

after such date, or 3 years after Sept. 26, 1980, see section 210 of Pub. L. 96-364, set out as a note under section 194A of this title.

SUBPART D—TREATMENT OF WELFARE BENEFIT FUNDS

- Sec.
419. Treatment of funded welfare benefit plans.
419A. Qualified asset account; limitation on additions to account.

§ 419. Treatment of funded welfare benefit plans

(a) General rule

Contributions paid or accrued by an employer to a welfare benefit fund—

- (1) shall not be deductible under this chapter, but
- (2) if they would otherwise be deductible, shall (subject to the limitation of subsection (b)) be deductible under this section for the taxable year in which paid.

(b) Limitation

The amount of the deduction allowable under subsection (a)(2) for any taxable year shall not exceed the welfare benefit fund's qualified cost for the taxable year.

(c) Qualified cost

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the term “qualified cost” means, with respect to any taxable year, the sum of—

- (A) the qualified direct cost for such taxable year, and
- (B) subject to the limitation of section 419A(b), any addition to a qualified asset account for the taxable year.

(2) Reduction for funds after-tax income

In the case of any welfare benefit fund, the qualified cost for any taxable year shall be reduced by such fund's after-tax income for such taxable year.

(3) Qualified direct cost

(A) In general

The term “qualified direct cost” means, with respect to any taxable year, the aggregate amount (including administrative expenses) which would have been allowable as a deduction to the employer with respect to the benefits provided during the taxable year, if—

- (i) such benefits were provided directly by the employer, and
- (ii) the employer used the cash receipts and disbursements method of accounting.

(B) Time when benefits provided

For purposes of subparagraph (A), a benefit shall be treated as provided when such benefit would be includible in the gross income of the employee if provided directly by the employer (or would be so includible but for any provision of this chapter excluding such benefit from gross income).

(C) 60-month amortization of child care facilities

(i) In general

In determining qualified direct costs with respect to any child care facility for

purposes of subparagraph (A), in lieu of depreciation the adjusted basis of such facility shall be allowable as a deduction ratably over a period of 60 months beginning with the month in which the facility is placed in service.

(ii) Child care facility

The term “child care facility” means any tangible property which qualifies under regulations prescribed by the Secretary as a child care center primarily for children of employees of the employer; except that such term shall not include any property—

- (I) not of a character subject to depreciation; or
- (II) located outside the United States.

(4) After-tax income

(A) In general

The term “after-tax income” means, with respect to any taxable year, the gross income of the welfare benefit fund reduced by the sum of—

- (i) the deductions allowed by this chapter which are directly connected with the production of such gross income, and
- (ii) the tax imposed by this chapter on the fund for the taxable year.

(B) Treatment of certain amounts

In determining the gross income of any welfare benefit fund—

- (i) contributions and other amounts received from employees shall be taken into account, but
- (ii) contributions from the employer shall not be taken into account.

(5) Item only taken into account once

No item may be taken into account more than once in determining the qualified cost of any welfare benefit fund.

(d) Carryover of excess contributions

If—

- (1) the amount of the contributions paid (or deemed paid under this subsection) by the employer during any taxable year to a welfare benefit fund, exceeds
- (2) the limitation of subsection (b),

such excess shall be treated as an amount paid by the employer to such fund during the succeeding taxable year.

(e) Welfare benefit fund

For purposes of this section—

(1) In general

The term “welfare benefit fund” means any fund—

- (A) which is part of a plan of an employer, and
- (B) through which the employer provides welfare benefits to employees or their beneficiaries.

(2) Welfare benefit

The term “welfare benefit” means any benefit other than a benefit with respect to which—

- (A) section 83(h) applies,