

“(B) such change shall be treated as having been made with the consent of the Secretary, and

“(C) the net amount of adjustments required by section 481 of such Code to be taken into account by the taxpayer—

“(i) shall be reduced by the balance in the suspense account under section 463(c) of such Code as of the close of such last taxable year, and

“(ii) shall be taken into account over the 4-taxable year period beginning with the taxable year following such last taxable year as follows:

| In the case of the: | The percentage taken into account is: |
|----------------------------|--|
| 1st year | 25 |
| 2nd year | 5 |
| 3rd year | 35 |
| 4th year | 35. |

Notwithstanding subparagraph (C)(ii), if the period the adjustments are required to be taken into account under section 481 of such Code is less than 4 years, such adjustments shall be taken into account ratably over such shorter period.”

§ 464. Limitations on deductions for certain farming

(a) General rule

In the case of any taxpayer to whom subsection (d) applies, a deduction (otherwise allowable under this chapter) for amounts paid for feed, seed, fertilizer, or other similar farm supplies shall only be allowed for the taxable year in which such feed, seed, fertilizer, or other supplies are actually used or consumed, or, if later, for the taxable year for which allowable as a deduction (determined without regard to this section).

(b) Certain poultry expenses

In the case of any taxpayer to whom subsection (d) applies—

(1) the cost of poultry (including egg-laying hens and baby chicks) purchased for use in a trade or business (or both for use in a trade or business and for sale) shall be capitalized and deducted ratably over the lesser of 12 months or their useful life in the trade or business, and

(2) the cost of poultry purchased for sale shall be deducted for the taxable year in which the poultry is sold or otherwise disposed of.

(c) Exception

Subsection (a) shall not apply to any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, or other casualty, or on account of disease or drought.

(d) Certain persons prepaying 50 percent or more of certain farming expenses

(1) Taxpayer to whom subsection applies

This subsection applies to any taxpayer for any taxable year if such taxpayer—

(A) does not use an accrual method of accounting,

(B) has excess prepaid farm supplies for the taxable year, and

(C) is not a qualified farm-related taxpayer.

(2) Qualified farm-related taxpayer

(A) In general

For purposes of this subsection, the term “qualified farm-related taxpayer” means any farm-related taxpayer if—

(i)(I) the aggregate prepaid farm supplies for the 3 taxable years preceding the taxable year are less than 50 percent of,

(II) the aggregate deductible farming expenses (other than prepaid farm supplies) for such 3 taxable years, or

(ii) the taxpayer has excess prepaid farm supplies for the taxable year by reason of any change in business operation directly attributable to extraordinary circumstances.

(B) Farm-related taxpayer

For purposes of this paragraph, the term “farm-related taxpayer” means any taxpayer—

(i) whose principal residence (within the meaning of section 121) is on a farm,

(ii) who has a principal occupation of farming, or

(iii) who is a member of the family (within the meaning of subsection (c)(2)(E))¹ of a taxpayer described in clause (i) or (ii).

(3) Definitions

For purposes of this subsection—

(A) Excess prepaid farm supplies

The term “excess prepaid farm supplies” means the prepaid farm supplies for the taxable year to the extent the amount of such supplies exceeds 50 percent of the deductible farming expenses for the taxable year (other than prepaid farm supplies).

(B) Prepaid farm supplies

The term “prepaid farm supplies” means any amounts which are described in subsection (a) or (b) and would be allowable for a subsequent taxable year under the rules of subsections (a) and (b).

(C) Deductible farming expenses

The term “deductible farming expenses” means any amount allowable as a deduction under this chapter (including any amount allowable as a deduction for depreciation or amortization) which is properly allocable to the trade or business of farming.

(e) Farming

For purposes of this section, the term “farming” means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees (other than trees bearing fruit or nuts) shall not be treated as an agricultural or horticultural commodity.

(Added Pub. L. 94-455, title II, § 207(a)(1), Oct. 4, 1976, 90 Stat. 1536; amended Pub. L. 95-600, title VII, § 701(l)(3), Nov. 6, 1978, 92 Stat. 2907; Pub. L. 97-354, § 5(a)(30), Oct. 19, 1982, 96 Stat. 1695; Pub.

¹ See References in Text note below.

L. 99–514, title IV, § 404(a), (b)(1), title VIII, § 803(b)(8), Oct. 22, 1986, 100 Stat. 2223, 2224, 2356; Pub. L. 100–647, title I, § 1008(a)(4), Nov. 10, 1988, 102 Stat. 3437; Pub. L. 105–34, title III, § 312(d)(1), Aug. 5, 1997, 111 Stat. 839; Pub. L. 113–295, div. A, title II, § 221(a)(58)(A), (B)(i), (C), (D), Dec. 19, 2014, 128 Stat. 4047.)

REFERENCES IN TEXT

Subsection (c), referred to in subsec. (d)(2)(B)(iii), which defined “farming syndicate”, was transferred to section 461 of this title and redesignated as subsec. (j) by Pub. L. 113–295, div. A, title II, § 221(a)(58)(B)(i), Dec. 19, 2014, 128 Stat. 4047.

AMENDMENTS

2014—Subsecs. (a), (b). Pub. L. 113–295, § 221(a)(58)(A), substituted “any taxpayer to whom subsection (d) applies” for “any farming syndicate (as defined in subsection (c))” in subsec. (a) and in introductory provisions of subsec. (b).

Subsec. (c). Pub. L. 113–295, § 221(a)(58)(C)(i), redesignated subsec. (d) as (c). Former subsec. (c) transferred to section 461 of this title.

Pub. L. 113–295, § 221(a)(58)(B)(i), transferred subsec. (c) defining the term “farming syndicate” to section 461 of this title and redesignated it as subsec. (j) of that section.

Subsec. (d). Pub. L. 113–295, § 221(a)(58)(D), struck out “Subsections (a) and (b) to apply to” before “Certain persons” in heading, redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: “In the case of a taxpayer to whom this subsection applies, subsections (a) and (b) shall apply to the excess prepaid farm supplies of such taxpayer in the same manner as if such taxpayer were a farming syndicate.”

Pub. L. 113–295, § 221(a)(58)(C)(i), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 113–295, § 221(a)(58)(C), added subsec. (e) and struck out former subsec. (e) which defined the terms “farming” and “limited entrepreneur” for purposes of this section.

Subsec. (f). Pub. L. 113–295, § 221(a)(58)(C)(i), redesignated subsec. (f) as (d).

Subsec. (g). Pub. L. 113–295, § 221(a)(58)(C)(i), struck out subsec. (g). Text read as follows: “Except as provided in subsection (f), subsections (a) and (b) shall not apply to any taxable year beginning after December 31, 1986.”

1997—Subsec. (f)(3)(B)(i). Pub. L. 105–34 substituted “section 121” for “section 1034”.

1988—Subsec. (g). Pub. L. 100–647 added subsec. (g).

1986—Pub. L. 99–514, § 404(b)(1), substituted “for certain farming” for “in case of farming syndicates” in section catchline.

Subsec. (d). Pub. L. 99–514, § 803(b)(8), substituted “Exception” for “Exceptions” as heading and amended text generally. Prior to amendment, text read as follows: “Subsection (a) shall not apply to—

“(1) any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought, or

“(2) any amount required to be charged to capital account under section 278.”

Subsec. (f). Pub. L. 99–514, § 404(a), added subsec. (f).

1982—Subsec. (c)(1)(A), (B). Pub. L. 97–354 substituted “an S corporation” for “an electing small business corporation (as defined in section 1371(b))”.

1978—Subsec. (c)(2). Pub. L. 95–600 substituted in subparagraph. (E) “(or a spouse of any such member)” for “(within the meaning of section 267(c)(4))” and provided that for purposes of subparagraph. (E) the term “family” has the meaning given to such term by section 267(c)(4).

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 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105–34, set out as a note under section 121 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

If any interest costs incurred after Dec. 31, 1986, are attributable to costs incurred before Jan. 1, 1987, the amendment by section 803(b)(8) of Pub. L. 99–514 is applicable to such interest costs only to the extent such interest costs are attributable to costs which were required to be capitalized under section 263 of the Internal Revenue Code of 1954 and which would have been taken into account in applying section 189 of the Internal Revenue Code of 1954 (as in effect before its repeal by section 803 of Pub. L. 99–514) or, if applicable, section 266 of such Code, see section 7831(d)(2) of Pub. L. 101–239, set out as an Effective Date note under section 263A of this title.

Pub. L. 99–514, title IV, § 404(c), Oct. 22, 1986, 100 Stat. 2224, provided that: “The amendments made by this section [amending this section] shall apply to amounts paid or incurred after March 1, 1986, in taxable years beginning after such date.”

Amendment by section 803(b)(8) of Pub. L. 99–514 applicable to costs incurred after Dec. 31, 1986, in taxable years ending after such date, except as otherwise provided, see section 803(d) of Pub. L. 99–514, set out as an Effective Date note under section 263A of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97–354, set out as an Effective Date note under section 1361 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 effective as if included in this section or section 447 of this title at the time of their enactment, Oct. 4, 1976, see section 701(l)(4) of Pub. L. 95–600, set out as a note under section 447 of this title.

EFFECTIVE DATE

Pub. L. 94–455, title II, § 207(a)(3), Oct. 4, 1976, 90 Stat. 1537, provided that:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection [enacting this section] shall apply to taxable years beginning after December 31, 1975.

“(B) TRANSITIONAL RULE.—In the case of a farming syndicate in existence on December 31, 1975, and for which there was no change of membership throughout its taxable year beginning in 1976, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.”

§ 465. Deductions limited to amount at risk

(a) Limitation to amount at risk

(1) In general

In the case of—

- (A) an individual, and
- (B) a C corporation with respect to which the stock ownership requirement of paragraph (2) of section 542(a) is met,

engaged in an activity to which this section applies, any loss from such activity for the