

(1) is incident to the creation of the corporation;

(2) is chargeable to capital account; and

(3) is of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life.

**(c) Time for and scope of election**

The election provided by subsection (a) may be made for any taxable year but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The period so elected shall be adhered to in computing the taxable income of the corporation for the taxable year for which the election is made and all subsequent taxable years.

(Aug. 16, 1954, ch. 736, 68A Stat. 76; Pub. L. 94-455, title XIX, §§ 1901(a)(36), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1770, 1834; Pub. L. 108-357, title VIII, § 902(b), Oct. 22, 2004, 118 Stat. 1651; Pub. L. 113-295, div. A, title II, § 221(a)(42), Dec. 19, 2014, 128 Stat. 4044.)

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-295 struck out “beginning after December 31, 1953,” after “any taxable year” and “The election shall apply only with respect to expenditures paid or incurred on or after August 16, 1954.” at end.

2004—Subsec. (a). Pub. L. 108-357 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The organizational expenditures of a corporation may, at the election of the corporation (made in accordance with regulations prescribed by the Secretary, be treated as deferred expenses. In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the corporation (beginning with the month in which the corporation begins business).”

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

Subsec. (c). Pub. L. 94-455, § 1901(a)(36), substituted “August 16, 1954” for “the date of enactment of this title”.

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 amounts paid or incurred after Oct. 22, 2004, see section 902(d) of Pub. L. 108-357, set out as a note under section 195 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(36) 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 1906(b)(13)(A) of Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

**§ 249. Limitation on deduction of bond premium on repurchase**

**(a) General rule**

No deduction shall be allowed to the issuing corporation for any premium paid or incurred upon the repurchase of a bond, debenture, note,

or certificate or other evidence of indebtedness which is convertible into the stock of the issuing corporation, or a corporation in the same parent-subsidiary controlled group (within the meaning of section 1563(a)(1)) as the issuing corporation, to the extent the repurchase price exceeds an amount equal to the adjusted issue price plus a normal call premium on bonds or other evidences of indebtedness which are not convertible. The preceding sentence shall not apply to the extent that the corporation can demonstrate to the satisfaction of the Secretary that such excess is attributable to the cost of borrowing and is not attributable to the conversion feature.

**(b) Adjusted issue price**

For purposes of subsection (a), the adjusted issue price is the issue price (as defined in sections 1273(b) and 1274) increased by any amount of discount deducted before repurchase, or decreased by any amount of premium included in gross income before repurchase by the issuing corporation.

(Added Pub. L. 91-172, title IV, § 414(a), Dec. 30, 1969, 83 Stat. 612; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, § 42(a)(5), July 18, 1984, 98 Stat. 557; Pub. L. 112-95, title XI, § 1108(a), (b), Feb. 14, 2012, 126 Stat. 154; Pub. L. 113-295, div. A, title II, §§ 220(i), 221(a)(43), Dec. 19, 2014, 128 Stat. 4036, 4044.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295, § 220(i), substituted “1563(a)(1)” for “1563(a)(1)”.

Subsec. (b). Pub. L. 113-295, § 221(a)(43), which directed amendment of subsec. (b)(1) by striking out “, in the case of bonds or other evidences of indebtedness issued after February 28, 1913,” after “repurchase, or”, was executed by making the amendment in subsec. (b) to reflect the probable intent of Congress and the prior amendment by Pub. L. 112-95, § 1108(b). See 2012 Amendment note below.

2012—Subsec. (a). Pub. L. 112-95, § 1108(a), substituted “, or a corporation in the same parent-subsidiary controlled group (within the meaning of section 1563(a)(1) as” for “, or a corporation in control of, or controlled by,”.

Subsec. (b). Pub. L. 112-95, § 1108(b), substituted “Adjusted issue price” for “Special rules” in heading and “For purposes of subsection (a),” for “For purposes of subsection (a)—” and par. (1) designation and heading, and “the adjusted issue price” for “The adjusted issue price”, and struck out par. (2), which defined “control” as having the meaning assigned to such term by section 368(c).

1984—Subsec. (b)(1). Pub. L. 98-369 substituted “sections 1273(b) and 1274” for “section 1232(b)”.

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

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 221(a)(43) of 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 2012 AMENDMENT

Pub. L. 112-95, title XI, § 1108(c), Feb. 14, 2012, 126 Stat. 154, provided that: “The amendments made by this section [amending this section] shall apply to repurchases after the date of the enactment of this Act [Feb. 14, 2012].”

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

## EFFECTIVE DATE

Pub. L. 91-172, title IV, §414(c), Dec. 30, 1969, 83 Stat. 613, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this section [enacting this section] shall apply to a convertible bond or other convertible evidence of indebtedness repurchased after April 22, 1969, other than such a bond or other evidence of indebtedness repurchased pursuant to a binding obligation incurred on or before April 22, 1969, to repurchase such bond or other evidence of indebtedness at a specified call premium, but no inference shall be drawn from the fact that section 249 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a) of this section) does not apply to the repurchase of such convertible bond or other convertible evidence of indebtedness."

## § 250. Foreign-derived intangible income and global intangible low-taxed income

### (a) Allowance of deduction

#### (1) In general

In the case of a domestic corporation for any taxable year, there shall be allowed as a deduction an amount equal to the sum of—

(A) 37.5 percent of the foreign-derived intangible income of such domestic corporation for such taxable year, plus

(B) 50 percent of—

(i) the global intangible low-taxed income amount (if any) which is included in the gross income of such domestic corporation under section 951A for such taxable year, and

(ii) the amount treated as a dividend received by such corporation under section 78 which is attributable to the amount described in clause (i).

#### (2) Limitation based on taxable income

##### (A) In general

If, for any taxable year—

(i) the sum of the foreign-derived intangible income and the global intangible low-taxed income amount otherwise taken into account by the domestic corporation under paragraph (1), exceeds

(ii) the taxable income of the domestic corporation (determined without regard to this section),

then the amount of the foreign-derived intangible income and the global intangible low-taxed income amount so taken into account shall be reduced as provided in subparagraph (B).

##### (B) Reduction

For purposes of subparagraph (A)—

(i) foreign-derived intangible income shall be reduced by an amount which bears the same ratio to the excess described in subparagraph (A) as such foreign-derived

intangible income bears to the sum described in subparagraph (A)(i), and

(ii) the global intangible low-taxed income amount shall be reduced by the remainder of such excess.

### (3) Reduction in deduction for taxable years after 2025

In the case of any taxable year beginning after December 31, 2025, paragraph (1) shall be applied by substituting—

(A) "21.875 percent" for "37.5 percent" in subparagraph (A), and

(B) "37.5 percent" for "50 percent" in subparagraph (B).

### (b) Foreign-derived intangible income

For purposes of this section—

#### (1) In general

The foreign-derived intangible income of any domestic corporation is the amount which bears the same ratio to the deemed intangible income of such corporation as—

(A) the foreign-derived deduction eligible income of such corporation, bears to

(B) the deduction eligible income of such corporation.

#### (2) Deemed intangible income

For purposes of this subsection—

##### (A) In general

The term "deemed intangible income" means the excess (if any) of—

(i) the deduction eligible income of the domestic corporation, over

(ii) the deemed tangible income return of the corporation.

##### (B) Deemed tangible income return

The term "deemed tangible income return" means, with respect to any corporation, an amount equal to 10 percent of the corporation's qualified business asset investment (as defined in section 951A(d), determined by substituting "deduction eligible income" for "tested income" in paragraph (2) thereof and without regard to whether the corporation is a controlled foreign corporation).

### (3) Deduction eligible income

#### (A) In general

The term "deduction eligible income" means, with respect to any domestic corporation, the excess (if any) of—

(i) gross income of such corporation determined without regard to—

(I) any amount included in the gross income of such corporation under section 951(a)(1),

(II) the global intangible low-taxed income included in the gross income of such corporation under section 951A,

(III) any financial services income (as defined in section 904(d)(2)(D)) of such corporation,

(IV) any dividend received from a corporation which is a controlled foreign corporation of such domestic corporation,

(V) any domestic oil and gas extraction income of such corporation, and