

value of such property attributable to buildings erected or other improvements made by the lessee.

(Aug. 16, 1954, ch. 736, 68A Stat. 33.)

**§ 110. Qualified lessee construction allowances for short-term leases**

**(a) In general**

Gross income of a lessee does not include any amount received in cash (or treated as a rent reduction) by a lessee from a lessor—

- (1) under a short-term lease of retail space, and
- (2) for the purpose of such lessee's constructing or improving qualified long-term real property for use in such lessee's trade or business at such retail space,

but only to the extent that such amount does not exceed the amount expended by the lessee for such construction or improvement.

**(b) Consistent treatment by lessor**

Qualified long-term real property constructed or improved in connection with any amount excluded from a lessee's income by reason of subsection (a) shall be treated as nonresidential real property of the lessor (including for purposes of section 168(i)(8)(B)).

**(c) Definitions**

For purposes of this section—

**(1) Qualified long-term real property**

The term "qualified long-term real property" means nonresidential real property which is part of, or otherwise present at, the retail space referred to in subsection (a) and which reverts to the lessor at the termination of the lease.

**(2) Short-term lease**

The term "short-term lease" means a lease (or other agreement for occupancy or use) of retail space for 15 years or less (as determined under the rules of section 168(i)(3)).

**(3) Retail space**

The term "retail space" means real property leased, occupied, or otherwise used by a lessee in its trade or business of selling tangible personal property or services to the general public.

**(d) Information required to be furnished to Secretary**

Under regulations, the lessee and lessor described in subsection (a) shall, at such times and in such manner as may be provided in such regulations, furnish to the Secretary—

- (1) information concerning the amounts received (or treated as a rent reduction) and expended as described in subsection (a), and
- (2) any other information which the Secretary deems necessary to carry out the provisions of this section.

(Added Pub. L. 105-34, title XII, § 1213(a), Aug. 5, 1997, 111 Stat. 1000.)

PRIOR PROVISIONS

A prior section 110, act Aug. 16, 1954, ch. 736, 68A Stat. 33, related to income taxes paid by lessee corporations,

prior to repeal by Pub. L. 101-508, title XI, § 11801(a)(6), Nov. 5, 1990, 104 Stat. 1388-520.

EFFECTIVE DATE

Pub. L. 105-34, title XII, § 1213(e), Aug. 5, 1997, 111 Stat. 1001, provided that: "The amendments made by this section [enacting this section and amending sections 168 and 6724 of this title] shall apply to leases entered into after the date of the enactment of this Act [Aug. 5, 1997]."

**§ 111. Recovery of tax benefit items**

**(a) Deductions**

Gross income does not include income attributable to the recovery during the taxable year of any amount deducted in any prior taxable year to the extent such amount did not reduce the amount of tax imposed by this chapter.

**(b) Credits**

**(1) In general**

If—

- (A) a credit was allowable with respect to any amount for any prior taxable year, and
- (B) during the taxable year there is a downward price adjustment or similar adjustment,

the tax imposed by this chapter for the taxable year shall be increased by the amount of the credit attributable to the adjustment.

**(2) Exception where credit did not reduce tax**

Paragraph (1) shall not apply to the extent that the credit allowable for the recovered amount did not reduce the amount of tax imposed by this chapter.

**(3) Exception for investment tax credit and foreign tax credit**

This subsection shall not apply with respect to the credit determined under section 46 and the foreign tax credit.

**(c) Treatment of carryovers**

For purposes of this section, an increase in a carryover which has not expired before the beginning of the taxable year in which the recovery or adjustment takes place shall be treated as reducing tax imposed by this chapter.

**(d) Special rules for accumulated earnings tax and for personal holding company tax**

In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531 or the tax under section 541 (relating to personal holding companies)—

- (1) any excluded amount under subsection (a) allowed for the purposes of this subtitle (other than section 531 or section 541) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 or the tax under section 541 for the prior taxable year; and
- (2) where any excluded amount under subsection (a) was not allowable as a deduction for the prior taxable year for purposes of this subtitle other than of section 531 or section 541 but was allowable for the same taxable year under section 531 or section 541, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531 or the tax under section 541.

(Aug. 16, 1954, ch. 736, 68A Stat. 33; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-589, § 2(c), Dec. 24, 1980, 94 Stat. 3396; Pub. L. 98-369, div. A, title I, § 171(a), July 18, 1984, 98 Stat. 698; Pub. L. 99-514, title XVIII, § 1812(a)(1), (2), Oct. 22, 1986, 100 Stat. 2833.)

#### AMENDMENTS

1986—Subsec. (a). Pub. L. 99-514, § 1812(a)(1), substituted “did not reduce the amount of tax imposed by this chapter” for “did not reduce income subject to tax”.

Subsec. (c). Pub. L. 99-514, § 1812(a)(2), substituted “reducing tax imposed by this chapter” for “reducing income subject to tax or reducing tax imposed by this chapter, as the case may be”.

1984—Pub. L. 98-369 amended section generally, substituting provisions relating to recovery of tax benefit items for provisions relating to recovery of bad debts, prior taxes, and delinquency amounts.

1980—Subsec. (d). Pub. L. 96-589 added subsec. (d).

1976—Subsec. (b)(4). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, § 171(c), July 18, 1984, 98 Stat. 699, provided that: “The amendments made by this section [amending this section] shall apply to amounts recovered after December 31, 1983, in taxable years ending after such date.”

#### 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.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

### § 112. Certain combat zone compensation of members of the Armed Forces

#### (a) Enlisted personnel

Gross income does not include compensation received for active service as a member below the grade of commissioned officer in the Armed Forces of the United States for any month during any part of which such member—

(1) served in a combat zone, or

(2) was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone; but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone.

With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month after January 1978.

#### (b) Commissioned officers

Gross income does not include so much of the compensation as does not exceed the maximum enlisted amount received for active service as a commissioned officer in the Armed Forces of the United States for any month during any part of which such officer—

(1) served in a combat zone, or

(2) was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone; but this paragraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone.

With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month after January 1978.

#### (c) Definitions

For purposes of this section—

(1) The term “commissioned officer” does not include a commissioned warrant officer.

(2) The term “combat zone” means any area which the President of the United States by Executive Order designates, for purposes of this section or corresponding provisions of prior income tax laws, as an area in which Armed Forces of the United States are or have engaged in combat.

(3) Service is performed in a combat zone only if performed on or after the date designated by the President by Executive Order as the date of the commencing of combatant activities in such zone, and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in such zone.

(4) The term “compensation” does not include pensions and retirement pay.

(5) The term “maximum enlisted amount” means, for any month, the sum of—

(A) the highest rate of basic pay payable for such month to any enlisted member of the Armed Forces of the United States at the highest pay grade applicable to enlisted members, and

(B) in the case of an officer entitled to special pay under section 310, or paragraph (1) or (3) of section 351(a), of title 37, United States Code, for such month, the amount of such special pay payable to such officer for such month.

#### (d) Prisoners of war, etc.

##### (1) Members of the Armed Forces

Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status (as defined in section 551(2) of title 37, United States Code) during the Vietnam conflict as a result of such conflict, other than a period with respect to which it is officially determined under section 552(c) of such title 37 that he is officially absent from his post of duty without authority.