

the income taken into account is received or accrued which is attributable to such income shall not exceed the additional tax under such chapter which would have been payable for the year in which the deduction for the loss was taken if such deduction had not been taken for such year.

“(2) any amount of tax imposed by chapter 1 attributable to the income taken into account which, on October 1, 1975, was unpaid may be paid in 3 equal annual installments (with the first such installment due and payable on April 15, 1977), and

“(3) no interest on any deficiency shall be payable for any period before April 16, 1977, to the extent such deficiency is attributable to the receipt of such compensation, and no interest on any installment referred to in paragraph (2) shall be payable for any period before the due date of such installment.

“(c) INCOME TAKEN INTO ACCOUNT.—For purposes of this section, the income taken into account is—

“(1) in the case of an individual described in subsection (a)(2)(A), the amount of income (not in excess of \$5,000) attributable to the cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act received by reason of the disaster described in subsection (a)(1), or

“(2) in the case of an individual described in subsection (a)(2)(B), the amount of compensation (not in excess of \$5,000) for the loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster described in subsection (a)(1).

“(d) PHASEOUT WHERE ADJUSTED GROSS INCOME EXCEEDS \$15,000.—If for the taxable year for which the deduction for the loss was taken the individual's adjusted gross income exceeded \$15,000, the \$5,000 limit set forth in paragraph (1) or (2) of subsection (c) (whichever applies) shall be reduced by one dollar for each full dollar that such adjusted gross income exceeds \$15,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting ‘\$7,500’ for ‘\$15,000’.

“(e) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of income tax resulting from an election made under this section is prevented on the date of the enactment of this Act [Oct. 4, 1976], or at any time within one year after such date, by the operation of any law, or rule of law, refund or credit of such overpayment (to the extent attributable to such election) may, nevertheless, be made or allowed if claim therefor is filed within one year after such date. If the taxpayer makes an election under this section and if assessment of any deficiency for any taxable year resulting from such election is prevented on the date of the enactment of this Act [Oct. 4, 1976], or at any time within one year after such date, by the operation of any law or rule of law, such assessment (to the extent attributable to such election) may, nevertheless, be made if made within one year after such date.”

REFUND OR CREDIT OF OVERPAYMENT; TIME FOR FILING CLAIM; INTEREST

Pub. L. 91-677, §1(b)(2), Jan. 12, 1971, 84 Stat. 2061, authorized refund or credit of overpayment attributable to the amendments made by subsec. (a) to subsec. (i) of this section if claim therefor was filed after Jan. 12, 1971, and before July 1, 1971, without interest for any period before Jan. 1, 1972.

§ 166. Bad debts

(a) General rule

(1) Wholly worthless debts

There shall be allowed as a deduction any debt which becomes worthless within the taxable year.

(2) Partially worthless debts

When satisfied that a debt is recoverable only in part, the Secretary may allow such

debt, in an amount not in excess of the part charged off within the taxable year, as a deduction.

(b) Amount of deduction

For purposes of subsection (a), the basis for determining the amount of the deduction for any bad debt shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

[(c) Repealed. Pub. L. 99-514, title VIII, § 805(a), Oct. 22, 1986, 100 Stat. 2361]

(d) Nonbusiness debts

(1) General rule

In the case of a taxpayer other than a corporation—

(A) subsection (a) shall not apply to any nonbusiness debt; and

(B) where any nonbusiness debt becomes worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 1 year.

(2) Nonbusiness debt defined

For purposes of paragraph (1), the term “nonbusiness debt” means a debt other than—

(A) a debt created or acquired (as the case may be) in connection with a trade or business of the taxpayer; or

(B) a debt the loss from the worthlessness of which is incurred in the taxpayer's trade or business.

(e) Worthless securities

This section shall not apply to a debt which is evidenced by a security as defined in section 165(g)(2)(C).

(f) Cross references

(1) For disallowance of deduction for worthlessness of debts owed by political parties and similar organizations, see section 271.

(2) For special rule for banks with respect to worthless securities, see section 582.

(Aug. 16, 1954, ch. 736, 68A Stat. 50; Pub. L. 85-866, title I, § 8, Sept. 2, 1958, 72 Stat. 1608; Pub. L. 89-722, §1(a), Nov. 2, 1966, 80 Stat. 1151; Pub. L. 91-172, title IV, § 431(c)(1), Dec. 30, 1969, 83 Stat. 619; Pub. L. 94-455, title VI, § 605(a), title XIV, § 1402(b)(1)(A), (2), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1575, 1731, 1732, 1834; Pub. L. 98-369, div. A, title X, § 1001(b)(1), (e), July 18, 1984, 98 Stat. 1011, 1012; Pub. L. 99-514, title VIII, § 805(a), (b), title IX, § 901(d)(4)(A), Oct. 22, 1986, 100 Stat. 2361, 2379; Pub. L. 100-647, title I, § 1008(d)(1), (2), Nov. 10, 1988, 102 Stat. 3439.)

AMENDMENTS

1988—Subsec. (d)(1)(A). Pub. L. 100-647, § 1008(d)(1), substituted “subsection (a)” for “subsections (a) and (c)”.

Subsecs. (f), (g). Pub. L. 100-647, § 1008(d)(2), made clarifying amendment to directory language of Pub. L. 99-514, § 805(b), see 1986 Amendment note below.

1986—Subsec. (c). Pub. L. 99-514, § 805(a), struck out subsec. (c), reserve for bad debts, which read as follows: “In lieu of any deduction under subsection (a), there shall be allowed (in the discretion of the Secretary) a deduction for a reasonable addition to a reserve for bad debts.”

Subsec. (f). Pub. L. 99-514, §805(b), as amended by Pub. L. 100-647, §1008(d)(2), redesignated subsec. (g) as (f) and struck out former subsec. (f) which related to reserve for certain guaranteed debt obligations, par. (1) thereof providing for allowance of deduction, par. (2) disallowing deduction in other cases, par. (3) relating to opening balance of reserve, and par. (4) relating to suspense account.

Subsec. (g). Pub. L. 99-514, §805(b), as amended by Pub. L. 100-647, §1008(d)(2), redesignated subsec. (g) as (f).

Pub. L. 99-514, §901(d)(4)(A), struck out pars. (3) and (4) which read as follows:

“(3) For special rule for bad debt reserves of certain mutual savings banks, domestic building and loan associations, and cooperative banks, see section 593.

“(4) For special rule for bad debt reserves of banks, small business investment-companies, etc., see sections 585 and 586.”

1984—Subsec. (d)(1)(B). Pub. L. 98-369 substituted “6 months” for “1 year”, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

1976—Subsecs. (a)(2), (c). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(1)(B). Pub. L. 94-455, §1401(b)(1)(A), (2), provided that “6 months” would be changed to “9 months” for taxable years beginning in 1977, and “9 months” would be changed to “1 year” for taxable years beginning after Dec. 31, 1977.

Subsec. (f). Pub. L. 94-455, §§605(a), 1906(b)(13)(A), redesignated subsec. (g) as (f) and struck out “or his delegate” after “Secretary” in pars. (1), (3) and (4)(D). Former subsec. (f), which related to treatment of payments made by guarantors of certain noncorporate obligations, was struck out.

Subsecs. (g), (h). Pub. L. 94-455, §605(a), redesignated subsec. (g) and (h) as (f) and (g), respectively.

1969—Subsec. (h)(4). Pub. L. 91-172 added par. (4).

1966—Subsecs. (g), (h). Pub. L. 89-722 added subsec. (g) and redesignated former subsec. (g) as (h).

1958—Subsec. (d)(2)(A). Pub. L. 85-866 substituted “a trade or business of the taxpayer” for “a taxpayer’s trade or business”.

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

Pub. L. 99-514, title VIII, §805(d), Oct. 22, 1986, 100 Stat. 2362, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 81, 108, 461, and 805 of this title] shall apply to taxable years beginning after December 31, 1986.

“(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who maintained a reserve for bad debts for such taxpayer’s last taxable year beginning before January 1, 1987, and who is required by the amendments made by this section to change its method of accounting for any taxable year—

“(A) such change shall be treated as initiated by the taxpayer,

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

“(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 to be taken into account by the taxpayer shall—

“(i) in the case of a taxpayer maintaining a reserve under section 166(f), be reduced by the balance in the suspense account under section 166(f)(4) of such Code as of the close of such last taxable year, and

“(ii) be taken into account ratably in each of the first 4 taxable years beginning after December 31, 1986.”

Pub. L. 99-514, title IX, §901(e), Oct. 22, 1986, 100 Stat. 2380, provided that: “The amendments made by this section [amending this section and sections 172, 291, 582, 585, 593, 596, 856, 1277, and 1361 of this title and repealing section 586 of this title] shall apply to taxable years beginning after December 31, 1986.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title X, §1001(e), July 18, 1984, 98 Stat. 1012, provided that: “The amendments made by this section [amending this section and sections 341, 402, 403, 423, 582, 584, 631, 642, 702, 818, 852, 856, 857, 1222, 1223, 1231, 1232, 1233, 1234, 1235, 1246, 1247, 1248, 1251, and 1278 of this title] shall apply to property acquired after June 22, 1984, and before January 1, 1988.”

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title VI, §605(c), Oct. 4, 1976, 90 Stat. 1575, provided that: “The amendments made by this section [amending this section and section 81 of this title] shall apply to guarantees made after December 31, 1975, in taxable years beginning after such date.”

Pub. L. 94-455, title XIV, §1402(b)(1), Oct. 4, 1976, 90 Stat. 1731, provided that the amendment made by that section is effective with respect to taxable years beginning in 1977.

Pub. L. 94-455, title XIV, §1402(b)(2), Oct. 4, 1976, 90 Stat. 1732, provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after July 11, 1969, see section 431(d) of Pub. L. 91-172, set out as an Effective Date note under section 585 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-722, §2, Nov. 2, 1966, 80 Stat. 1152, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) Except as provided in subsections (b) and (c), the amendments made by the first section of this Act [amending this section and section 81 of this title] shall apply to taxable years ending after October 21, 1965.

“(b) If—

“(1) the taxpayer before October 22, 1965, claimed a deduction, for a taxable year ending before such date, under section 166(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for an addition to a reserve for bad debts on account of debt obligations described in section 166(g)(1)(A) of such Code (as amended by the first section of this Act), and

“(2) the assessment of a deficiency of the tax imposed by chapter 1 of such Code for such taxable year and each subsequent taxable year ending before October 22, 1965, is not prevented on December 31, 1966, by the operation of any law or rule of law,

then such deduction on account of such debt obligations shall be allowed for each such taxable year under such section 166(c) to the extent that the deduction would have been allowable under the provisions of such section 166(g)(1)(A) if such provisions applied to such taxable years.

“(c) Section 166(g)(2) of the Internal Revenue Code of 1986 (as amended by the first section of this Act) shall apply to taxable years beginning after December 31, 1953, and ending after August 16, 1954.”

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 1(c)(1) of Pub. L. 85-866, set out as a note under section 165 of this title.

ESTABLISHMENT OF RESERVE FOR TAXABLE YEAR ENDING AFTER OCT. 21, 1965, AND BEGINNING BEFORE AUG. 2, 1966

Pub. L. 89-722, §1(c), Nov. 2, 1966, 80 Stat. 1152, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat.

2095, provided that: “If the taxpayer establishes a reserve described in section 166(g)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (a) of this section) for a taxable year ending after October 21, 1965, and beginning before August 2, 1966, the establishment of such reserve shall not be considered as a change in method of accounting for purposes of section 446(e) of such Code.”

§ 167. Depreciation

(a) General rule

There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

- (1) of property used in the trade or business,
- or
- (2) of property held for the production of income.

(b) Cross reference

For determination of depreciation deduction in case of property to which section 168 applies, see section 168.

(c) Basis for depreciation

(1) In general

The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

(2) Special rule for property subject to lease

If any property is acquired subject to a lease—

- (A) no portion of the adjusted basis shall be allocated to the leasehold interest, and
- (B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease.

(d) Life tenants and beneficiaries of trusts and estates

In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust, the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. In the case of an estate, the allowable deduction shall be apportioned between the estate and the heirs, legatees, and devisees on the basis of the income of the estate allocable to each.

(e) Certain term interests not depreciable

(1) In general

No depreciation deduction shall be allowed under this section (and no depreciation or amortization deduction shall be allowed under any other provision of this subtitle) to the taxpayer for any term interest in property for any period during which the remainder interest in such property is held (directly or indirectly) by a related person.

(2) Coordination with other provisions

(A) Section 273

This subsection shall not apply to any term interest to which section 273 applies.

(B) Section 305(e)

This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies.

(3) Basis adjustments

If, but for this subsection, a depreciation or amortization deduction would be allowable to the taxpayer with respect to any term interest in property—

- (A) the taxpayer's basis in such property shall be reduced by any depreciation or amortization deductions disallowed under this subsection, and
- (B) the basis of the remainder interest in such property shall be increased by the amount of such disallowed deductions (properly adjusted for any depreciation deductions allowable under subsection (d) to the taxpayer).

(4) Special rules

(A) Denial of increase in basis of remainderman

No increase in the basis of the remainder interest shall be made under paragraph (3)(B) for any disallowed deductions attributable to periods during which the term interest was held—

- (i) by an organization exempt from tax under this subtitle, or
- (ii) by a nonresident alien individual or foreign corporation but only if income from the term interest is not effectively connected with the conduct of a trade or business in the United States.

(B) Coordination with subsection (d)

If, but for this subsection, a depreciation or amortization deduction would be allowable to any person with respect to any term interest in property, the principles of subsection (d) shall apply to such person with respect to such term interest.

(5) Definitions

For purposes of this subsection—

(A) Term interest in property

The term “term interest in property” has the meaning given such term by section 1001(e)(2).

(B) Related person

The term “related person” means any person bearing a relationship to the taxpayer described in subsection (b) or (e) of section 267.

(6) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations preventing avoidance of this subsection through cross-ownership arrangements or otherwise.