

loss, and deduction with respect to property contributed to the partnership by a partner be shared among partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution, and that similar rules apply to contributions by a partner (using the cash receipts and disbursements method of accounting) of accounts payable and other accrued but unpaid items for provisions which had directed that, if the partnership agreement so provided, depreciation, depletion, or gain or loss with respect to property contributed to the partnership by a partner would under regulations prescribed by the Secretary, be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution, and struck out provisions which had directed that in determining a partner's distributive share of items described in section 702(a), depreciation, depletion, or gain or loss with respect to property contributed to the partnership by a partner would, except to the extent otherwise provided, be allocated among the partners in the same manner as if such property had been purchased by the partnership and that if the partnership agreement did not provide otherwise, depreciation, depletion, or gain or loss with respect to undivided interests in property contributed to a partnership would be determined as though such undivided interests had not been contributed to the partnership.

1978—Subsec. (d). Pub. L. 95-600 struck out provisions relating to adjusted basis of a partner's interest.

1976—Subsec. (a). Pub. L. 94-455, §213(c)(2), substituted "except as otherwise provided in this chapter" for "except as otherwise provided in this section".

Subsec. (b). Pub. L. 94-455, §213(d), among other changes, substituted "Determination of distributive share" for "Distributive share determined by income or loss ratio" in heading, in provisions preceding par. (1) "the partner's interest in the partnership (determined by taking into account all facts and circumstances)" for "his distributive share of taxable income or loss of the partnership, as described in section 702(a)(9), for the taxable year", and in par. (2) provision relating to a lack of substantial economic effect in a partnership agreement for provisions relating to the partnership agreement's purpose being the avoidance or evasion of taxes.

Subsec. (c)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (d). Pub. L. 94-455, §213(e), inserted provision relating to the determination of the adjusted basis of a partner's liability where there is no personal liability and the applicability of such determination where section 465 of this title applies or the principal activity of the partnership is real estate investment.

Subsec. (f). Pub. L. 94-455, §213(c)(3)(A), added subsec. (f).

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §833(d)(1), Oct. 22, 2004, 118 Stat. 1592, provided that: "The amendment made by subsection (a) [amending this section] shall apply to contributions made after the date of the enactment of this Act [Oct. 22, 2004]."

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1063(b), Aug. 5, 1997, 111 Stat. 947, provided that:

"(1) IN GENERAL.—The amendment made by subsection (a) [amending this section and section 737 of this title] shall apply to property contributed to a partnership after June 8, 1997.

"(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property contributed pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before such contribution if such contract provides for the contribution of a fixed amount of property."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XIX, §1937(c), Oct. 24, 1992, 106 Stat. 3033, provided that: "The amendments made by this section [enacting section 737 of this title and amending this section and section 731 of this title] shall apply to distributions on or after June 25, 1992."

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7642(b), Dec. 19, 1989, 103 Stat. 2381, provided that: "The amendment made by subsection (a) [amending this section] shall apply in the case of property contributed to the partnership after October 3, 1989, in taxable years ending after such date."

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §71(c), July 18, 1984, 98 Stat. 589, provided that: "The amendments made by this section [amending this section and sections 613A and 743 of this title] shall apply with respect to property contributed to the partnership after March 31, 1984, in taxable years ending after such date."

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 and enactment of provision set out as a note under this section by section 201(b)(2) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 204(a) of Pub. L. 95-600, set out as a note under section 465 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 213(c)(2), (c)(3)(A), (d) of Pub. L. 94-455 applicable in the case of partnership taxable years beginning after Dec. 31, 1975, see section 213(f)(1) of Pub. L. 94-455, set out as an Effective Date note under section 709 of this title.

Amendment by section 213(e) of Pub. L. 94-455 applicable to liabilities incurred after Dec. 31, 1976, see section 213(f)(2) of Pub. L. 94-455, set out as an Effective Date note under section 709 of this title.

#### TRANSITIONAL RULE FOR LIMITATION ON ALLOWANCE OF LOSSES

Pub. L. 95-600, title II, §201(b)(2), Nov. 6, 1978, 92 Stat. 2816, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "In the case of a loss which was not allowed for any taxable year by reason of the last 2 sentences of section 704(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as in effect before the date of the enactment of this Act [Nov. 6, 1978]), such loss shall be treated as a deduction (subject to section 465(a) of such Code) for the first taxable year beginning after December 31, 1978. Section 465(a) of such Code (as amended by this section) shall not apply with respect to partnership liabilities to which the last 2 sentences of section 704(d) of such Code (as in effect on the day before the date of enactment of this Act) did not apply because of the provisions of section 213(f)(2) of the Tax Reform Act of 1976 [set out as a note under section 709 of this title]."

### § 705. Determination of basis of partner's interest

#### (a) General rule

The adjusted basis of a partner's interest in a partnership shall, except as provided in subsection (b), be the basis of such interest determined under section 722 (relating to contributions to a partnership) or section 742 (relating to transfers of partnership interests)—

(1) increased by the sum of his distributive share for the taxable year and prior taxable years of—

(A) taxable income of the partnership as determined under section 703(a),

(B) income of the partnership exempt from tax under this title, and

(C) the excess of the deductions for depletion over the basis of the property subject to depletion;

(2) decreased (but not below zero) by distributions by the partnership as provided in section 733 and by the sum of his distributive share for the taxable year and prior taxable years of—

(A) losses of the partnership, and

(B) expenditures of the partnership not deductible in computing its taxable income and not properly chargeable to capital account; and

(3) decreased (but not below zero) by the amount of the partner's deduction for depletion for any partnership oil and gas property to the extent such deduction does not exceed the proportionate share of the adjusted basis of such property allocated to such partner under section 613A(c)(7)(D).

**(b) Alternative rule**

The Secretary shall prescribe by regulations the circumstances under which the adjusted basis of a partner's interest in a partnership may be determined by reference to his proportionate share of the adjusted basis of partnership property upon a termination of the partnership.

(Aug. 16, 1954, ch. 736, 68A Stat. 242; Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2115(c)(3), Oct. 4, 1976, 90 Stat. 1834, 1909; Pub. L. 98-369, div. A, title VII, §722(e)(1), July 18, 1984, 98 Stat. 974.)

AMENDMENTS

1984—Subsec. (a)(3). Pub. L. 98-369 substituted “for any partnership oil and gas property to the extent such deduction does not exceed the proportionate share of the adjusted basis of such property allocated to such partner under section 613A(c)(7)(D)” for “under section 611 with respect to oil and gas wells”.

1976—Subsec. (a)(3). Pub. L. 94-455, §2115(c)(3), added par. (3).

Subsec. (b). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title VII, §722(e)(3)(A), July 18, 1984, 98 Stat. 974, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on January 1, 1975.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 2115(c)(3) of Pub. L. 94-455 effective on Jan. 1, 1975, and applicable to taxable years ending after Dec. 31, 1974, see section 2115(f) of Pub. L. 94-455, set out as a note under section 613A of this title.

**§ 706. Taxable years of partner and partnership**

**(a) Year in which partnership income is includible**

In computing the taxable income of a partner for a taxable year, the inclusions required by section 702 and section 707(c) with respect to a partnership shall be based on the income, gain, loss, deduction, or credit of the partnership for any taxable year of the partnership ending with or with the taxable year of the partner.

**(b) Taxable year**

**(1) Partnership's taxable year**

**(A) Partnership treated as taxpayer**

The taxable year of a partnership shall be determined as though the partnership were a taxpayer.

**(B) Taxable year determined by reference to partners**

Except as provided in subparagraph (C), a partnership shall not have a taxable year other than—

(i) the majority interest taxable year (as defined in paragraph (4)),

(ii) if there is no taxable year described in clause (i), the taxable year of all the principal partners of the partnership, or

(iii) if there is no taxable year described in clause (i) or (ii), the calendar year unless the Secretary by regulations prescribes another period.

**(C) Business purpose**

A partnership may have a taxable year not described in subparagraph (B) if it establishes, to the satisfaction of the Secretary, a business purpose therefor. For purposes of this subparagraph, any deferral of income to partners shall not be treated as a business purpose.

**(2) Partner's taxable year**

A partner may not change to a taxable year other than that of a partnership in which he is a principal partner unless he establishes, to the satisfaction of the Secretary, a business purpose therefor.

**(3) Principal partner**

For the purpose of this subsection, a principal partner is a partner having an interest of 5 percent or more in partnership profits or capital.

**(4) Majority interest taxable year; limitation on required changes**

**(A) Majority interest taxable year defined**

For purposes of paragraph (1)(B)(i)—

**(i) In general**

The term “majority interest taxable year” means the taxable year (if any) which, on each testing day, constituted the taxable year of 1 or more partners having (on such day) an aggregate interest in partnership profits and capital of more than 50 percent.

**(ii) Testing days**

The testing days shall be—

(I) the 1st day of the partnership taxable year (determined without regard to clause (i)), or

(II) the days during such representative period as the Secretary may prescribe.

**(B) Further change not required for 3 years**

Except as provided in regulations necessary to prevent the avoidance of this section, if, by reason of paragraph (1)(B)(i), the taxable year of a partnership is changed,