

stock ownership requirement of paragraph (2) of section 542(a) of such Code is met.

“(B) PERSONAL SERVICE CORPORATION.—The term ‘personal service corporation’ means any corporation (other than an S corporation) which is a service organization (within the meaning of section 414(m)(3) of such Code).

“(C) PUBLICLY TRADED SECURITIES.—The term ‘publicly traded securities’ means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

“(D) NONPUBLICLY TRADED STOCK.—The term ‘nonpublicly traded stock’ means any stock of a corporation which is not a publicly traded security.

“(E) THE SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury or his delegate.”

CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN CASE OF INCOME AND GIFT TAXES

For includability of provisions comparable to section 2055(e)(3) of this title in this section, see section 514(b) of Pub. L. 95-600, set out as a note under section 2055 of this title.

DEDUCTION OF CONTRIBUTIONS TO CERTAIN ORGANIZATIONS FOR JUDICIAL REFORM

Pub. L. 87-834, §29, Oct. 16, 1962, 76 Stat. 1068, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of section 170 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to deduction for charitable, etc., contributions and gifts), a contribution or gift made after December 31, 1961, with respect to a referendum occurring during the calendar year 1962 to or for the use of any nonprofit organization created and operated exclusively—

“(1) to consider proposals for the reorganization of the judicial branch of the government of any State of the United States or political subdivision of such State, and

“(2) to provide information, make recommendations, and seek public support or opposition as to such proposals,

shall be treated as a charitable contribution if no part of the net earnings of such organization inures to the benefit of any private shareholder or individual. The provisions of the preceding sentence shall not apply to any organization which participates in, or intervenes in, any political campaign on behalf of any candidate for public office.”

§ 171. Amortizable bond premium

(a) General rule

In the case of any bond, as defined in subsection (d), the following rules shall apply to the amortizable bond premium (determined under subsection (b)) on the bond:

(1) Taxable bonds

In the case of a bond (other than a bond the interest on which is excludable from gross income), the amount of the amortizable bond premium for the taxable year shall be allowed as a deduction.

(2) Tax-exempt bonds

In the case of any bond the interest on which is excludable from gross income, no deduction shall be allowed for the amortizable bond premium for the taxable year.

(3) Cross reference

For adjustment to basis on account of amortizable bond premium, see section 1016(a)(5).

(b) Amortizable bond premium

(1) Amount of bond premium

For purposes of paragraph (2), the amount of bond premium, in the case of the holder of any bond, shall be determined—

(A) with reference to the amount of the basis (for determining loss on sale or exchange) of such bond,

(B)(i) with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period before the call date, with reference to the amount payable on the earlier call date), in the case of a bond described in subsection (a)(1), and

(ii) with reference to the amount payable on maturity or on an earlier call date, in the case of a bond described in subsection (a)(2).

(C) with adjustments proper to reflect unamortized bond premium, with respect to the bond, for the period before the date as of which subsection (a) becomes applicable with respect to the taxpayer with respect to such bond.

In no case shall the amount of bond premium on a convertible bond include any amount attributable to the conversion features of the bond.

(2) Amount amortizable

The amortizable bond premium of the taxable year shall be the amount of the bond premium attributable to such year. In the case of a bond to which paragraph (1)(B)(i) applies and which has a call date, the amount of bond premium attributable to the taxable year in which the bond is called shall include an amount equal to the excess of the amount of the adjusted basis (for determining loss on sale or exchange) of such bond as of the beginning of the taxable year over the amount received on redemption of the bond or (if greater) the amount payable on maturity.

(3) Method of determination

(A) In general

Except as provided in regulations prescribed by the Secretary, the determinations required under paragraphs (1) and (2) shall be made on the basis of the taxpayer's yield to maturity determined by—

(i) using the taxpayer's basis (for purposes of determining loss on sale or exchange) of the obligation, and

(ii) compounding at the close of each accrual period (as defined in section 1272(a)(5)).

(B) Special rule where earlier call date is used

For purposes of subparagraph (A), if the amount payable on an earlier call date is used under paragraph (1)(B)(i) in determining the amortizable bond premium attributable to the period before the earlier call date, such bond shall be treated as maturing on such date for the amount so payable and then reissued on such date for the amount so payable.

(4) Treatment of certain bonds acquired in exchange for other property

(A) In general

If—

(i) a bond is acquired by any person in exchange for other property, and

(ii) the basis of such bond is determined (in whole or in part) by reference to the basis of such other property,

for purposes of applying this subsection to such bond while held by such person, the basis of such bond shall not exceed its fair market value immediately after the exchange. A similar rule shall apply in the case of such bond while held by any other person whose basis is determined (in whole or in part) by reference to the basis in the hands of the person referred to in clause (i).

(B) Special rule where bond exchanged in reorganization

Subparagraph (A) shall not apply to an exchange by the taxpayer of a bond for another bond if such exchange is a part of a reorganization (as defined in section 368). If any portion of the basis of the taxpayer in a bond transferred in such an exchange is not taken into account in determining bond premium by reason of this paragraph, such portion shall not be taken into account in determining the amount of bond premium on any bond received in the exchange.

(c) Election as to taxable bonds

(1) Eligibility to elect; bonds with respect to which election permitted

In the case of bonds the interest on which is not excludible from gross income, this section shall apply only if the taxpayer has so elected.

(2) Manner and effect of election

The election authorized under this subsection shall be made in accordance with such regulations as the Secretary shall prescribe. If such election is made with respect to any bond (described in paragraph (1)) of the taxpayer, it shall also apply to all such bonds held by the taxpayer at the beginning of the first taxable year to which the election applies and to all such bonds thereafter acquired by him and shall be binding for all subsequent taxable years with respect to all such bonds of the taxpayer, unless, on application by the taxpayer, the Secretary permits him, subject to such conditions as the Secretary deems necessary, to revoke such election. In the case of bonds held by a common trust fund, as defined in section 584(a), the election authorized under this subsection shall be exercisable with respect to such bonds only by the common trust fund. In case of bonds held by an estate or trust, the election authorized under this subsection shall be exercisable with respect to such bonds only by the fiduciary.

(d) Bond defined

For purposes of this section, the term “bond” means any bond, debenture, note, or certificate or other evidence of indebtedness, but does not include any such obligation which constitutes stock in trade of the taxpayer or any such obligation of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or any such obligation held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

(e) Treatment as offset to interest payments

Except as provided in regulations, in the case of any taxable bond—

(1) the amount of any bond premium shall be allocated among the interest payments on the bond under rules similar to the rules of subsection (b)(3), and

(2) in lieu of any deduction under subsection (a), the amount of any premium so allocated to any interest payment shall be applied against (and operate to reduce) the amount of such interest payment.

For purposes of the preceding sentence, the term “taxable bond” means any bond the interest of which is not excludable from gross income.

(f) Dealers in tax-exempt securities

For special rules applicable, in the case of dealers in securities, with respect to premium attributable to certain wholly tax-exempt securities, see section 75.

(Aug. 16, 1954, ch. 736, 68A Stat. 61; Pub. L. 85-866, title I, §13(a), Sept. 2, 1958, 72 Stat. 1610; Pub. L. 94-455, title XIX, §§1901(b)(1)(E), 1906(b)(13)(A), 1951(b)(5)(A), Oct. 4, 1976, 90 Stat. 1790, 1834, 1837; Pub. L. 99-514, title VI, §643(a), title XVIII, §1803(a)(11)(A), (B), (12)(A), Oct. 22, 1986, 100 Stat. 2285, 2795; Pub. L. 100-647, title I, §1006(j)(1)(A), Nov. 10, 1988, 102 Stat. 3411; Pub. L. 108-357, title IV, §413(c)(2), Oct. 22, 2004, 118 Stat. 1507; Pub. L. 113-295, div. A, title II, §221(a)(29), Dec. 19, 2014, 128 Stat. 4041.)

AMENDMENTS

2014—Subsec. (b)(1)(B). Pub. L. 113-295, §221(a)(29)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

“(i) with reference to the amount payable on maturity or on earlier call date, in the case of any bond other than a bond to which clause (ii) applies, or and

“(ii) with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period to earlier call date, with reference to the amount payable on earlier call date), in the case of any bond described in subsection (a)(1) which is acquired after December 31, 1957, and”.

Subsec. (b)(2), (3)(B). Pub. L. 113-295, §221(a)(29)(B), substituted “paragraph (1)(B)(i)” for “paragraph (1)(B)(ii)”.

2004—Subsec. (c)(2). Pub. L. 108-357, §413(c)(2)(B), which directed amendment of par. (2) by striking out “, or foreign personal holding company”, was executed by striking out “or foreign personal holding company” after “the common trust fund”, to reflect the probable intent of Congress.

Pub. L. 108-357, §413(c)(2)(A), struck out “, or by a foreign personal holding company, as defined in section 552” after “section 584(a)”.

1988—Subsec. (e). Pub. L. 100-647 substituted “Treatment as offset to interest payments” for “Treatment as interest” in heading and amended text generally. Prior to amendment, text read as follows: “Except as provided in regulations, the amount of any amortizable bond premium with respect to which a deduction is allowed under subsection (a)(1) for any taxable year shall be treated as interest for purposes of this title.”

1986—Subsec. (b)(3). Pub. L. 99-514, §1803(a)(11)(A), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The determinations required under paragraphs (1) and (2) shall be made—

“(A) in accordance with the method of amortizing bond premium regularly employed by the holder of the bond, if such method is reasonable;

“(B) in all other cases, in accordance with regulations prescribing reasonable methods of amortizing bond premium prescribed by the Secretary.”

Subsec. (b)(4). Pub. L. 99-514, §1803(a)(12)(A), added par. (4).

Subsec. (d). Pub. L. 99-514, §1803(a)(11)(B), struck out “issued by any corporation and bearing interest (including any like obligation issued by a government or political subdivision thereof),” after “evidence of indebtedness.”

Subsecs. (e), (f). Pub. L. 99-514, §643(a), added subsec. (e) and redesignated former subsec. (e) as (f).

1976—Subsec. (a)(1). Pub. L. 94-455, §1901(b)(1)(E)(i), substituted “Taxable bonds” for “Interest wholly or partially taxable” after “(1)”.

Subsec. (a)(2). Pub. L. 94-455, §1901(b)(1)(E)(ii), substituted “Tax-exempt bonds” for “Interest wholly tax-exempt” after “(2)”.

Subsec. (a)(3). Pub. L. 94-455, §1901(b)(1)(E)(iii), redesignated par. (4) as (3). Former par. (3), relating to adjustment of credit or deduction for interest partially tax-exempt, was struck out.

Subsec. (a)(4). Pub. L. 94-455, §1901(b)(1)(E)(iii), redesignated par. (4) as par. (3).

Subsec. (b)(1)(B)(i). Pub. L. 94-455, §1951(b)(5)(A)(ii), substituted “clause (ii) applies, or” for “clause (ii) or (iii) applies” after “bond to which” and inserted “and” at the end.

Subsec. (b)(1)(B)(ii). Pub. L. 94-455, §§1901(b)(1)(E)(iv), 1951(b)(5)(A)(iii), substituted “subsection (a)(1)” for “subsection (c)(1)(B)” after “bond described in” and “and” for “or” after “1957”.

Subsec. (b)(1)(B)(iii). Pub. L. 94-455, §1951(b)(5)(A)(i), struck out cl. (iii) relating to certain bonds acquired before 1958.

Subsec. (b)(2). Pub. L. 94-455, §1951(b)(5)(A)(iv), struck out “or (iii)” after “paragraph (1)(B)(ii)”.

Subsec. (b)(3)(B). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c)(1). Pub. L. 94-455, §1901(b)(1)(E)(v), substituted “In the case of bonds the interest on which is not excludible from gross income, this section shall apply only if the taxpayer has so elected” for “This section shall apply with respect to the following classes of taxpayers with respect to the following classes of bonds only if the taxpayer has elected to have this section apply” after “election permitted”, and struck out subpars. (A) and (B) relating to partially tax-exempt, and wholly taxable, bonds.

Subsec. (c)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” in three places after “Secretary”.

1958—Subsec. (b)(1)(B). Pub. L. 85-866, §13(a)(1), substituted “, in the case of any bond other than a bond to which clause (ii) or (iii) applies” for “(but in the case of bonds described in subsection (c)(1)(B) issued after January 22, 1951, and acquired after January 22, 1954, only if such earlier call date is a date more than 3 years after the date of such issue), and”, designated such provision as cl. (i), and added cl. (ii) and (iii).

Subsec. (b)(2). Pub. L. 85-866, §13(a)(2), substituted “In the case of a bond to which paragraph (1)(B)(ii) or (iii) applies and which has a call date,” for “In the case of a bond described in subsection (c)(1)(B) issued after January 22, 1951, and acquired after January 22, 1954, which has a call date not more than 3 years after the date of such issue,” in second sentence.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1006(j)(1)(C), Nov. 10, 1988, 102 Stat. 3411, provided that: “The amendments made by

this paragraph [amending this section and section 1016 of this title] shall apply in the case of obligations acquired after December 31, 1987; except that the taxpayer may elect to have such amendment apply to obligations acquired after October 22, 1986.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title VI, §643(b), Oct. 22, 1986, 100 Stat. 2285, as amended by Pub. L. 100-647, title I, §1006(j)(2), Nov. 10, 1988, 102 Stat. 3411, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to obligations acquired after the date of the enactment of this Act [Oct. 22, 1986], in taxable years ending after such date.

“(2) REVOCATION OF ELECTION.—In the case of a taxpayer with respect to whom an election is in effect on the date of enactment of this Act [Oct. 22, 1986], under section 171(c) of the Internal Revenue Code of 1986, such election shall apply to obligations acquired after the date of the enactment of this Act only if the taxpayer chooses (at such time and in such manner as may be prescribed by the Secretary of the Treasury or his delegate) to have such election apply with respect to such obligations.”

Pub. L. 99-514, title XVIII, §1803(a)(11)(C), Oct. 22, 1986, 100 Stat. 2795, provided that:

“(1) The amendments made by this paragraph [amending this section] shall apply to obligations issued after September 27, 1985.

“(ii) In the case of a taxpayer with respect to whom an election is in effect on the date of the enactment of this Act [Oct. 22, 1986] under section 171(c) of the Internal Revenue Code of 1954 [now 1986], such election shall apply to obligations issued after September 27, 1985, only if the taxpayer chooses (at such time and in such manner as may be prescribed by the Secretary of the Treasury or his delegate) to have such election apply with respect to such obligations.”

Pub. L. 99-514, title XVIII, §1803(a)(12)(B), Oct. 22, 1986, 100 Stat. 2796, provided that: “The amendment made by subparagraph (A) [amending this section] shall apply to exchanges after May 6, 1986.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(b)(1)(E)(iii)–(v) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1951(b)(5)(A)(i) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1951(d) of Pub. L. 94-455, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title I, §13(b), Sept. 2, 1958, 72 Stat. 1611, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years ending after December 31, 1957.”

SAVINGS PROVISION

Pub. L. 94-455, title XIX, §1951(b)(5)(B), Oct. 4, 1976, 90 Stat. 1838, provided that: “Notwithstanding the amendments made by subparagraph (A) [amending this section], in the case of a bond the interest on which is not excludable from gross income—

“(i) which was issued after January 22, 1951, with a call date not more than 3 years after the date of such issue, and

“(ii) which was acquired by the taxpayer after January 22, 1954, and before January 1, 1958,

the bond premium for a taxable year beginning after December 31, 1975, shall not be determined under section 171(b)(1)(B)(i) but shall be determined with reference to the amount payable on maturity, and if the bond is called before its maturity, the bond premium for the year in which the bond is called shall be determined in accordance with the provisions of section 171(b)(2).”

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.

§ 172. Net operating loss deduction

(a) Deduction allowed

There shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

- (1) the aggregate of the net operating loss carryovers to such year, plus the net operating loss carrybacks to such year, or
- (2) 80 percent of taxable income computed without regard to the deduction allowable under this section.

For purposes of this subtitle, the term “net operating loss deduction” means the deduction allowed by this subsection.

(b) Net operating loss carrybacks and carryovers

(1) Years to which loss may be carried

(A) General rule

Except as otherwise provided in this paragraph, a net operating loss for any taxable year—

- (i) except as otherwise provided in this paragraph, shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss, and
- (ii) shall be a net operating loss carryover to each taxable year following the taxable year of the loss.

(B) Farming losses

(i) In general

In the case of any portion of a net operating loss for the taxable year which is a farming loss with respect to the taxpayer, such loss shall be a net operating loss carryback to each of the 2 taxable years preceding the taxable year of such loss.

(ii) Farming loss

For purposes of this section, the term “farming loss” means the lesser of—

- (I) the amount which would be the net operating loss for the taxable year if only income and deductions attributable to farming businesses (as defined in section 263A(e)(4)) are taken into account, or
- (II) the amount of the net operating loss for such taxable year.

(iii) Coordination with paragraph (2)

For purposes of applying paragraph (2), a farming loss for any taxable year shall be treated as a separate net operating loss for such taxable year to be taken into account after the remaining portion of the net operating loss for such taxable year.

(iv) Election

Any taxpayer entitled to a 2-year carryback under clause (i) from any loss year

may elect not to have such clause apply to such loss year. Such election shall be made in such manner as prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

(C) Insurance companies

In the case of an insurance company (as defined in section 816(a)) other than a life insurance company, the net operating loss for any taxable year—

- (i) shall be a net operating loss carryback to each of the 2 taxable years preceding the taxable year of such loss, and
- (ii) shall be a net operating loss carryover to each of the 20 taxable years following the taxable year of the loss.

(2) Amount of carrybacks and carryovers

The entire amount of the net operating loss for any taxable year (hereinafter in this section referred to as the “loss year”) shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall—

(A) be computed with the modifications specified in subsection (d) other than paragraphs (1), (4), and (5) thereof, and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter,

(B) not be considered to be less than zero, and

(C) not exceed the amount determined under subsection (a)(2) for such prior taxable year.

(3) Election to waive carryback

Any taxpayer entitled to a carryback period under paragraph (1) may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year. Such election shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss for which the election is to be in effect. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

(c) Net operating loss defined

For purposes of this section, the term “net operating loss” means the excess of the deductions allowed by this chapter over the gross income. Such excess shall be computed with the modifications specified in subsection (d).

(d) Modifications

The modifications referred to in this section are as follows: