

“(ii) regularly traded on an established securities market, or

“(iii) held by or for no fewer than 500 persons at all times during the taxable year.

“(B) SECRETARY MAY REDUCE 500 PERSON REQUIREMENT.—The Secretary of the Treasury or his delegate may by regulation decrease the minimum shareholder requirement of subparagraph (A)(iii) in the case of regulated investment companies which experience a loss of shareholders through net redemptions of their shares.”

§ 68. Overall limitation on itemized deductions

(a) General rule

In the case of an individual whose adjusted gross income exceeds the applicable amount, the amount of the itemized deductions otherwise allowable for the taxable year shall be reduced by the lesser of—

- (1) 3 percent of the excess of adjusted gross income over the applicable amount, or
- (2) 80 percent of the amount of the itemized deductions otherwise allowable for such taxable year.

(b) Applicable amount

(1) In general

For purposes of this section, the term “applicable amount” means—

- (A) \$300,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),
- (B) \$275,000 in the case of a head of household (as defined in section 2(b)),
- (C) \$250,000 in the case of an individual who is not married and who is not a surviving spouse or head of household, and
- (D) $\frac{1}{2}$ the amount applicable under subparagraph (A) (after adjustment, if any, under paragraph (2)) in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

(2) Inflation adjustment

In the case of any taxable year beginning in calendar years after 2013, each of the dollar amounts under subparagraphs (A), (B), and (C) of paragraph (1) shall be¹ increased by an amount equal to—

- (A) such dollar amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied by substituting “2012” for “1992”.

If any amount after adjustment under the preceding sentence is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.

(c) Exception for certain itemized deductions

For purposes of this section, the term “itemized deductions” does not include—

- (1) the deduction under section 213 (relating to medical, etc. expenses),
- (2) any deduction for investment interest (as defined in section 163(d)), and
- (3) the deduction under section 165(a) for casualty or theft losses described in paragraph (2)

or (3) of section 165(c) or for losses described in section 165(d).

(d) Coordination with other limitations

This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

(e) Exception for estates and trusts

This section shall not apply to any estate or trust.

(Added Pub. L. 101-508, title XI, § 11103(a), Nov. 5, 1990, 104 Stat. 1388-406; amended Pub. L. 103-66, title XIII, §§ 13201(b)(3)(E), 13204, Aug. 10, 1993, 107 Stat. 459, 462; Pub. L. 105-277, div. J, title IV, § 4004(b)(2), Oct. 21, 1998, 112 Stat. 2681-911; Pub. L. 107-16, title I, § 103(a), June 7, 2001, 115 Stat. 44; Pub. L. 112-240, title I, § 101(b)(2)(A), Jan. 2, 2013, 126 Stat. 2316.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

2013—Subsec. (b). Pub. L. 112-240, § 101(b)(2)(A)(i), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows:

“(1) IN GENERAL.—For purposes of this section, the term ‘applicable amount’ means \$100,000 (\$50,000 in the case of a separate return by a married individual within the meaning of section 7703).

“(2) INFLATION ADJUSTMENTS.—In the case of any taxable year beginning in a calendar year after 1991, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 1990’ for ‘calendar year 1992’ in subparagraph (B) thereof.”

Subsecs. (f), (g). Pub. L. 112-240, § 101(b)(2)(A)(ii), struck out subsecs. (f) and (g), which related to phase-out of limitation and termination of applicability of section, respectively.

2001—Subsecs. (f), (g). Pub. L. 107-16 added subsecs. (f) and (g).

1998—Subsec. (c)(3). Pub. L. 105-277 substituted “for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)” for “for losses described in subsection (c)(3) or (d) of section 165”.

1993—Subsec. (b)(2)(B). Pub. L. 103-66, § 13201(b)(3)(E), substituted “1992” for “1989”.

Subsec. (f). Pub. L. 103-66, § 13204, struck out heading and text of subsec. (f). Text read as follows: “This section shall not apply to any taxable year beginning after December 31, 1995.”

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 applicable to taxable years beginning after Dec. 31, 2012, see section 101(b)(3) of Pub. L. 112-240, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title I, § 103(b), June 7, 2001, 115 Stat. 45, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2005.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. J, title IV, § 4004(c)(3), Oct. 21, 1998, 112 Stat. 2681-911, provided that: “The amendment

¹ So in original.

made by subsection (b)(2) [amending this section] shall apply to taxable years beginning after December 31, 1990.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13201(b)(3)(E) of Pub. L. 103-66 applicable to taxable years beginning after Dec. 31, 1992, see section 13201(c) of Pub. L. 103-66, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1990, see section 11103(e) of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 1 of this title.

PART II—ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME

Sec.	
71.	Alimony and separate maintenance payments.
72.	Annuities; certain proceeds of endowment and life insurance contracts.
73.	Services of child.
74.	Prizes and awards.
75.	Dealers in tax-exempt securities.
[76.]	Repealed.]
77.	Commodity credit loans.
78.	Dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit.
79.	Group-term life insurance purchased for employees.
80.	Restoration of value of certain securities.
[81.]	Repealed.]
82.	Reimbursement of moving expenses. ¹
83.	Property transferred in connection with performance of services.
84.	Transfer of appreciated property to political organizations. ¹
85.	Unemployment compensation.
86.	Social security and tier 1 railroad retirement benefits.
87.	Alcohol and biodiesel fuels credits.
88.	Certain amounts with respect to nuclear decommissioning costs.
[89.]	Repealed.]
90.	Illegal Federal irrigation subsidies.

AMENDMENTS

2004—Pub. L. 108-357, title III, §302(c)(1)(B), Oct. 22, 2004, 118 Stat. 1465, substituted “and biodiesel fuels credits” for “fuel credit” in item 87.

1989—Pub. L. 101-239, title VII, §7822(c), Dec. 19, 1989, 103 Stat. 2425, substituted “Illegal Federal irrigation” for “Federal irrigation” in item 90.

Pub. L. 101-140, title II, §202(b), Nov. 8, 1989, 103 Stat. 830, struck out item 89 “Benefits provided under certain employee benefit plans”.

1987—Pub. L. 100-203, title X, §§10201(b)(6), 10611(b), Dec. 22, 1987, 101 Stat. 1330-387, 1330-452, struck out item 81 “Increase in vacation pay suspense account” and added item 90.

1986—Pub. L. 99-514, title VIII, §805(c)(1)(B), title XI, §1151(j)(1), Oct. 22, 1986, 100 Stat. 2362, 2508, substituted “Increase in vacation pay suspense account” for “Certain increases in suspense accounts” in item 81, and added item 89.

1984—Pub. L. 98-369, div. A, title I, §91(f)(2), July 18, 1984, 98 Stat. 608, added item 88.

1983—Pub. L. 98-21, title I, §121(f)(3), Apr. 20, 1983, 97 Stat. 84, added item 86 and redesignated former item 86 as 87.

1980—Pub. L. 96-223, title II, §232(c)(3), Apr. 2, 1980, 94 Stat. 277, added item 86.

1978—Pub. L. 95-600, title I, §112(c)(1), Nov. 6, 1978, 92 Stat. 2778, added item 85.

1976—Pub. L. 94-455, title XIX, §1901(b)(5), Oct. 4, 1976, 90 Stat. 1793, struck out item 76 “Mortgages made or obligations issued by joint-stock land banks”.

1975—Pub. L. 93-625, §§4(c)(2), 13(a)(2), Jan. 3, 1975, 88 Stat. 2111, 2121, substituted “Certain increases in suspense accounts” for “Increases in suspense account under section 166(g)” in item 81, and added item 84.

1969—Pub. L. 91-172, title II, §231(c)(1), title III, §321(c), Dec. 30, 1969, 83 Stat. 579, 591, added items 82, 83.

1966—Pub. L. 89-722, §1(b)(2), Nov. 2, 1966, 80 Stat. 1152, added item 81.

Pub. L. 89-384, §1(b)(2), Apr. 8, 1966, 80 Stat. 102, added item 80.

1964—Pub. L. 88-272, title II, §204(a)(2), Feb. 26, 1964, 78 Stat. 36, added item 79.

1962—Pub. L. 87-834, §9(d)(1), Oct. 16, 1962, 76 Stat. 1001, added item 78.

§ 71. Alimony and separate maintenance payments

(a) General rule

Gross income includes amounts received as alimony or separate maintenance payments.

(b) Alimony or separate maintenance payments defined

For purposes of this section—

(1) In general

The term “alimony or separate maintenance payment” means any payment in cash if—

(A) such payment is received by (or on behalf of) a spouse under a divorce or separation instrument,

(B) the divorce or separation instrument does not designate such payment as a payment which is not includible in gross income under this section and not allowable as a deduction under section 215,

(C) in the case of an individual legally separated from his spouse under a decree of divorce or of separate maintenance, the payee spouse and the payor spouse are not members of the same household at the time such payment is made, and

(D) there is no liability to make any such payment for any period after the death of the payee spouse and there is no liability to make any payment (in cash or property) as a substitute for such payments after the death of the payee spouse.

(2) Divorce or separation instrument

The term “divorce or separation instrument” means—

(A) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

(B) a written separation agreement, or

(C) a decree (not described in subparagraph (A)) requiring a spouse to make payments for the support or maintenance of the other spouse.

(c) Payments to support children

(1) In general

Subsection (a) shall not apply to that part of any payment which the terms of the divorce or separation instrument fix (in terms of an amount of money or a part of the payment) as a sum which is payable for the support of children of the payor spouse.

(2) Treatment of certain reductions related to contingencies involving child

For purposes of paragraph (1), if any amount specified in the instrument will be reduced—

¹ So in original. Does not conform to section catchline.