by this section [amending this section] shall apply to expenditures paid or incurred after December 31, 2008.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE DATE OF 1986 AMENDMENT

Section 401(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this section] shall apply to amounts paid or incurred after December 31, 1986, in taxable years ending after such date.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(30) of Pub. L. 94-455 applicable with respect to 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.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 5(c) of Pub. L. 90-630 provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply to assessments levied after the date of the enactment of this Act [Oct. 22, 1968] in taxable years ending after such date.”

**§ 176. Payments with respect to employees of certain foreign corporations**

In the case of a domestic corporation, there shall be allowed as a deduction amounts (to the extent not compensated for) paid or incurred pursuant to an agreement entered into under section 3121(l) with respect to services performed by United States citizens employed by foreign subsidiary corporations. Any reimbursement of any amount previously allowed as a deduction under this section shall be included in gross income for the taxable year in which received.

(Added Sept. 1, 1954, ch. 1206, title II, § 210(a), 68 Stat. 1096.)

**[§ 177. Repealed. Pub. L. 99-514, title II, § 241(a), Oct. 22, 1986, 100 Stat. 2181]**

Section, added June 29, 1956, ch. 464, § 4(a), 70 Stat. 406; amended Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834, related to deductions for trademark and trade name expenditures.

EFFECTIVE DATE OF REPEAL

Section 241(c) of Pub. L. 99-514 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending sections 312 and 1016 of this title and repealing this section] shall apply to expenditures paid or incurred after December 31, 1986.

“(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to any expenditure incurred—

“(A) pursuant to a binding contract entered into before March 2, 1986, or

“(B) with respect to the development, protection, expansion, registration, or defense of a trademark or

trade name commenced before March 2, 1986, but only if not less than the lesser of \$1,000,000 or 5 percent of the aggregate cost of such development, protection, expansion, registration, or defense has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to a trademark or trade name placed in service after December 31, 1987.”

### § 178. Amortization of cost of acquiring a lease

#### (a) General rule

In determining the amount of the deduction allowable to a lessee for exhaustion, wear and tear, obsolescence, or amortization in respect of any cost of acquiring the lease, the term of the lease shall be treated as including all renewal options (and any other period for which the parties reasonably expect the lease to be renewed) if less than 75 percent of such cost is attributable to the period of the term of the lease remaining on the date of its acquisition.

#### (b) Certain periods excluded

For purposes of subsection (a), in determining the period of the term of the lease remaining on the date of acquisition, there shall not be taken into account any period for which the lease may subsequently be renewed, extended, or continued pursuant to an option exercisable by the lessee.

(Added Pub. L. 85-866, title I, § 15(a), Sept. 2, 1958, 72 Stat. 1612; amended Pub. L. 99-514, title II, § 201(d)(2)(A), title XVIII, § 1812(c)(4)(B), Oct. 22, 1986, 100 Stat. 2139, 2835; Pub. L. 100-647, title I, § 1002(a)(9), Nov. 10, 1988, 102 Stat. 3354.)

#### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647 substituted “the deduction allowable to a lessee for exhaustion, wear and tear, obsolescence, or amortization” for “the deduction allowable to a lessee of a lease for any taxable year for amortization under section 167, 169, 179, 185, 190, 193, or 194”.

1986—Pub. L. 99-514, § 201(d)(2)(A), in amending section generally, substituted provision relating to amortization of cost of acquiring a lease, subsec. (a) setting out a general rule and subsec. (b) excluding certain periods, for former provision for depreciation or amortization of improvements made by lessee on lessor's property, subsec. (a) setting out a general rule, subsec. (b), in case of related lessee and lessor, setting out a general rule in par. (1) and defining related persons in par. (2), and subsec. (c) setting out a reasonable certainty test.

Subsec. (b)(2)(B). Pub. L. 99-514, § 1812(c)(4)(B), inserted before the period “and subsection (f)(1)(A) of such section shall not apply”.

#### 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 section 201(d)(2)(A) of Pub. L. 99-514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99-514, set out as a note under section 168 of this title.

Amendment by section 201(d)(2)(A) of Pub. L. 99-514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3)

of Pub. L. 99-514, set out as a note under section 46 of this title.

Amendment by section 1812(c)(4)(B) of 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

Section 15(c) of Pub. L. 85-866 provided that: “The amendments made by this section [enacting this section and amending analysis preceding section 161 of this title] shall apply with respect to costs of acquiring a lease incurred, and improvements begun, after July 28, 1958 (other than improvements which, on July 28, 1958, and at all times thereafter, the lessee was under a binding legal obligation to make).”

#### 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.

### § 179. Election to expense certain depreciable business assets

#### (a) Treatment as expenses

A taxpayer may elect to treat the cost of any section 179 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the section 179 property is placed in service.

#### (b) Limitations

##### (1) Dollar limitation

The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed—

- (A) \$250,000 in the case of taxable years beginning after 2007 and before 2010,
- (B) \$500,000 in the case of taxable years beginning in 2010 or 2011,
- (C) \$125,000 in the case of taxable years beginning in 2012, and
- (D) \$25,000 in the case of taxable years beginning after 2012.

##### (2) Reduction in limitation

The limitation under paragraph (1) for any taxable year shall be reduced (but not below zero) by the amount by which the cost of section 179 property placed in service during such taxable year exceeds—

- (A) \$800,000 in the case of taxable years beginning after 2007 and before 2010,
- (B) \$2,000,000 in the case of taxable years beginning in 2010 or 2011,
- (C) \$500,000 in the case of taxable years beginning in 2012, and
- (D) \$200,000 in the case of taxable years beginning after 2012.

##### (3) Limitation based on income from trade or business

###### (A) In general

The amount allowed as a deduction under subsection (a) for any taxable year (deter-