

in paragraph (4)(B) even if such other person uses such services in providing services which are so described.

**(C) Special rules with respect to related party transactions**

**(i) Sales to related parties**

If property is sold to a related party who is not a United States person, such sale shall not be treated as for a foreign use unless—

(I) such property is ultimately sold by a related party, or used by a related party in connection with property which is sold or the provision of services, to another person who is an unrelated party who is not a United States person, and

(II) the taxpayer establishes to the satisfaction of the Secretary that such property is for a foreign use.

For purposes of this clause, a sale of property shall be treated as a sale of each of the components thereof.

**(ii) Service provided to related parties**

If a service is provided to a related party who is not located in the United States, such service shall not be treated described<sup>1</sup> in subparagraph (A)(ii)<sup>2</sup> unless the taxpayer established to the satisfaction of the Secretary that such service is not substantially similar to services provided by such related party to persons located within the United States.

**(D) Related party**

For purposes of this paragraph, the term “related party” means any member of an affiliated group as defined in section 1504(a), determined—

(i) by substituting “more than 50 percent” for “at least 80 percent” each place it appears, and

(ii) without regard to paragraphs (2) and (3) of section 1504(b).

Any person (other than a corporation) shall be treated as a member of such group if such person is controlled by members of such group (including any entity treated as a member of such group by reason of this sentence) or controls any such member. For purposes of the preceding sentence, control shall be determined under the rules of section 954(d)(3).

**(E) Sold**

For purposes of this subsection, the terms “sold”, “sells”, and “sale” shall include any lease, license, exchange, or other disposition.

**(c) Regulations**

The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the provisions of this section.

(Added Pub. L. 115-97, title I, §14202(a), Dec. 22, 2017, 131 Stat. 2213.)

<sup>1</sup> So in original. Probably should be preceded by “as”.

<sup>2</sup> So in original. Probably should be “(B)(ii)”.

PRIOR PROVISIONS

A prior section 250, added Pub. L. 91-518, title IX, §901(a), Oct. 30, 1970, 84 Stat. 1341; amended Pub. L. 93-496, §12, Oct. 28, 1974, 88 Stat. 1531; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-473, §2(a)(2)(C), Oct. 17, 1978, 92 Stat. 1464; Pub. L. 96-454, §3(b)(1), Oct. 15, 1980, 94 Stat. 2012; Pub. L. 97-261, §6(d)(3), Sept. 20, 1982, 96 Stat. 1107; Pub. L. 99-521, §4(3), Oct. 22, 1986, 100 Stat. 2993, related to certain payments to National Railroad Passenger Corporation, prior to repeal by Pub. L. 101-508, title XI, §11801(a)(15), Nov. 5, 1990, 104 Stat. 1388-520.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2017, see section 14202(c) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 172 of this title.

PART IX—ITEMS NOT DEDUCTIBLE

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| Sec.<br>261.<br>262.<br>263.<br>263A.<br><br>264.<br>265.<br>266.<br>267.<br>267A.<br><br>268.<br>269.<br><br>269A.<br><br>269B.<br>[270.<br>271.<br>272.<br>273.<br>274.<br><br>275.<br>276.<br><br>277.<br><br>[278.<br>279.<br><br>[280.<br>280A.<br><br>280B.<br>280C.<br><br>[280D.<br>280E.<br><br>280F.<br><br>280G.<br>280H. | General rule for disallowance of deductions.<br>Personal, living, and family expenses.<br>Capital expenditures.<br>Capitalization and inclusion in inventory costs of certain expenses.<br>Certain amounts paid in connection with insurance contracts.<br>Expenses and interest relating to tax-exempt income.<br>Carrying charges.<br>Losses, expenses, and interest with respect to transactions between related taxpayers.<br>Certain related party amounts paid or accrued in hybrid transactions or with hybrid entities.<br>Sale of land with unharvested crop.<br>Acquisitions made to evade or avoid income tax.<br>Personal service corporations formed or availed of to avoid or evade income tax.<br>Stapled entities.<br>[Repealed.]<br>Debts owed by political parties, etc.<br>Disposal of coal or domestic iron ore.<br>Holders of life or terminable interest.<br>Disallowance of certain entertainment, etc., expenses.<br>Certain taxes.<br>Certain indirect contributions to political parties.<br>Deductions incurred by certain membership organizations in transactions with members.<br>[Repealed.]<br>Interest on indebtedness incurred by corporation to acquire stock or assets of another corporation.<br>[Repealed.]<br>Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.<br>Demolition of structures.<br>Certain expenses for which credits are allowable.<br>[Repealed.]<br>Expenditures in connection with the illegal sale of drugs.<br>Limitation on depreciation for luxury automobiles; limitation where certain property used for personal purposes.<br>Golden parachute payments.<br>Limitation on certain amounts paid to employee-owners by personal service corporations electing alternative taxable years. |
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AMENDMENTS

2018—Pub. L. 115-141, div. U, title IV, §401(a)(59), Mar. 23, 2018, 132 Stat. 1187, substituted “Limitation on cer-

tain amounts paid to employee-owners by personal service corporations electing alternative taxable years” for “Limitation on certain amounts paid to owner-employees by personal service corporations electing alternative taxable years” in item 280H.

2017—Pub. L. 115-97, title I, §14222(b), Dec. 22, 2017, 131 Stat. 2220, added item 267A.

1996—Pub. L. 104-188, title I, §1704(t)(55), Aug. 20, 1996, 110 Stat. 1890, provided that section 11813(b)(13)(F) of Pub. L. 101-508 shall be applied as if “tax” appeared after “investment” in the material proposed to be stricken. See 1990 Amendment note below.

1990—Pub. L. 101-508, title XI, §11813(b)(13)(F), Nov. 5, 1990, 104 Stat. 1388-555, which directed the striking out of “investment credit and” in item 280F, was executed by striking out “investment tax credit and” after “Limitation on”. See 1996 Amendment note above.

1988—Pub. L. 100-418, title I, §1941(b)(4)(B), Aug. 23, 1988, 102 Stat. 1324, struck out item 280D “Portion of chapter 45 taxes for which credit or refund is allowable under section 6429”.

1987—Pub. L. 100-203, title X, §10206(c)(2), Dec. 22, 1987, 101 Stat. 1330-402, added item 280H.

1986—Pub. L. 99-514, title VIII, §803(c)(1), (3), Oct. 22, 1986, 100 Stat. 2356, added item 263A and struck out items 278 “Capital expenditures incurred in planting and developing citrus and almond groves” and 280 “Certain expenditures incurred in production of films, books, records, or similar property”.

1984—Pub. L. 98-369, div. A, title I, §§67(d)(1), 136(b), 179(c), title X, §1063(b)(2), July 18, 1984, 98 Stat. 587, 670, 718, 1047, added items 269B, 280F, and 280G, and struck out “certain historic” before “structures” in item 280B.

1983—Pub. L. 97-414, §4(b)(2)(B), Jan. 4, 1983, 96 Stat. 2056, substituted “Certain expenses for which credits are allowable” for “Portion of wages for which credit is claimed under section 44B” in item 280C.

1982—Pub. L. 97-248, title II, §250(b), title III, §351(b), Sept. 3, 1982, 96 Stat. 528, 640, added items 269A and 280E.

1980—Pub. L. 96-499, title XI, §1131(d)(2), Dec. 5, 1980, 94 Stat. 2693, added item 280D.

1977—Pub. L. 95-30, title II, §202(c)(2), May 23, 1977, 91 Stat. 147, added item 280C.

1976—Pub. L. 94-455, title II, §210(b), title VI, §601(b), title XXI, §2124(b)(2), Oct. 4, 1976, 90 Stat. 1544, 1572, 1918, added items 280, 280A, and 280B.

1971—Pub. L. 91-680, §1(c), Jan. 12, 1971, 84 Stat. 2064, inserted “and almond” after “citrus” in item 278.

1969—Pub. L. 91-172, title I, §121(b)(3)(B), title II, §§213(c)(2), 216(b), title IV, §411(b), Dec. 30, 1969, 83 Stat. 541, 572, 574, 608, struck out item 270 “Limitation on deductions allowable to individuals in certain cases”, and added items 277 to 279.

1966—Pub. L. 89-368, title III, §301(b), Mar. 15, 1966, 80 Stat. 67, added item 276.

1964—Pub. L. 88-272, title II, §§207(b)(3)(B), 227(b)(4), Feb. 26, 1964, 78 Stat. 42, 98, inserted “or domestic iron ore” in item 272, and added item 275.

1962—Pub. L. 87-834, §4(a)(2), Oct. 16, 1962, 76 Stat. 976, added item 274.

### § 261. General rule for disallowance of deductions

In computing taxable income no deduction shall in any case be allowed in respect of the items specified in this part.

(Aug. 16, 1954, ch. 736, 68A Stat. 76.)

### § 262. Personal, living, and family expenses

#### (a) General rule

Except as otherwise expressly provided in this chapter, no deduction shall be allowed for personal, living, or family expenses.

#### (b) Treatment of certain phone expenses

For purposes of subsection (a), in the case of an individual, any charge (including taxes there-

on) for basic local telephone service with respect to the 1st telephone line provided to any residence of the taxpayer shall be treated as a personal expense.

(Aug. 16, 1954, ch. 736, 68A Stat. 76; Pub. L. 100-647, title V, §5073(a), Nov. 10, 1988, 102 Stat. 3682.)

#### AMENDMENTS

1988—Pub. L. 100-647 amended section generally. Prior to amendment, section read as follows: “Except as otherwise expressly provided in this chapter, no deduction shall be allowed for personal, living, or family expenses.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title V, §5073(b), Nov. 10, 1988, 102 Stat. 3682, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1988.”

### § 263. Capital expenditures

#### (a) General rule

No deduction shall be allowed for—

(1) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This paragraph shall not apply to—

(A) expenditures for the development of mines or deposits deductible under section 616,

(B) research and experimental expenditures deductible under section 174,

(C) soil and water conservation expenditures deductible under section 175,

(D) expenditures by farmers for fertilizer, etc., deductible under section 180,

(E) expenditures for removal of architectural and transportation barriers to the handicapped and elderly which the taxpayer elects to deduct under section 190,

(F) expenditures for tertiary injectants with respect to which a deduction is allowed under section 193,

(G) expenditures for which a deduction is allowed under section 179,

(H) expenditures for which a deduction is allowed under section 179B,

(I) expenditures for which a deduction is allowed under section 179C,

(J) expenditures for which a deduction is allowed under section 179D, or

(K) expenditures for which a deduction is allowed under section 179E.

(2) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

**[(b) Repealed. Pub. L. 101-508, title XI, §11801(a)(16), Nov. 5, 1990, 104 Stat. 1388-520]**

#### (c) Intangible drilling and development costs in the case of oil and gas wells and geothermal wells

Notwithstanding subsection (a), and except as provided in subsection (i), regulations shall be prescribed by the Secretary under this subtitle corresponding to the regulations which granted the option to deduct as expenses intangible drilling and development costs in the case of oil