

**[§ 189. Repealed. Pub. L. 99-514, title VIII, § 803(b)(1), Oct. 22, 1986, 100 Stat. 2355]**

Section, added Pub. L. 94-455, title II, §201(a), Oct. 4, 1976, 90 Stat. 1525; amended Pub. L. 95-600, title VII, §701(m)(1), Nov. 6, 1978, 92 Stat. 2907; Pub. L. 97-34, title II, §262(a), (b), Aug. 13, 1981, 95 Stat. 264; Pub. L. 97-248, title II, §207(a)-(d), Sept. 3, 1982, 96 Stat. 431, 432; Pub. L. 97-354, §5(a)(24), Oct. 19, 1982, 96 Stat. 1694; Pub. L. 98-369, div. A, title I, §93(a), title VII, §712(c), July 18, 1984, 98 Stat. 614, 947, related to amortization of real property construction period interest and taxes.

**EFFECTIVE DATE OF REPEAL**

If any interest costs incurred after Dec. 31, 1986, are attributable to costs incurred before Jan. 1, 1987, the repeal of this section 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 this section (as in effect before its repeal) 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.

Repeal 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.

**§ 190. Expenditures to remove architectural and transportation barriers to the handicapped and elderly**

**(a) Treatment as expenses**

**(1) In general**

A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

**(2) Election**

An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

**(b) Definitions**

For purposes of this section—

**(1) Architectural and transportation barrier removal expenses**

The term “architectural and transportation barrier removal expenses” means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

**(2) Qualified architectural and transportation barrier removal expenses**

The term “qualified architectural and transportation barrier removal expense” means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Architectural and

Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

**(3) Handicapped individual**

The term “handicapped individual” means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

**(c) Limitation**

The deduction allowed by subsection (a) for any taxable year shall not exceed \$15,000.

(Added Pub. L. 94-455, title XXI, §2122(a), Oct. 4, 1976, 90 Stat. 1914; amended Pub. L. 98-369, div. A, title X, §1062(a)(1), (b), July 18, 1984, 98 Stat. 1047; Pub. L. 99-514, title II, §244, Oct. 22, 1986, 100 Stat. 2183; Pub. L. 101-508, title XI, §§11611(c), 11801(a)(14), Nov. 5, 1990, 104 Stat. 1388-503, 1388-520.)

**AMENDMENTS**

1990—Subsec. (c). Pub. L. 101-508, §11611(c), substituted “\$15,000” for “\$35,000”.

Subsec. (d). Pub. L. 101-508, §11801(a)(14), struck out subsec. (d) which related to application of section to taxable years beginning after Dec. 31, 1976, and before Jan. 1, 1983, and to taxable years beginning after Dec. 31, 1983.

1986—Subsec. (d)(2). Pub. L. 99-514 substituted “1983” for “1983, and before January 1, 1986”.

1984—Subsec. (c). Pub. L. 98-369, §1062(b), substituted “\$35,000” for “\$25,000”.

Subsec. (d). Pub. L. 98-369, §1062(a)(1), amended subsec. (d) generally, substituting provisions that this section shall apply to taxable years beginning after December 31, 1976, and before January 1, 1983, and to taxable years beginning after December 31, 1983, and before January 1, 1986 for provisions which had required the Secretary to prescribe such regulations as might be necessary to carry out this section within 180 days after October 4, 1976.

**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by section 11611(c) of Pub. L. 101-508 applicable to taxable years beginning after Nov. 5, 1990, see section 11611(e)(2) of Pub. L. 101-508, set out as a note under section 38 of this title.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Pub. L. 98-369, div. A, title X, §1062(c), July 18, 1984, 98 Stat. 1047, provided that: “The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning after December 31, 1983.”

**EFFECTIVE DATE**

Pub. L. 94-455, title XXI, §2122(c), Oct. 4, 1976, 90 Stat. 1915, as amended by Pub. L. 96-167, §9(c), Dec. 29, 1979, 93 Stat. 1278; Pub. L. 98-369, div. A, title X, §1062(a)(2), July 18, 1984, 98 Stat. 1047, provided that: “The amendments made by this section [enacting this section and amending sections 263, 1245, and 1250 of this title] shall apply to taxable years beginning after December 31, 1976.”

**SAVINGS PROVISION**

For provisions that nothing in amendment by section 11801(a)(14) of 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.

**[§ 191. Repealed. Pub. L. 97-34, title II, § 212(d)(1), Aug. 13, 1981, 95 Stat. 239]**

Section, added Pub. L. 94-455, title XXI, § 2124(a)(1), Oct. 4, 1976, 90 Stat. 1916; amended Pub. L. 95-600, title VII, § 701(f)(1), (2), (7), Nov. 6, 1978, 92 Stat. 2900-2902; Pub. L. 96-222, title I, § 107(a)(1)(E)(ii), Apr. 1, 1980, 94 Stat. 222; Pub. L. 96-541, § 2(a), Dec. 17, 1980, 94 Stat. 3204, related to amortization of certain rehabilitation expenditures for certified historic structures.

**EFFECTIVE DATE OF REPEAL**

Repeal applicable to expenditures incurred after Dec. 31, 1981, in taxable years ending after such date, with exceptions, see section 212(e) of Pub. L. 97-34, set out as an Effective Date of 1981 Amendment note under section 46 of this title.

**§ 192. Contributions to black lung benefit trust**

**(a) Allowance of deduction**

There is allowed as a deduction for the taxable year an amount equal to the sum of the amounts contributed by the taxpayer during the taxable year to or under a trust or trusts described in section 501(c)(21).

**(b) Limitation**

The maximum amount of the deduction allowed by subsection (a) for any taxpayer for any taxable year shall not exceed the greater of—

- (1) the amount necessary to fund (with level funding) the remaining unfunded liability of the taxpayer for black lung claims filed (or expected to be filed) by (or with respect to) past or present employees of the taxpayer, or
- (2) the aggregate amount necessary to increase each trust described in section 501(c)(21) to the amount required to pay all amounts payable out of such trust for the taxable year.

**(c) Special rules**

**(1) Method of determining amounts referred to in subsection (b)**

**(A) In general**

The amounts described in subsection (b) shall be determined by using reasonable actuarial methods and assumptions which are not inconsistent with regulations prescribed by the Secretary.

**(B) Funding period**

Except as provided in subparagraph (C), the funding period for purposes of subsection (b)(1) shall be the greater of—

- (i) the average remaining working life of miners who are present employees of the taxpayer, or
- (ii) 10 taxable years.

For purposes of the preceding sentence, the term “miner” has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

**(C) Different funding periods**

To the extent that—

- (i) regulations prescribed by the Secretary provide for a different period, or
- (ii) the Secretary consents to a different period proposed by the taxpayer,

such different period shall be substituted for the funding period provided in subparagraph (B).

**(2) Benefit payments taken into account**

In determining the amounts described in subsection (b), only those black lung benefit claims the payment of which is expected to be made from the trust shall be taken into account.

**(3) Time when contributions deemed made**

For purposes of this section, a taxpayer shall be deemed to have made a payment of a contribution on the last day of a taxable year if the payment is on account of that taxable year and is made not later than the time prescribed by law for filing the return for that taxable year (including extensions thereof).

**(4) Contributions to be in cash or certain other items**

No deduction shall be allowed under subsection (a) with respect to any contribution to a trust described in section 501(c)(21) other than a contribution in cash or in items in which such trust may invest under subclause (II) of section 501(c)(21)(A)(ii).

**(5) Denial of section 162 deduction with respect to liability**

No deduction shall be allowed under section 162(a) with respect to any liability taken into account in determining the deduction under subsection (a) of this section of the taxpayer (or a predecessor).

**(d) Carryover of excess contributions**

If the amount of the deduction determined under subsection (a) for the taxable year (without regard to the limitation imposed by subsection (b)) with respect to a trust exceeds the limitation imposed by subsection (b) for the taxable year, the excess shall be carried over to the succeeding taxable year and treated as contributed to the trust during that year.

**(e) Definition of black lung benefit claim**

For purposes of this section, the term “black lung benefit claim” means a claim for compensation for disability or death due to pneumoconiosis under part C of title IV of the Federal Mine Safety and Health Act of 1977 or under any State law providing for such compensation.

(Added Pub. L. 95-227, § 4(b)(1), Feb. 10, 1978, 92 Stat. 16; amended Pub. L. 95-488, § 1(a)-(c), Oct. 20, 1978, 92 Stat. 1637; Pub. L. 96-222, title I, § 108(b)(2)(B), Apr. 1, 1980, 94 Stat. 226; Pub. L. 102-486, title XIX, § 1940(c), Oct. 24, 1992, 106 Stat. 3035.)

**REFERENCES IN TEXT**

The Federal Mine Safety and Health Act of 1977, referred to in subsec. (e), is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended by Pub. L. 95-164, Nov. 9, 1977, 91 Stat. 1290. Part C of title IV of the Federal Mine Safety and Health Act of 1977 is classified generally to part C of subchapter IV of chapter 22 (§ 931 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

**AMENDMENTS**

1992—Subsec. (c)(4). Pub. L. 102-486 substituted “subclause (II) of section 501(c)(21)(A)(ii)” for “clause (ii) of section 501(c)(21)(B)”.