

87. Alcohol and biodiesel fuels credits.
 88. Certain amounts with respect to nuclear de-commissioning costs.
 [89. Repealed.]
 90. Illegal Federal irrigation subsidies.

AMENDMENTS

2004—Pub. L. 108-357, title III, §302(c)(1)(B), Oct. 22, 2004, 118 Stat. 1465, substituted “and biodiesel fuels credits” for “fuel credit” in item 87.

1989—Pub. L. 101-239, title VII, §7822(c), Dec. 19, 1989, 103 Stat. 2425, substituted “Illegal Federal irrigation” for “Federal irrigation” in item 90.

Pub. L. 101-140, title II, §202(b), Nov. 8, 1989, 103 Stat. 830, struck out item 89 “Benefits provided under certain employee benefit plans”.

1987—Pub. L. 100-203, title X, §§10201(b)(6), 10611(b), Dec. 22, 1987, 101 Stat. 1330-387, 1330-452, struck out item 81 “Increase in vacation pay suspense account” and added item 90.

1986—Pub. L. 99-514, title VIII, §805(c)(1)(B), title XI, §1151(j)(1), Oct. 22, 1986, 100 Stat. 2362, 2508, substituted “Increase in vacation pay suspense account” for “Certain increases in suspense accounts” in item 81, and added item 89.

1984—Pub. L. 98-369, div. A, title I, §91(f)(2), July 18, 1984, 98 Stat. 608, added item 88.

1983—Pub. L. 98-21, title I, §121(f)(3), Apr. 20, 1983, 97 Stat. 84, added item 86 and redesignated former item 86 as 87.

1980—Pub. L. 96-223, title II, §232(c)(3), Apr. 2, 1980, 94 Stat. 277, added item 86.

1978—Pub. L. 95-600, title I, §112(c)(1), Nov. 6, 1978, 92 Stat. 2778, added item 85.

1976—Pub. L. 94-455, title XIX, §1901(b)(5), Oct. 4, 1976, 90 Stat. 1793, struck out item 76 “Mortgages made or obligations issued by joint-stock land banks”.

1975—Pub. L. 93-625, §§4(c)(2), 13(a)(2), Jan. 3, 1975, 88 Stat. 2111, 2121, substituted “Certain increases in suspense accounts” for “Increases in suspense account under section 166(g)” in item 81, and added item 84.

1969—Pub. L. 91-172, title II, §231(c)(1), title III, §321(c), Dec. 30, 1969, 83 Stat. 579, 591, added items 82, 83.

1966—Pub. L. 89-722, §1(b)(2), Nov. 2, 1966, 80 Stat. 1152, added item 81.

Pub. L. 89-384, §1(b)(2), Apr. 8, 1966, 80 Stat. 102, added item 80.

1964—Pub. L. 88-272, title II, §204(a)(2), Feb. 26, 1964, 78 Stat. 36, added item 79.

1962—Pub. L. 87-834, §9(d)(1), Oct. 16, 1962, 76 Stat. 1001, added item 78.

§ 71. Alimony and separate maintenance payments

(a) General rule

Gross income includes amounts received as alimony or separate maintenance payments.

(b) Alimony or separate maintenance payments defined

For purposes of this section—

(1) In general

The term “alimony or separate maintenance payment” means any payment in cash if—

(A) such payment is received by (or on behalf of) a spouse under a divorce or separation instrument,

(B) the divorce or separation instrument does not designate such payment as a payment which is not includible in gross income under this section and not allowable as a deduction under section 215,

(C) in the case of an individual legally separated from his spouse under a decree of divorce or of separate maintenance, the payee

spouse and the payor spouse are not members of the same household at the time such payment is made, and

(D) there is no liability to make any such payment for any period after the death of the payee spouse and there is no liability to make any payment (in cash or property) as a substitute for such payments after the death of the payee spouse.

(2) Divorce or separation instrument

The term “divorce or separation instrument” means—

(A) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

(B) a written separation agreement, or

(C) a decree (not described in subparagraph (A)) requiring a spouse to make payments for the support or maintenance of the other spouse.

(c) Payments to support children

(1) In general

Subsection (a) shall not apply to that part of any payment which the terms of the divorce or separation instrument fix (in terms of an amount of money or a part of the payment) as a sum which is payable for the support of children of the payor spouse.

(2) Treatment of certain reductions related to contingencies involving child

For purposes of paragraph (1), if any amount specified in the instrument will be reduced—

(A) on the happening of a contingency specified in the instrument relating to a child (such as attaining a specified age, marrying, dying, leaving school, or a similar contingency), or

(B) at a time which can clearly be associated with a contingency of a kind specified in subparagraph (A),

an amount equal to the amount of such reduction will be treated as an amount fixed as payable for the support of children of the payor spouse.

(3) Special rule where payment is less than amount specified in instrument

For purposes of this subsection, if any payment is less than the amount specified in the instrument, then so much of such payment as does not exceed the sum payable for support shall be considered a payment for such support.

(d) Spouse

For purposes of this section, the term “spouse” includes a former spouse.

(e) Exception for joint returns

This section and section 215 shall not apply if the spouses make a joint return with each other.

(f) Recomputation where excess front-loading of alimony payments

(1) In general

If there are excess alimony payments—

(A) the payor spouse shall include the amount of such excess payments in gross income for the payor spouse’s taxable year beginning in the 3rd post-separation year, and