

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 Repealed.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

Pub. L. 99-514, title IV, §402(c), Oct. 22, 1986, 100 Stat. 2221, 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 sentence of such subsection) following the taxable year in which the taxpayer first engages in the activity. For purposes of the preceding sentence, a taxpayer shall be treated as not having engaged in an activity during any taxable year beginning before January 1, 1970.

(2) Initial period

If the taxpayer makes an election under paragraph (1), the presumption provided by subsection (d) shall apply to each taxable year in the 5-taxable year (or 7-taxable year) period beginning with the taxable year in which the taxpayer first engages in the activity, if the gross income derived from the activity for 3 (or 2 if applicable) or more of the taxable years in such period exceeds the deductions attributable to the activity (determined without regard to whether or not the activity is engaged in for profit).

(3) Election

An election under paragraph (1) shall be made at such time and manner, and subject to such terms and conditions, as the Secretary may prescribe.

(4) Time for assessing deficiency attributable to activity

If a taxpayer makes an election under paragraph (1) with respect to an activity, the statutory period for the assessment of any deficiency attributable to such activity shall not expire before the expiration of 2 years after the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the last taxable year in the period of 5 taxable years (or 7 taxable years) to which the election relates. Such deficiency may be assessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such an assessment.

(Added Pub. L. 91-172, title II, §213(a), Dec. 30, 1969, 83 Stat. 571; amended Pub. L. 92-178, title III, §311(a), Dec. 10, 1971, 85 Stat. 525; Pub. L. 94-455, title II, §214(a), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1549, 1834; Pub. L. 97-354, §5(a)(23), Oct. 19, 1982, 96 Stat. 1694; Pub. L. 99-514, title I, §143(a), Oct. 22, 1986, 100 Stat. 2120; Pub. L. 100-647, title I, §1001(h)(3), Nov. 10, 1988, 102 Stat. 3352.)

AMENDMENTS

1988—Subsec. (e)(2). Pub. L. 100-647 substituted "activity for 3 (or 2 if applicable)" for "activity for 2".

1986—Subsec. (d). Pub. L. 99-514 substituted "3" for "2" before "or more" in first sentence and "2" for "3" and "7" for "5" for "the period of 7 consecutive taxable years for the period of 5 consecutive taxable years" in second sentence.

1982—Subsec. (a). Pub. L. 97-354 substituted “an S corporation” for “an electing small business corporation (as defined in section 1371(b))”.

1976—Subsecs. (d), (e)(3). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (e)(4). Pub. L. 94-455, §214(a), added par. (4).
1971—Subsec. (e). Pub. L. 92-178 added subsec. (e).

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 Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97-354, set out as an Effective Date note under section 1361 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title II, §214(c), Oct. 4, 1976, 90 Stat. 1549, provided that: “The amendments made by this section [amending this section and section 6212 of this title] shall apply with respect to taxable years beginning after December 31, 1969; except that such amendments shall not apply to any taxable year ending before the date of the enactment of this Act [Oct. 4, 1976] with respect to which the period for assessing a deficiency has expired before such date of enactment.”

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-178, title III, §311(b), Dec. 10, 1971, 85 Stat. 526, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1969.”

EFFECTIVE DATE

Pub. L. 91-172, title II, §213(d), Dec. 30, 1969, 83 Stat. 572, provided that: “The amendments made by this section [enacting this section, amending section 6504 of this title, and repealing section 270 of this title] shall apply to taxable years beginning after December 31, 1969.”

[§ 184. Repealed. Pub. L. 101-508, title XI, § 11801(a)(12), Nov. 5, 1990, 104 Stat. 1388-520]

Section, added Pub. L. 91-172, title VII, §705(a), Dec. 30, 1969, 83 Stat. 670; amended Pub. L. 93-625, §3(b), Jan. 3, 1975, 88 Stat. 2109; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to amortization of certain railroad rolling stock.

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.

[§ 185. Repealed. Pub. L. 99-514, title II, § 242(a), Oct. 22, 1986, 100 Stat. 2181]

Section, added Pub. L. 91-172, title VII, §705(a), Dec. 30, 1969, 83 Stat. 672; amended Pub. L. 94-455, title XVII,

§1702, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1760, 1834; Pub. L. 95-473, §2(a)(2)(B), Oct. 17, 1978, 92 Stat. 1464, related to amortization of railroad grading and tunnel bores.

EFFECTIVE DATE OF REPEAL

Pub. L. 99-514, title II, §242(c), Oct. 22, 1986, 100 Stat. 2181, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending sections 1082 and 1250 of this title and repealing this section] shall apply to that portion of the basis of any property which is attributable 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 any improvement 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 improvement has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to an improvement placed in service after December 31, 1987.”

§ 186. Recoveries of damages for antitrust violations, etc.

(a) Allowance of deduction

If a compensatory amount which is included in gross income is received or accrued during the taxable year for a compensable injury, there shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

(1) the amount of such compensatory amount, or

(2) the amount of the unrecovered losses sustained as a result of such compensable injury.

(b) Compensable injury

For purposes of this section, the term “compensable injury” means—

(1) injuries sustained as a result of an infringement of a patent issued by the United States,

(2) injuries sustained as a result of a breach of contract or a breach of fiduciary duty or relationship, or

(3) injuries sustained in business, or to property, by reason of any conduct forbidden in the antitrust laws for which a civil action may be brought under section 4 of the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914 (commonly known as the Clayton Act).

(c) Compensatory amount

For purposes of this section, the term “compensatory amount” means the amount received or accrued during the taxable year as damages as a result of an award in, or in settlement of, a civil action for recovery for a compensable injury, reduced by any amounts paid or incurred in the taxable year in securing such award or settlement.

(d) Unrecovered losses

(1) In general

For purposes of this section, the amount of any unrecovered loss sustained as a result of any compensable injury is—