

tion [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 Repealed.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 Repealed.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—

(A) the sum of the amount of the net operating losses (as determined under section 172) for each taxable year in whole or in part within the injury period, to the extent that such net operating losses are attributable to such compensable injury, reduced by

(B) the sum of—

(i) the amount of the net operating losses described in subparagraph (A) which were allowed for any prior taxable year as a deduction under section 172 as a net operating loss carryback or carryover to such taxable year, and

(ii) the amounts allowed as a deduction under subsection (a) for any prior taxable year for prior recoveries of compensatory amounts for such compensable injury.

**(2) Injury period**

For purposes of paragraph (1), the injury period is—

(A) with respect to any infringement of a patent, the period in which such infringement occurred,

(B) with respect to a breach of contract or breach of fiduciary duty or relationship, the period during which amounts would have been received or accrued but for the breach of contract or breach of fiduciary duty or relationship, and

(C) with respect to injuries sustained by reason of any conduct forbidden in the antitrust laws, the period in which such injuries were sustained.

**(3) Net operating losses attributable to compensable injuries**

For purposes of paragraph (1)—

(A) a net operating loss for any taxable year shall be treated as attributable to a compensable injury to the extent of the compensable injury sustained during such taxable year, and

(B) if only a portion of a net operating loss for any taxable year is attributable to a