§ 180. Expenditures by farmers for fertilizer, etc.

(a) In general

A taxpayer engaged in the business of farming may elect to treat as expenses which are not chargeable to capital account expenditures (otherwise chargeable to capital account) which are paid or incurred by him during the taxable year for the purchase or acquisition of fertilizer, lime, ground limestone, marl, or other materials to enrich, neutralize, or condition land used in farming, or for the application of such materials to such land. The expenditures so treated shall be allowed as a deduction.

(b) Land used in farming

For purposes of subsection (a), the term ''land used in farming'' means land used (before or simultaneously with the expenditures described in subsection (a)) by the taxpayer or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock.

(c) Election

The election under subsection (a) for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for such taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe. Such election may not be revoked except with the consent of the Secretary.

(Added Pub. L. 86–779, §6(a), Sept. 14, 1960, 74 Stat. 1001; amended Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE

Section 6(d) of Pub. L. 86–779 provided that: ''The amendments made by subsections (a), (b), and (c) [enacting this section and amending section 263 of this title] shall apply to taxable years beginning after December 31, 1959.''

§ 181. Treatment of certain qualified film and television productions

(a) Election to treat costs as expenses

(1) In general

A taxpayer may elect to treat the cost of any qualified film or television production as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction.

(2) Dollar limitation

(A) In general

Paragraph (1) shall not apply to so much of the aggregate cost of any qualified film or television production as exceeds $15,000,000.

(B) Higher dollar limitation for productions in certain areas

In the case of any qualified film or television production the aggregate cost of which is significantly incurred in an area eligible for designation as—

(i) a low-income community under section 45D, or

(ii) a distressed county or isolated area of distress by the Delta Regional Authority established under section 2009aa–1 of title 7, United States Code,

subparagraph (A) shall be applied by substituting ''$20,000,000'' for ''$15,000,000''.

(b) No other deduction or amortization deduction allowable

With respect to the basis of any qualified film or television production to which an election is made under subsection (a), no other depreciation or amortization deduction shall be allowable.

(c) Election

(1) In general

An election under this section with respect to any qualified film or television production shall be made in such manner as prescribed by the Secretary and by the due date (including extensions) for filing the taxpayer's return of tax under this chapter for the taxable year in which costs of the production are first incurred.

(2) Revocation of election

Any election made under this section may not be revoked without the consent of the Secretary.

(d) Qualified film or television production

For purposes of this section—

(1) In general

The term ''qualified film or television production'' means any production described in paragraph (2) if 75 percent of the total compensation of the production is qualified compensation.

(2) Production

(A) In general

A production is described in this paragraph if such production is property described in section 168(f)(3).

(B) Special rules for television series

In the case of a television series—

(i) each episode of such series shall be treated as a separate production, and

(ii) only the first 44 episodes of such series shall be taken into account.

(C) Exception

A production is not described in this paragraph if records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production.

(3) Qualified compensation

For purposes of paragraph (1)—

(A) In general

The term ''qualified compensation'' means compensation for services performed in the United States by actors, production personnel, directors, and producers.

(B) Participations and residuals excluded

The term ''compensation'' does not include participations and residuals (as defined in section 167(g)(7)(B)).

(e) Application of certain other rules

For purposes of this section, rules similar to the rules of subsections (b)(2) and (c)(4) of section 194 shall apply.

(f) Termination

This section shall not apply to qualified film and television productions commencing after December 31, 2011.

(Added Pub. L. 108–357, title II, § 244(a), Oct. 22, 2004, 118 Stat. 1445; amended Pub. L. 109–135, title IV, § 403(e)(1), Dec. 21, 2005, 119 Stat. 2623; Pub. L. 110–343, div. C, title V, § 502(a), (b), (d), Oct. 3, 2008, 122 Stat. 3876, 3877; Pub. L. 111–312, title VII, § 744(a), Dec. 17, 2010, 124 Stat. 3319.)

PRIOR PROVISIONS

A prior section 181, Pub. L. 87–834, § 2(c), Oct. 16, 1962, 76 Stat. 970, related to a deduction for unused investment credit, prior to repeal by Pub. L. 88–272, title II, § 203(a)(3)(B), (4), Feb. 26, 1964, 78 Stat. 34, applicable in case of property placed in service after Dec. 31, 1963, with respect to taxable years ending after such date, and in case of property placed in service before Jan. 1, 1964, with respect to taxable years beginning after Dec. 31, 1963.

AMENDMENTS

2010—Subsec. (f). Pub. L. 111–312 substituted ''December 31, 2011'' for ''December 31, 2009''.

2008—Subsec. (a)(2)(A). Pub. L. 110–343, § 502(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Paragraph (1) shall not apply to any qualified film or television production the aggregate cost of which exceeds $15,000,000.''

Subsec. (d)(3)(A). Pub. L. 110–343, § 502(d), substituted ''actors, production personnel, directors, and producers.'' for ''actors, directors, producers, and other relevant production personnel.''

Subsec. (f). Pub. L. 110–343, § 502(a), substituted ''December 31, 2009'' for ''December 31, 2008''.

2005—Subsec. (d)(2). Pub. L. 109–135 struck out ''For purposes of a television series, only the first 44 episodes of such series may be taken into account.'' at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–312, title VII, § 744(b), Dec. 17, 2010, 124 Stat. 3319, provided that: ''The amendment made by this section [amending this section] shall apply to productions commencing after December 31, 2009.''

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–343, div. C, title V, § 502(e), Oct. 3, 2008, 122 Stat. 3877, provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and section 199 of this title] shall apply to qualified film and television productions commencing after December 31, 2007.

''(2) DEDUCTION.—The amendments made by subsection (c) [amending section 199 of this title] shall apply to taxable years beginning after December 31, 2007.''

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108–357, to which such amendment relates, see section 403(nn) of Pub. L. 109–135, set out as a note under section 26 of this title.

EFFECTIVE DATE

Pub. L. 108–357, title II, § 244(c), Oct. 22, 2004, 118 Stat. 1447, provided that: ''The amendments made by this section [enacting this section] shall apply to qualified film and television productions (as defined in section 181(d)(1) of the Internal Revenue Code of 1986, as added by this section) commencing after the date of the enactment of this Act [Oct. 22, 2004].''

[§ 182. Repealed. Pub. L. 99–514, title IV, § 402(a), Oct. 22, 1986, 100 Stat. 2221]

Section, added Pub. L. 87–834, § 21(a), Oct. 16, 1962, 76 Stat. 1063; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, authorized deduction of expenditures by farmers for clearing land.

EFFECTIVE DATE OF REPEAL

Section 402(c) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending sections 263 and 1252 of this title and repealing this section] shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.''

§ 183. Activities not engaged in for profit

(a) General rule

In the case of an activity engaged in by an individual or an S corporation, if such activity is not engaged in for profit, no deduction attributable to such activity shall be allowed under this chapter except as provided in this section.

(b) Deductions allowable

In the case of an activity not engaged in for profit to which subsection (a) applies, there shall be allowed—

(1) the deductions which would be allowable under this chapter for the taxable year without regard to whether or not such activity is engaged in for profit, and

(2) a deduction equal to the amount of the deductions which would be allowable under this chapter for the taxable year only if such activity were engaged in for profit, but only to the extent that the gross income derived from such activity for the taxable year exceeds the deductions allowable by reason of paragraph (1).

(c) Activity not engaged in for profit defined

For purposes of this section, the term ''activity not engaged in for profit'' means any activity other than one with respect to which deductions are allowable for the taxable year under section 162 or under paragraph (1) or (2) of section 212.

(d) Presumption

If the gross income derived from an activity for 3 or more of the taxable years in the period of 5 consecutive taxable years which ends with the taxable year exceeds the deductions attributable to such activity (determined without regard to whether or not such activity is engaged in for profit), then, unless the Secretary establishes to the contrary, such activity shall be presumed for purposes of this chapter for such taxable year to be an activity engaged in for profit. In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting ''2'' for ''3'' and ''7'' for ''5''.

(e) Special rule

(1) In general

A determination as to whether the presumption provided by subsection (d) applies with respect to any activity shall, if the taxpayer so elects, not be made before the close of the fourth taxable year (sixth taxable year, in the case of an activity described in the last sen-