football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.''

Subsec. (f)(10). Pub. L. 108–357, § 847(b)(3), added par. (10).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 847(b)(3) of Pub. L. 108–357 applicable to leases entered into after Oct. 3, 2004, see section 849(b)(4) of Pub. L. 108–357, set out as an Effective Date note under section 470 of this title.

Pub. L. 108–357, title VIII, § 886(c), Oct. 22, 2004, 118 Stat. 1641, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 1245 and 1253 of this title and repealing section 1056 of this title] shall apply to property acquired after the date of the enactment of this Act [Oct. 22, 2004].

''(2) SECTION 1245.—The amendment made by subsection (b)(2) [amending section 1245 of this title] shall apply to franchises acquired after the date of the enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE

Pub. L. 103–66, title XIII, § 13261(g), Aug. 10, 1993, 107 Stat. 540, as amended by Pub. L. 104–188, title I, § 1703(*l*), Aug. 20, 1996, 110 Stat. 1877, provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this section and amending sections 167, 642, 848, 1016, 1060, 1245, and 1253 of this title] shall apply with respect to property acquired after the date of the enactment of this Act [Aug. 10, 1993].

''(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

''(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

''(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

''(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

''(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer or a related person on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

''(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

''(i) may be revoked only with the consent of the Secretary, and

''(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after August 2, 1993, and on or before the date on which such election is made.

''(3) ELECTIVE BINDING CONTRACT EXCEPTION.—

''(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

''(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act and at all times thereafter before such acquisition,

''(ii) an election under paragraph (2) does not apply to the taxpayer, and

''(iii) the taxpayer makes an election under this paragraph with respect to such contract.

''(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

''(i) may be revoked only with the consent of the Secretary, and

''(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.''

§ 198. Expensing of environmental remediation costs

(a) In general

A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

(b) Qualified environmental remediation expenditure

For purposes of this section—

(1) In general

The term ''qualified environmental remediation expenditure'' means any expenditure—

(A) which is otherwise chargeable to capital account, and

(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

(2) Special rule for expenditures for depreciable property

Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.

(c) Qualified contaminated site

For purposes of this section—

(1) In general

The term ''qualified contaminated site'' means any area—

(A) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(a)(1) in the hands of the taxpayer, and

(B) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.

(2) National priorities listed sites not included

Such term shall not include any site which is on, or proposed for, the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

(3) Taxpayer must receive statement from State environmental agency

An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only

if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirement of paragraph (1)(B).

(4) Appropriate State agency

For purposes of paragraph (3), the chief executive officer of each State may, in consultation with the Administrator of the Environmental Protection Agency, designate the appropriate State environmental agency within 60 days of the date of the enactment of this section. If the chief executive officer of a State has not designated an appropriate environmental agency within such 60-day period, the appropriate environmental agency for such State shall be designated by the Administrator of the Environmental Protection Agency.

(d) Hazardous substance

For purposes of this section—

(1) In general

The term ''hazardous substance'' means—

(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

(B) any substance which is designated as a hazardous substance under section 102 of such Act, and

(C) any petroleum product (as defined in section 4612(a)(3)).

(2) Exception

Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.

(e) Deduction recaptured as ordinary income on sale, etc.

Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section—

(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and

(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

(f) Coordination with other provisions

Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(h) Termination

This section shall not apply to expenditures paid or incurred after December 31, 2011.

(Added Pub. L. 105–34, title IX, §941(a), Aug. 5, 1997, 111 Stat. 882; amended Pub. L. 106–170, title V, §§511, 532(c)(2)(A), Dec. 17, 1999, 113 Stat. 1924, 1930; Pub. L. 106–554, §1(a)(7) [title I, §162(a), (b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–625; Pub. L. 108–311, title III, §308(a), Oct. 4, 2004, 118 Stat. 1179; Pub. L. 109–432, div. A, title I, §109(a), (b), Dec. 20, 2006, 120 Stat. 2939; Pub. L. 110–343, div. C, title III, §318(a), Oct. 3, 2008, 122 Stat. 3873; Pub. L. 111–312, title VII, §745(a), Dec. 17, 2010, 124 Stat. 3319.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(2), (4), is the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997.

Sections 101(14), 102, 104, and 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsecs. (c)(2) and (d), are classified to sections 9601(14), 9602, 9604, and 9605(a)(8)(B), respectively, of Title 42, The Public Health and Welfare.

AMENDMENTS

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

2008—Subsec. (h). Pub. L. 110–343 substituted ''December 31, 2009'' for ''December 31, 2007''.

2006—Subsec. (d)(1)(C). Pub. L. 109–432, §109(b), added subpar. (C).

Subsec. (h). Pub. L. 109–432, §109(a), substituted ''2007'' for ''2005''.

2004—Subsec. (h). Pub. L. 108–311 substituted ''2005'' for ''2003''.

2000—Subsec. (c). Pub. L. 106–554, §1(a)(7) [title I, §162(a)], amended subsec. (c) generally. Prior to amendment, subsec. (c) defined the term ''qualified contaminated site'' to include certain property described in section 1221(a)(1) of this title, within a targeted area, and at which there had been a release or disposal of any hazardous substance, provided that an area could be treated as a qualified contaminated site only if the taxpayer received a certain statement from an appropriate State agency, provided for designation of appropriate State agencies, and defined targeted area.

Subsec. (h). Pub. L. 106–554, §1(a)(7) [title I, §162(b)], substituted ''2003'' for ''2001''.

1999—Subsec. (c)(1)(A)(i). Pub. L. 106–170, §532(c)(2)(A), substituted ''section 1221(a)(1)'' for ''section 1221(1)''.

Subsec. (h). Pub. L. 106–170, §511, substituted ''2001'' for ''2000''.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–312, title VII, §745(b), Dec. 17, 2010, 124 Stat. 3319, provided that: ''The amendment made by this section [amending this section] shall apply to expenditures paid or incurred after December 31, 2009.''

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–343, div. C, title III, §318(b), Oct. 3, 2008, 122 Stat. 3873, provided that: ''The amendment made by this section [amending this section] shall apply to expenditures paid or incurred after December 31, 2007.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–432, div. A, title I, §109(c), Dec. 20, 2006, 120 Stat. 2939, provided that: ''The amendments made by this section [amending this section] shall apply to expenditures paid or incurred after December 31, 2005.''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–311, title III, §308(b), Oct. 4, 2004, 118 Stat. 1179, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to expenditures paid or incurred after December 31, 2003.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(7) [title I, §162(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A–625, provided that: ''The amendments made by this section [amending this section] shall apply to expenditures paid or incurred after the date of the enactment of this Act [Dec. 21, 2000].''

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 532(c)(2)(A) of Pub. L. 106–170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106–170, set out as a note under section 170 of this title.

EFFECTIVE DATE

Pub. L. 105–34, title IX, § 941(c), Aug. 5, 1997, 111 Stat. 885, provided that: ''The amendments made by this section [enacting this section] shall apply to expenditures paid or incurred after the date of the enactment of this Act [Aug. 5, 1997], in taxable years ending after such date.''

[§ 198A. Repealed. Pub. L. 113–295, div. A, title II, § 221(a)(35), Dec. 19, 2014, 128 Stat. 4042]

Section, added Pub. L. 110–343, div. C, title VII, § 707(a), Oct. 3, 2008, 122 Stat. 3923, related to expensing of qualified disaster expenses. Repeal was executed to this section, which is in part VI of subchapter B of chapter 1, to reflect the probable intent of Congress, notwithstanding directory language of Pub. L. 113–295, which repealed section 198A in part VI of subchapter A of chapter 1.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113–295, set out as an Effective Date of 2014 Amendment note under section 1 of this title.

§ 199. Income attributable to domestic production activities

(a) (a)[1] Allowance of deduction

There shall be allowed as a deduction an amount equal to 9 percent of the lesser of—

(1) the qualified production activities income of the taxpayer for the taxable year, or

(2) taxable income (determined without regard to this section) for the taxable year.

(b) Deduction limited to wages paid

(1) In general

The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the taxpayer for the taxable year.

(2) W–2 wages

For purposes of this section—

(A) In general

The term ''W–2 wages'' means, with respect to any person for any taxable year of such person, the sum of the amounts described in paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year.

(B) Limitation to wages attributable to domestic production

Such term shall not include any amount which is not properly allocable to domestic production gross receipts for purposes of subsection (c)(1).

(C) Return requirement

Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.

(D) Special rule for qualified film

In the case of a qualified film, such term shall include compensation for services performed in the United States by actors, production personnel, directors, and producers.

(3) Acquisitions, dispositions, and short taxable years

The Secretary shall provide for the application of this subsection in cases of a short taxable year or where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

(c) Qualified production activities income

For purposes of this section—

(1) In general

The term ''qualified production activities income'' for any taxable year means an amount equal to the excess (if any) of—

(A) the taxpayer's domestic production gross receipts for such taxable year, over

(B) the sum of—

(i) the cost of goods sold that are allocable to such receipts, and

(ii) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such receipts.

(2) Allocation method

The Secretary shall prescribe rules for the proper allocation of items described in paragraph (1) for purposes of determining qualified production activities income. Such rules shall provide for the proper allocation of items whether or not such items are directly allocable to domestic production gross receipts.

(3) Special rules for determining costs

(A) In general

For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

(B) Exports for further manufacture

In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

(4) Domestic production gross receipts

(A) In general

The term ''domestic production gross receipts'' means the gross receipts of the taxpayer which are derived from—

[1] So in original.