

- Sec.
179E. Election to expense advanced mine safety equipment.
180. Expenditures by farmers for fertilizer, etc.
181. Treatment of certain qualified film and television and live theatrical productions.
[182. Repealed.]
183. Activities not engaged in for profit.
[184, 185. Repealed.]
186. Recoveries of damages for antitrust violations, etc.
[187 to 189. Repealed.]
190. Expenditures to remove architectural and transportation barriers to the handicapped and elderly.
191. Amortization of certain rehabilitation expenditures for certified historic structures.¹
192. Contributions to black lung benefit trust.
193. Tertiary injectants.
194. Treatment of reforestation expenditures.
194A. Contributions to employer liability trusts.
195. Start-up expenditures.
196. Deduction for certain unused business credits.
197. Amortization of goodwill and certain other intangibles.
198. Expensing of environmental remediation costs.
[198A, 199. Repealed.]
199A. Qualified business income.

AMENDMENT OF ANALYSIS

Pub. L. 115-97, title I, § 13206(c), (e), Dec. 22, 2017, 131 Stat. 2112, 2113, provided that, applicable to amounts paid or incurred in taxable years beginning after Dec. 31, 2021, this analysis is amended by striking item 174 and inserting a new item 174 "Amortization of research and experimental expenditures." See 2017 Amendment note below.

AMENDMENTS

2017—Pub. L. 115-97, title I, § 11011(d)(6), 13305(a), Dec. 22, 2017, 131 Stat. 2071, 2126, struck out item 199 "Income attributable to domestic production activities" and added item 199A.

Pub. L. 115-97, title I, § 13206(c), Dec. 22, 2017, 131 Stat. 2112, substituted "Amortization of research and experimental expenditures" for "Research and experimental expenditures" in item 174.

2015—Pub. L. 114-113, div. Q, title I, § 169(b)(3), Dec. 18, 2015, 129 Stat. 3068, substituted "Treatment of certain qualified film and television and live theatrical productions" for "Treatment of certain qualified film and television productions" in item 181.

2014—Pub. L. 113-295, div. A, title II, § 221(a)(34)(A), (35), Dec. 19, 2014, 128 Stat. 4042, which directed amendment of table of sections for part VI of subchapter A of this chapter by striking items 179A and 198A, was executed by striking items 179A "Deduction for clean-fuel vehicles and certain refueling property" and 198A "Expensing of Qualified Disaster Expenses" in table of sections for part VI of this subchapter to reflect the probable intent of Congress.

2008—Pub. L. 110-343, div. C, title VII, § 707(b), Oct. 3, 2008, 122 Stat. 3924, added item 198A.

Pub. L. 110-234, title XV, § 15303(a)(2)(C), May 22, 2008, 122 Stat. 1501, and Pub. L. 110-246, title XV, § 15303(a)(2)(C), June 18, 2008, 122 Stat. 2263, made identical amendments, inserting " ; endangered species recovery expenditures" after "conservation expenditures" in item 175. The amendment by Pub. L. 110-234 was repealed by Pub. L. 110-246, § 4(a), June 18, 2008, 122 Stat. 1664.

2006—Pub. L. 109-432, div. A, title IV, § 404(b)(4), Dec. 20, 2006, 120 Stat. 2956, added item 179E.

2005—Pub. L. 109-58, title XIII, §§ 1323(b)(4), 1331(c), Aug. 8, 2005, 119 Stat. 1015, 1024, added items 179C and 179D.

2004—Pub. L. 108-357, title I, § 102(d)(8), title II, § 244(b), title III, §§ 322(c)(5), 338(b)(6), Oct. 22, 2004, 118 Stat. 1429, 1446, 1475, 1481, added items 179B, 181, and 199, and substituted "Treatment" for "Amortization" in item 194.

1997—Pub. L. 105-34, title IX, § 941(b), Aug. 5, 1997, 111 Stat. 885, added item 198.

1993—Pub. L. 103-66, title XIII, § 13261(f)(6), Aug. 10, 1993, 107 Stat. 539, added item 197.

1992—Pub. L. 102-486, title XIX, § 1913(a)(3)(B), Oct. 24, 1992, 106 Stat. 3019, added item 179A.

1990—Pub. L. 101-508, title XI, § 11801(b)(3), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 184 "Amortization of certain railroad rolling stock" and item 188 "Amortization of certain expenditures for child care facilities".

1986—Pub. L. 99-514, title II, §§ 201(d)(2)(B), 241(b)(3), 242(b)(3), title IV, § 402(b)(3), title VIII, § 803(c)(2), Oct. 22, 1986, 100 Stat. 2139, 2181, 2221, 2356, substituted "Amortization of cost of acquiring a lease" for "Depreciation or amortization of improvements made by lessee on lessor's property" in item 178, and struck out items 177 "Trademark and trade name expenditures", 182 "Expenditures by farmers for clearing land", 185 "Amortization of railroad grading and tunnel bores", and 189 "Amortization of real property construction period interest and taxes".

1984—Pub. L. 98-369, div. A, title I, § 94(b), title IV, § 474(r)(8)(B), July 18, 1984, 98 Stat. 615, 841, reenacted item 195 without change, and substituted "business credits" for "investment credits" in item 196.

1983—Pub. L. 97-448, title III, § 305(b)(2), Jan. 12, 1983, 96 Stat. 2399, redesignated item 194 (relating to contributions to employer liability trusts) as 194A.

1982—Pub. L. 97-248, title II, § 205(a)(5)(C), Sept. 3, 1982, 96 Stat. 430, added item 196.

1981—Pub. L. 97-34, title II, §§ 201(d), 202(d)(3), Aug. 13, 1981, 95 Stat. 219, 221, added item 168 and substituted "Election to expense certain depreciable business assets" for "Additional first-year depreciation allowance for small business" in item 179.

1980—Pub. L. 96-605, title I, § 102(b), Dec. 28, 1980, 94 Stat. 3522, added item 195.

Pub. L. 96-451, title III, § 301(c)(2), Oct. 14, 1980, 94 Stat. 1991, added item 194 relating to amortization of reforestation expenditures.

Pub. L. 96-364, title II, § 209(c)(2), Sept. 26, 1980, 94 Stat. 1291, added item 194 relating to contributions to employer liability trusts.

Pub. L. 96-223, title II, § 251(a)(2)(A), Apr. 2, 1980, 94 Stat. 287, added item 193.

1978—Pub. L. 95-227, § 4(b)(2), Feb. 10, 1978, 95 Stat. 17, added item 192.

1977—Pub. L. 95-30, title IV, § 402(a)(4), May 23, 1977, 91 Stat. 155, struck out "on-the-job training and" after "certain expenditures for" in item 188.

1976—Pub. L. 94-455, title II, § 201(b), title XIX, §§ 1901(b)(11)(B), 1951(c)(2)(D), title XXI, §§ 2122(b)(1), 2124(a)(3)(A), Oct. 4, 1976, 90 Stat. 1527, 1795, 1841, 1915, 1917, struck out item 168 "Amortization of emergency facilities" and item 187 "Amortization of certain coal mine safety equipment" and added items 189, 190, and 191.

1971—Pub. L. 92-178, title III, § 303(c)(6), Dec. 10, 1971, 85 Stat. 522, added item 188.

1969—Pub. L. 91-172, title II, § 213(c)(1), title VII, §§ 704(b)(1), 705(b), 707(b), title IX, § 904(b), Dec. 30, 1969, 83 Stat. 572, 669, 674, 675, 712, substituted reference to pollution control facilities for reference to grain storage facilities in item 169, and added items 183 to 187.

1964—Pub. L. 88-272, title II, § 203(a)(3)(D), Feb. 26, 1964, 78 Stat. 34, struck out item 181 "Deduction for certain unused investment credit".

1962—Pub. L. 87-834, §§ 2(g)(3), 21(c), Oct. 16, 1962, 76 Stat. 973, 1064, added items 181, 182.

1960—Pub. L. 86-779, § 6(b), Sept. 14, 1960, 74 Stat. 1001, added item 180.

¹ Section 191 was repealed by Pub. L. 97-34 without corresponding amendment of part analysis.

1958—Pub. L. 85-866, title I, §15(b), title II, §204(b), Sept. 2, 1958, 72 Stat. 1613, 1680, added items 178 and 179.

1956—Act June 29, 1956, ch. 464, §4(b), 70 Stat. 406, added item 177.

1954—Act Sept. 1, 1954, ch. 1206, title II, §210(b), 68 Stat. 1097, added item 176.

§ 161. Allowance of deductions

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (sec. 261 and following, relating to items not deductible).

(Aug. 16, 1954, ch. 736, 68A Stat. 45; Pub. L. 95-30, title I, §102(b)(1), May 23, 1977, 91 Stat. 137.)

AMENDMENTS

1977—Pub. L. 95-30 substituted “section 63” for “section 63(a)”.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

§ 162. Trade or business expenses

(a) In general

There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including—

(1) a reasonable allowance for salaries or other compensation for personal services actually rendered;

(2) traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and

(3) rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

For purposes of the preceding sentence, the place of residence of a Member of Congress (including any Delegate and Resident Commissioner) within the State, congressional district, or possession which he represents in Congress shall be considered his home, but amounts expended by such Members within each taxable year for living expenses shall not be deductible for income tax purposes. For purposes of paragraph (2), the taxpayer shall not be treated as being temporarily away from home during any period of employment if such period exceeds 1 year. The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime.

(b) Charitable contributions and gifts excepted

No deduction shall be allowed under subsection (a) for any contribution or gift which would be allowable as a deduction under section

170 were it not for the percentage limitations, the dollar limitations, or the requirements as to the time of payment, set forth in such section.

(c) Illegal bribes, kickbacks, and other payments

(1) Illegal payments to government officials or employees

No deduction shall be allowed under subsection (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, the payment is unlawful under the Foreign Corrupt Practices Act of 1977. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or is unlawful under the Foreign Corrupt Practices Act of 1977) shall be upon the Secretary to the same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

(2) Other illegal payments

No deduction shall be allowed under subsection (a) for any payment (other than a payment described in paragraph (1)) made, directly or indirectly, to any person, if the payment constitutes an illegal bribe, illegal kickback, or other illegal payment under any law of the United States, or under any law of a State (but only if such State law is generally enforced), which subjects the payor to a criminal penalty or the loss of license or privilege to engage in a trade or business. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer. The burden of proof in respect of the issue, for purposes of this paragraph, as to whether a payment constitutes an illegal bribe, illegal kickback, or other illegal payment shall be upon the Secretary to the same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

(3) Kickbacks, rebates, and bribes under medicare and medicaid

No deduction shall be allowed under subsection (a) for any kickback, rebate, or bribe made by any provider of services, supplier, physician, or other person who furnishes items or services for which payment is or may be made under the Social Security Act, or in whole or in part out of Federal funds under a State plan approved under such Act, if such kickback, rebate, or bribe is made in connection with the furnishing of such items or services or the making or receipt of such payments. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer.

(d) Capital contributions to Federal National Mortgage Association

For purposes of this subtitle, whenever the amount of capital contributions evidenced by a share of stock issued pursuant to section 303(c)