vided that any amount paid to, or on behalf of, an individual as a national research service award under former section 289*l*–1 of title 42 during calendar years 1974 through 1983 was to be treated as a scholarship or fellowship grant under this section.

SCHOLARSHIP PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES

Pub. L. 93–483, § 4, Oct. 26, 1974, 88 Stat. 1458, as amended Pub. L. 94–455, title XXI, § 2130, Oct. 4, 1976, 90 Stat. 1922; Pub. L. 95–171, § 5, Nov. 12, 1977, 91 Stat. 1355; Pub. L. 95–600, title I, § 161(a), Nov. 6, 1978, 92 Stat. 2810; Pub. L. 95–615, title I, § 6, Nov. 8, 1978, 92 Stat. 3098; Pub. L. 96–167, § 9(a), Dec. 29, 1979, 93 Stat. 1278; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) IN GENERAL.—Any amount received from appropriated funds as a scholarship, including the value of contributed services and accommodations, by a member of a uniformed service who is receiving training under the Armed Forces Health Professions Scholarship Program (or any other program determined by the Secretary of the Treasury or his delegate to have substantially similar objectives) from an educational institution (as defined in section 151(e)(4) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) [see section 170(b)(1)(A)(ii) of this title] shall be treated as a scholarship under section 117 of such Code [this section], whether that member is receiving training while on active duty or in an off-duty or inactive status, and without regard to whether a period of active duty is required of the member as a condition of receiving those payments.

''(b) DEFINITION OF UNIFORMED SERVICES.—For purposes of this section, the term 'uniformed service' has the meaning given it by section 101(3) of title 37, United States Code.

''(c) EFFECTIVE DATE.—The provisions of this section shall apply with respect to amounts received during calendar years 1973, 1974, and 1975, and, in the case of a member of a uniformed service receiving training after 1975 and before 1981 in programs described in subsection (a), with respect to amounts received after 1975 and before 1985.''

[Section 6 of Pub. L. 95–615, which reenacted § 4(c) of Pub. L. 93–483 without change, to cease to have effect on the day after Nov. 8, 1978, see section 210(a) of Pub. L. 95–615, set out as a note under section 61 of this title.]

§ 118. Contributions to the capital of a corporation

(a) General rule

In the case of a corporation, gross income does not include any contribution to the capital of the taxpayer.

(b) Contributions in aid of construction, etc.

For purposes of subsection (a), except as provided in subsection (c), the term ''contribution to the capital of the taxpayer'' does not include any contribution in aid of construction or any other contribution as a customer or potential customer.

(c) Special rules for water and sewerage disposal utilities

(1) General rule

For purposes of this section, the term ''contribution to the capital of the taxpayer'' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

(A) such amount is a contribution in aid of construction,

(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for rate-making purposes.

(2) Expenditure rule

An amount meets the requirements of this paragraph if—

(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

(i) which is the property for which the contribution was made or is of the same type as such property, and

(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

(3) Definitions

For purposes of this subsection—

(A) Contribution in aid of construction

The term ''contribution in aid of construction'' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

(B) Predominantly

The term ''predominantly'' means 80 percent or more.

(C) Regulated public utility

The term ''regulated public utility'' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

(4) Disallowance of deductions and credits; adjusted basis

Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

(d) Statute of limitations

If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

(1) the statutory period for the assessment of any deficiency attributable to any part of such

amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2), and

(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

(e) Cross references

(1) For basis of property acquired by a corporation through a contribution to its capital, see section 362.

(2) For special rules in the case of contributions of indebtedness, see section 108(e)(6).

(Aug. 16, 1954, ch. 736, 68A Stat. 39; Pub. L. 94–455, title XXI, §2120(a), Oct. 4, 1976, 90 Stat. 1912; Pub. L. 95–600, title III, §364(a), Nov. 6, 1978, 92 Stat. 2854; Pub. L. 96–589, §2(e)(2), Dec. 24, 1980, 94 Stat. 3396; Pub. L. 98–369, div. A, title I, §163(a), July 18, 1984, 98 Stat. 697; Pub. L. 99–514, title VIII, §824(a), Oct. 22, 1986, 100 Stat. 2374; Pub. L. 104–188, title I, §1613(a)(1), (2), Aug. 20, 1996, 110 Stat. 1848–1850.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–188, §1613(a)(2), inserted ''except as provided in subsection (c),'' before ''the term''.

Subsecs. (c) to (e). Pub. L. 104–188, §1613(a)(1), added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

1986—Subsec. (b). Pub. L. 99–514, §824(a), added subsec. (b) and struck out former subsec. (b) relating to contributions in aid of construction, containing par. (1) general rule, par. (2) expenditure rule, par. (3) definitions, and par. (4) disallowance of deductions and investment credit; adjusted basis.

Subsecs. (c), (d). Pub. L. 99–514, §824(a), redesignated former subsec. (d) as (c) and struck out former subsec. (c), statute of limitations, which read as follows: ''If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (b), then—

''(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

''(A) the amount of the expenditure referred to in subparagraph (A) of subsection (b)(2),

''(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

''(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (b)(2); and

''(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.''

1984—Subsecs. (c), (d). Pub. L. 98–369 added subsec. (c) and redesignated former subsec. (c) as (d).

1980—Subsec. (c). Pub. L. 96–589 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (b)(1). Pub. L. 95–600, §364(a)(1), (2), substituted in provisions preceding subpar. (A) ''electric energy, gas (through a local distribution system or transportation by pipeline), water,'' for ''water'' and in subpar. (B) ''electric energy, gas, steam, water,'' for ''water''.

Subsec. (b)(2)(A)(ii). Pub. L. 95–600, §364(a)(3), substituted ''electric energy, gas, steam, water,'' for ''water''.

Subsec. (b)(3)(A). Pub. L. 95–600, §364(a)(4), substituted ''line to an electric line, a gas main, a steam line, or a main water or sewer line'' for ''property to a main water or sewer line''.

Subsec. (b)(3)(C). Pub. L. 95–600, §364(a)(5), substituted ''electric energy, gas, water,'' for ''water'' and inserted ''(including in the case of a gas transmission utility, the provision of gas services by sale for resale to the general public)'' after ''members of the general public''.

1976—Subsecs. (b), (c). Pub. L. 94–455, §2120(a), added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–188, title I, §1613(a)(3), Aug. 20, 1996, 110 Stat. 1850, provided that: ''The amendments made by this subsection [amending this section] shall apply to amounts received after June 12, 1996.''

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–514, title VIII, §824(c), Oct. 22, 1986, 100 Stat. 2374, as amended by Pub. L. 100–647, title I, §1008(j)(2), Nov. 10, 1988, 102 Stat. 3445, provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and section 362 of this title] shall apply to amounts received after December 31, 1986, in taxable years ending after such date.

''(2) TREATMENT OF CERTAIN WATER SUPPLY PROJECTS.—The amendments made by this section shall not apply to amounts which are paid by the New Jersey Department of Environmental Protection for construction of alternative water supply projects in zones of drinking water contamination and which are designated by such department as being taken into account under this paragraph. Not more than $4,631,000 of such amounts may be designated under the preceding sentence.

''(3) TREATMENT OF CERTAIN CONTRIBUTIONS BY TRANSPORTATION AUTHORITY.—The amendments made by this section shall not apply to contributions in aid of construction by a qualified transportation authority which were clearly identified in a master plan in existence on September 13, 1984, and which are designated by such authority as being taken into account under this paragraph. Not more than $68,000,000 of such contributions may be designated under the preceding sentence. For purposes of this paragraph, a qualified transportation authority is an entity which was created on February 20, 1967, and which was established by an interstate compact and consented to by Congress in Public Law 89–774, 80 Stat. 1324 (1966).

''(4) TREATMENT OF CERTAIN PARTNERSHIPS.—In the case of a partnership with a taxable year beginning May 1, 1986, if such partnership realized net capital gain during the period beginning on the 1st day of such taxable year and ending on May 29, 1986, pursuant to an underwriting agreement dated May 6, 1986, then such partnership may elect to treat each asset to which such net capital gain relates as having been distributed to the partners of such partnership in proportion to their distributive share of the capital gain or loss realized by the partnership with respect to such asset and to treat each such asset as having been sold by each partner on the date of the sale of the asset by the partnership. If such an election is made, the consideration received by the partnership in connection with the sale of such assets shall be treated as having been received by the partners in connection with the deemed sale of such assets. In the case of a tiered partnership, for purposes of this paragraph each partnership shall be treated as having realized net capital gain equal to its proportionate share of the net capital gain of each partner-

ship in which it is a partner, and the election provided by this paragraph shall apply to each tier.''

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–369, div. A, title I, § 163(c), July 18, 1984, 98 Stat. 698, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section and sections 6501 and 6511 of this title] shall apply to expenditures with respect to which the second taxable year described in section 118(b)(2)(B) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] ends after December 31, 1984.''

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.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–600, title III, § 364(b), Nov. 6, 1978, 92 Stat. 2854, provided that: ''The amendments made by this section [amending this section] shall apply to contributions made after January 31, 1976.''

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–455, title XXI, § 2120(c), Oct. 4, 1976, 90 Stat. 1913, provided that: ''The amendments made by this section [amending this section and section 362 of this title] apply to contributions made after January 31, 1976.''

§ 119. Meals or lodging furnished for the convenience of the employer

(a) Meals and lodging furnished to employee, his spouse, and his dependents, pursuant to employment

There shall be excluded from gross income of an employee the value of any meals or lodging furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer, but only if—

(1) in the case of meals, the meals are furnished on the business premises of the employer, or

(2) in the case of lodging, the employee is required to accept such lodging on the business premises of his employer as a condition of his employment.

(b) Special rules

For purposes of subsection (a)—

(1) Provisions of employment contract or State statute not to be determinative

In determining whether meals or lodging are furnished for the convenience of the employer, the provisions of an employment contract or of a State statute fixing terms of employment shall not be determinative of whether the meals or lodging are intended as compensation.

(2) Certain factors not taken into account with respect to meals

In determining whether meals are furnished for the convenience of the employer, the fact that a charge is made for such meals, and the fact that the employee may accept or decline such meals, shall not be taken into account.

(3) Certain fixed charges for meals

(A) In general

If—

(i) an employee is required to pay on a periodic basis a fixed charge for his meals, and

(ii) such meals are furnished by the employer for the convenience of the employer,

there shall be excluded from the employee's gross income an amount equal to such fixed charge.

(B) Application of subparagraph (A)

Subparagraph (A) shall apply—

(i) whether the employee pays the fixed charge out of his stated compensation or out of his own funds, and

(ii) only if the employee is required to make the payment whether he accepts or declines the meals.

(4) Meals furnished to employees on business premises where meals of most employees are otherwise excludable

All meals furnished on the business premises of an employer to such employer's employees shall be treated as furnished for the convenience of the employer if, without regard to this paragraph, more than half of the employees to whom such meals are furnished on such premises are furnished such meals for the convenience of the employer.

(c) Employees living in certain camps

(1) In general

In the case of an individual who is furnished lodging in a camp located in a foreign country by or on behalf of his employer, such camp shall be considered to be part of the business premises of the employer.

(2) Camp

For purposes of this section, a camp constitutes lodging which is—

(A) provided by or on behalf of the employer for the convenience of the employer because the place at which such individual renders services is in a remote area where satisfactory housing is not available on the open market,

(B) located, as near as practicable, in the vicinity of the place at which such individual renders services, and

(C) furnished in a common area (or enclave) which is not available to the public and which normally accommodates 10 or more employees.

(d) Lodging furnished by certain educational institutions to employees

(1) In general

In the case of an employee of an educational institution, gross income shall not include the value of qualified campus lodging furnished to such employee during the taxable year.

(2) Exception in cases of inadequate rent

Paragraph (1) shall not apply to the extent of the excess of—

(A) the lesser of—