

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable with respect to dividends received after Dec. 31, 1964, in taxable years ending after such date, see section 201(e) of Pub. L. 88-272, set out as a note under section 22 of this title.

§ 703. Partnership computations**(a) Income and deductions**

The taxable income of a partnership shall be computed in the same manner as in the case of an individual except that—

(1) the items described in section 702(a) shall be separately stated, and

(2) the following deductions shall not be allowed to the partnership:

(A) the deductions for personal exemptions provided in section 151,

(B) the deduction for taxes provided in section 164(a) with respect to taxes, described in section 901, paid or accrued to foreign countries and to possessions of the United States,

(C) the deduction for charitable contributions provided in section 170,

(D) the net operating loss deduction provided in section 172,

(E) the additional itemized deductions for individuals provided in part VII of subchapter B (sec. 211 and following), and

(F) the deduction for depletion under section 611 with respect to oil and gas wells.

(b) Elections of the partnership

Any election affecting the computation of taxable income derived from a partnership shall be made by the partnership, except that any election under—

(1) subsection (b)(5) or (c)(3) of section 108 (relating to income from discharge of indebtedness),

(2) section 617 (relating to deduction and recapture of certain mining exploration expenditures), or

(3) section 901 (relating to taxes of foreign countries and possessions of the United States),

shall be made by each partner separately.

(Aug. 16, 1954, ch. 736, 68A Stat. 240; Pub. L. 89-570, §2(b), Sept. 12, 1966, 80 Stat. 764; Pub. L. 91-172, title V, §504(c)(3), Dec. 30, 1969, 83 Stat. 633; Pub. L. 92-178, title III, §304(c), Dec. 10, 1971, 85 Stat. 523; Pub. L. 94-12, title V, §501(b)(3), Mar. 29, 1975, 89 Stat. 53; Pub. L. 94-455, title XIX, §1901(b)(21)(F), title XXI, §2115(c)(2), Oct. 4, 1976, 90 Stat. 1798, 1909; Pub. L. 95-30, title I, §101(d)(10), May 23, 1977, 91 Stat. 134; Pub. L. 96-589, §2(e)(1), Dec. 24, 1980, 94 Stat. 3396; Pub. L. 99-514, title V, §511(d)(2)(B), title VII, §701(e)(4)(E), Oct. 22, 1986, 100 Stat. 2249, 2343; Pub. L. 100-647, title I, §1008(i), Nov. 10, 1988, 102 Stat. 3445; Pub. L. 103-66, title XIII, §13150(c)(9), Aug. 10, 1993, 107 Stat. 448.)

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103-66 substituted “subsection (b)(5) or (c)(3)” for “subsection (b)(5)”.

1988—Subsec. (b)(1). Pub. L. 100-647 substituted “subsection (b)(5)” for “subsection (b)(5) or (d)(4)”.

1986—Subsec. (b). Pub. L. 99-514 struck out former pars. (1) and (3) which related to elections under sections 57(c) and 163(d), respectively, and redesignated former pars. (2), (4), and (5), as pars. (1), (2), and (3), respectively.

1980—Subsec. (b). Pub. L. 96-589 inserted reference to section 108(b)(5) and (d)(4).

1977—Subsec. (a)(2). Pub. L. 95-30 struck out subpar. (A) which made reference to the standard deduction provided in section 141, and redesignated subpars. (B) to (G) as (A) to (F), respectively.

1976—Subsec. (a)(2)(G). Pub. L. 94-455, §2115(c)(2), substituted “wells” for “production subject to the provisions of section 613A(c)”.

Subsec. (b). Pub. L. 94-455, §1901(b)(21)(F), struck out “under section 615 (relating to pre-1970 exploration expenditures),” after “of the United States, and any election”.

1975—Subsec. (a)(2)(G). Pub. L. 94-12 added subpar. (G).

1971—Subsec. (b). Pub. L. 92-178 substituted “,” for “or” after “(relating to pre-1970 exploration expenditures)” and inserted “under section 57(c) (relating to definition of net lease), or under section 163(d) (relating to limitation on interest on investment indebtedness)” after “(relating to deduction and recapture of certain mining exploration expenditures)”.

1969—Subsec. (b). Pub. L. 91-172 substituted “(relating to pre-1970 exploration expenditures) or under section 617 (relating to deduction and recapture of certain mining exploration expenditures)” for “(relating to exploration expenditures) or under section 617 (relating to additional exploration expenditures in the case of domestic mining)”.

1966—Subsec. (b). Pub. L. 89-570 provided for election under section 615 (relating to exploration expenditures) or under section 617 (relating to additional exploration expenditures in the case of domestic mining).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to discharges after Dec. 31, 1992, in taxable years ending after such date, see section 13150(d) of Pub. L. 103-66, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 511(d)(2)(B) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 511(e) of Pub. L. 99-514, set out as a note under section 163 of this title.

Amendment by section 701(e)(4)(E) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

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 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(b)(21)(F) 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 2115(c)(2) 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.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 effective Jan. 1, 1975, to apply to taxable years ending after Dec. 31, 1974, see section 501(c) of Pub. L. 94-12, set out as an Effective Date note under section 613A of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to exploration expenditures paid or incurred after Dec. 31, 1969, see section 504(d)(1) of Pub. L. 91-172, set out as an Effective Date note under section 243 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-570 applicable to taxable years ending after Sept. 12, 1966, but only in respect of expenditures paid or incurred after such date, see section 3 of Pub. L. 89-570, set out as an Effective Date note under section 617 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(e)(4)(E) of Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

§ 704. Partner's distributive share

(a) Effect of partnership agreement

A partner's distributive share of income, gain, loss, deduction, or credit shall, except as otherwise provided in this chapter, be determined by the partnership agreement.

(b) Determination of distributive share

A partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances), if—

(1) the partnership agreement does not provide as to the partner's distributive share of income, gain, loss, deduction, or credit (or item thereof), or

(2) the allocation to a partner under the agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect.

(c) Contributed property

(1) In general

Under regulations prescribed by the Secretary—

(A) income, gain, loss, and deduction with respect to property contributed to the partnership by a partner shall 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,

(B) if any property so contributed is distributed (directly or indirectly) by the part-

nership (other than to the contributing partner) within 7 years of being contributed—

(i) the contributing partner shall be treated as recognizing gain or loss (as the case may be) from the sale of such property in an amount equal to the gain or loss which would have been allocated to such partner under subparagraph (A) by reason of the variation described in subparagraph (A) if the property had been sold at its fair market value at the time of the distribution,

(ii) the character of such gain or loss shall be determined by reference to the character of the gain or loss which would have resulted if such property had been sold by the partnership to the distributee, and

(iii) appropriate adjustments shall be made to the adjusted basis of the contributing partner's interest in the partnership and to the adjusted basis of the property distributed to reflect any gain or loss recognized under this subparagraph, and

(C) if any property so contributed has a built-in loss—

(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value at the time of contribution.

For purposes of subparagraph (C), the term "built-in loss" means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value at the time of contribution.

(2) Special rule for distributions where gain or loss would not be recognized outside partnerships

Under regulations prescribed by the Secretary, if—

(A) property contributed by a partner (hereinafter referred to as the "contributing partner") is distributed by the partnership to another partner, and

(B) other property of a like kind (within the meaning of section 1031) is distributed by the partnership to the contributing partner not later than the earlier of—

(i) the 180th day after the date of the distribution described in subparagraph (A), or

(ii) the due date (determined with regard to extensions) for the contributing partner's return of the tax imposed by this chapter for the taxable year in which the distribution described in subparagraph (A) occurs,

then to the extent of the value of the property described in subparagraph (B), paragraph (1)(B) shall be applied as if the contributing partner had contributed to the partnership the property described in subparagraph (B).