

§ 248. Organizational expenditures**(a) Election to deduct**

If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

(A) the amount of organizational expenditures with respect to the taxpayer, or

(B) \$5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed \$50,000, and

(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.

(b) Organizational expenditures defined

The term “organizational expenditures” means any expenditure which—

(1) is incident to the creation of the corporation;

(2) is chargeable to capital account; and

(3) is of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life.

(c) Time for and scope of election

The election provided by subsection (a) may be made for any taxable year but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The period so elected shall be adhered to in computing the taxable income of the corporation for the taxable year for which the election is made and all subsequent taxable years.

(Aug. 16, 1954, ch. 736, 68A Stat. 76; Pub. L. 94-455, title XIX, §§1901(a)(36), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1770, 1834; Pub. L. 108-357, title VIII, §902(b), Oct. 22, 2004, 118 Stat. 1651; Pub. L. 113-295, div. A, title II, §221(a)(42), Dec. 19, 2014, 128 Stat. 4044.)

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-295 struck out “beginning after December 31, 1953,” after “any taxable year” and “The election shall apply only with respect to expenditures paid or incurred on or after August 16, 1954.” at end.

2004—Subsec. (a). Pub. L. 108-357 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The organizational expenditures of a corporation may, at the election of the corporation (made in accordance with regulations prescribed by the Secretary, be treated as deferred expenses. In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the corporation (beginning with the month in which the corporation begins business).”

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

Subsec. (c). Pub. L. 94-455, §1901(a)(36), substituted “August 16, 1954” for “the date of enactment of this title”.

EFFECTIVE DATE OF 2014 AMENDMENT

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

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to amounts paid or incurred after Oct. 22, 2004, see section 902(d) of Pub. L. 108-357, set out as a note under section 195 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(36) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1906(b)(13)(A) of Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

§ 249. Limitation on deduction of bond premium on repurchase**(a) General rule**

No deduction shall be allowed to the issuing corporation for any premium paid or incurred upon the repurchase of a bond, debenture, note, or certificate or other evidence of indebtedness which is convertible into the stock of the issuing corporation, or a corporation in the same parent-subsidiary controlled group (within the meaning of section 1563(a)(1)) as the issuing corporation, to the extent the repurchase price exceeds an amount equal to the adjusted issue price plus a normal call premium on bonds or other evidences of indebtedness which are not convertible. The preceding sentence shall not apply to the extent that the corporation can demonstrate to the satisfaction of the Secretary that such excess is attributable to the cost of borrowing and is not attributable to the conversion feature.

(b) Adjusted issue price

For purposes of subsection (a), the adjusted issue price is the issue price (as defined in sections 1273(b) and 1274) increased by any amount of discount deducted before repurchase, or decreased by any amount of premium included in gross income before repurchase by the issuing corporation.

(Added Pub. L. 91-172, title IV, §414(a), Dec. 30, 1969, 83 Stat. 612; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, §42(a)(5), July 18, 1984, 98 Stat. 557; Pub. L. 112-95, title XI, §1108(a), (b), Feb. 14, 2012, 126 Stat. 154; Pub. L. 113-295, div. A, title II, §§220(i), 221(a)(43), Dec. 19, 2014, 128 Stat. 4036, 4044.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295, §220(i), substituted “1563(a)(1)” for “1563(a)(1)”.

Subsec. (b). Pub. L. 113-295, §221(a)(43), which directed amendment of subsec. (b)(1) by striking out “, in the case of bonds or other evidences of indebtedness issued after February 28, 1913,” after “repurchase, or”, was executed by making the amendment in subsec. (b) to reflect the probable intent of Congress and the prior amendment by Pub. L. 112-95, §1108(b). See 2012 Amendment note below.

2012—Subsec. (a). Pub. L. 112-95, §1108(a), substituted “, or a corporation in the same parent-subsidiary controlled group (within the meaning of section 1563(a)(1))”

as” for “, or a corporation in control of, or controlled by.”.

Subsec. (b). Pub. L. 112-95, §1108(b), substituted “Adjusted issue price” for “Special rules” in heading and “For purposes of subsection (a),” for “For purposes of subsection (a)—” and par. (1) designation and heading, and “the adjusted issue price” for “The adjusted issue price”, and struck out par. (2), which defined “control” as having the meaning assigned to such term by section 368(c).

1984—Subsec. (b)(1). Pub. L. 98-369 substituted “sections 1273(b) and 1274” for “section 1232(b)”.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 221(a)(43) of Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-95, title XI, §1108(c), Feb. 14, 2012, 126 Stat. 154, provided that: “The amendments made by this section [amending this section] shall apply to repurchases after the date of the enactment of this Act [Feb. 14, 2012].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

EFFECTIVE DATE

Pub. L. 91-172, title IV, §414(c), Dec. 30, 1969, 83 Stat. 613, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting this section] shall apply to a convertible bond or other convertible evidence of indebtedness repurchased after April 22, 1969, other than such a bond or other evidence of indebtedness repurchased pursuant to a binding obligation incurred on or before April 22, 1969, to repurchase such bond or other evidence of indebtedness at a specified call premium, but no inference shall be drawn from the fact that section 249 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a) of this section) does not apply to the repurchase of such convertible bond or other convertible evidence of indebtedness.”

[§ 250. Repealed. Pub. L. 101-508, title XI, §11801(a)(15), Nov. 5, 1990, 104 Stat. 1388-520]

Section, added Pub. L. 91-518, title IX, §901(a), Oct. 30, 1970, 84 Stat. 1341; amended Pub. L. 93-496, §12, Oct. 28, 1974, 88 Stat. 1531; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-473, §2(a)(2)(C), Oct. 17, 1978, 92 Stat. 1464; Pub. L. 96-454, §3(b)(1), Oct. 15, 1980, 94 Stat. 2012; Pub. L. 97-261, §6(d)(3), Sept. 20, 1982, 96 Stat. 1107; Pub. L. 99-521, §4(3), Oct. 22, 1986, 100 Stat. 2993, related to certain payments to National Railroad Passenger Corporation.

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.

PART IX—ITEMS NOT DEDUCTIBLE

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| Sec. | General rule for disallowance of deductions. |
| 261. | Personal, living, and family expenses. |
| 262. | Capital expenditures. |
| 263. | Capitalization and inclusion in inventory costs of certain expenses. |
| 263A. | Certain amounts paid in connection with insurance contracts. |
| 264. | Expenses and interest relating to tax-exempt income. |
| 265. | Carrying charges. |
| 266. | Losses, expenses, and interest with respect to transactions between related taxpayers. |
| 267. | Sale of land with unharvested crop. |
| 268. | Acquisitions made to evade or avoid income tax. |
| 269. | Personal service corporations formed or availed of to avoid or evade income tax. |
| 269A. | Stapled entities. |
| 269B. | Repealed.] |
| [270. | Debts owed by political parties, etc. |
| 271. | Disposal of coal or domestic iron ore. |
| 272. | Holders of life or terminable interest. |
| 273. | Disallowance of certain entertainment, etc., expenses. |
| 274. | Certain taxes. |
| 275. | Certain indirect contributions to political parties. |
| 276. | Deductions incurred by certain membership organizations in transactions with members. |
| 277. | Repealed.] |
| [278. | Interest on indebtedness incurred by corporation to acquire stock or assets of another corporation. |
| 279. | Repealed.] |
| [280. | Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc. |
| 280A. | Demolition of structures. |
| 280B. | Certain expenses for which credits are allowable. |
| 280C. | Repealed.] |
| [280D. | Expenditures in connection with the illegal sale of drugs. |
| 280E. | Limitation on depreciation for luxury automobiles; limitation where certain property used for personal purposes. |
| 280F. | Golden parachute payments. |
| 280G. | Limitation on certain amounts paid to owner-employees by personal service corporations electing alternative taxable years. ¹ |
| 280H. | |

AMENDMENTS

1996—Pub. L. 104-188, title I, §1704(t)(55), Aug. 20, 1996, 110 Stat. 1890, provided that section 11813(b)(13)(F) of Pub. L. 101-508 shall be applied as if “tax” appeared after “investment” in the material proposed to be stricken. See 1990 Amendment note below.

1990—Pub. L. 101-508, title XI, §11813(b)(13)(F), Nov. 5, 1990, 104 Stat. 1388-555, which directed the striking out of “investment credit and” in item 280F, was executed by striking out “investment tax credit and” after “Limitation on”. See 1996 Amendment note above.

1988—Pub. L. 100-418, title I, §1941(b)(4)(B), Aug. 23, 1988, 102 Stat. 1324, struck out item 280D “Portion of chapter 45 taxes for which credit or refund is allowable under section 6429”.

1987—Pub. L. 100-203, title X, §10206(c)(2), Dec. 22, 1987, 101 Stat. 1330-402, added item 280H.

1986—Pub. L. 99-514, title VIII, §803(c)(1), (3), Oct. 22, 1986, 100 Stat. 2356, added item 263A and struck out items 278 “Capital expenditures incurred in planting and developing citrus and almond groves” and 280 “Certain expenditures incurred in production of films, books, records, or similar property”.

¹ So in original. Does not conform to section catchline.