

tions, but subsec. (a)(6) not to apply to any deduction attributable to contributions made before Aug. 16, 1986, see section 701(f) of Pub. L. 99-514, set out as a note under section 55 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by sections 11801 and 11815 of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

TRANSITIONAL PROVISIONS

Pub. L. 100-647, title I, §1007(f)(4), Nov. 10, 1988, 102 Stat. 3433, provided that:

“(A) If any property to which this paragraph applies is placed in service in a taxable year which begins before January 1, 1987, and ends on or after August 1, 1986, the item of tax preference determined under section 57(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 [Oct. 22, 1986]) with respect to such property shall be the excess of—

“(i) the amount allowable as a deduction for depreciation or amortization for such taxable year, over

“(ii) the amount which would be determined for such taxable year under the rules of paragraph (1) or (5) (whichever is appropriate) of section 56(a) of the Internal Revenue Code of 1954 (as amended by the Tax Reform Act of 1986 [Pub. L. 99-514]).

“(B) This paragraph shall apply to any property—

“(i) which is described in paragraph (4) or (12) of section 57(a) of the Internal Revenue Code of 1954 (as so in effect), and

“(ii) to which paragraph (1) or (5) of section 56(a) of the Internal Revenue Code of 1986 would apply if the taxable year referred to in subparagraph (A) began after December 31, 1986.”

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(a) of Pub. L. 99-514 [enacting this section] notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

§ 58. Denial of certain losses

(a) Denial of farm loss

(1) In general

For purposes of computing the amount of the alternative minimum taxable income for any taxable year of a taxpayer other than a corporation—

(A) Disallowance of farm loss

No loss of the taxpayer for such taxable year from any tax shelter farm activity shall be allowed.

(B) Deduction in succeeding taxable year

Any loss from a tax shelter farm activity disallowed under subparagraph (A) shall be treated as a deduction allocable to such activity in the 1st succeeding taxable year.

(2) Tax shelter farm activity

For purposes of this subsection, the term “tax shelter farm activity” means—

(A) any farming syndicate as defined in section 461(k), and

(B) any other activity consisting of farming which is a passive activity (within the meaning of section 469(c)).

(3) Determination of loss

In determining the amount of the loss from any tax shelter farm activity, the adjustments of sections 56 and 57 shall apply.

(b) Disallowance of passive activity loss

In computing the alternative minimum taxable income of the taxpayer for any taxable year, section 469 shall apply, except that in applying section 469—

(1) the adjustments of sections 56 and 57 shall apply, and

(2) in lieu of applying section 469(j)(7), the passive activity loss of a taxpayer shall be computed without regard to qualified housing interest (as defined in section 56(e)).

(c) Special rules

For purposes of this section—

(1) Special rule for insolvent taxpayers

(A) In general

The amount of losses to which subsection (a) or (b) applies shall be reduced by the amount (if any) by which the taxpayer is insolvent as of the close of the taxable year.

(B) Insolvent

For purposes of this paragraph, the term “insolvent” means the excess of liabilities over the fair market value of assets.

(2) Loss allowed for year of disposition of farm shelter activity

If the taxpayer disposes of his entire interest in any tax shelter farm activity during any taxable year, the amount of the loss attributable to such activity (determined after carryovers under subsection (a)(1)(B)) shall (to the extent otherwise allowable) be allowed for such taxable year in computing alternative minimum taxable income and not treated as a loss from a tax shelter farm activity.

(Added Pub. L. 99-514, title VII, §701(a), Oct. 22, 1986, 100 Stat. 2335; amended Pub. L. 100-203, title X, §10212(b), Dec. 22, 1987, 101 Stat. 1330-406; Pub. L. 100-647, title I, §1007(d), Nov. 10, 1988, 102 Stat. 3432; Pub. L. 113-295, div. A, title II, §221(a)(58)(E), (60)(B), Dec. 19, 2014, 128 Stat. 4047, 4048; Pub. L. 115-97, title I, §12001(b)(9), Dec. 22, 2017, 131 Stat. 2093; Pub. L. 115-141, div. U, title IV, §401(a)(30), Mar. 23, 2018, 132 Stat. 1185.)

Editorial Notes

PRIOR PROVISIONS

A prior section 58, added Pub. L. 91-172, title III, §301(a), Dec. 30, 1969, 83 Stat. 583; amended Pub. L. 92-178, title III, §308(a), Dec. 10, 1971, 85 Stat. 524; Pub. L. 94-455, title III, §301(d), title XIX, §§1901(b)(40), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1553, 1803, 1834; Pub. L. 95-600, title IV, §§421(c), 423(a), title VII, §701(b)(2), Nov. 6, 1978, 92 Stat. 2875, 2877, 2898; Pub. L. 96-222, title I, §107(a)(1)(C), Apr. 1, 1980, 94 Stat. 222; Pub. L. 97-248, title II, §201(c)(1), §201(d)(3), formerly §201(c)(3), Sept. 3, 1982, 96 Stat. 417, 419, renumbered §201(d)(3), Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat.

2400; Pub. L. 97-354, §§3(c), 5(a)(16), Oct. 19, 1982, 96 Stat. 1688, 1693; Pub. L. 97-448, title I, §102(b)(2), Jan. 12, 1983, 96 Stat. 2369; Pub. L. 98-369, div. A, title VII, §711(a)(2), (3)(B), July 18, 1984, 98 Stat. 942; Pub. L. 99-514, title XVIII, §1875(a), Oct. 22, 1986, 100 Stat. 2894, related to rules for application of minimum tax for tax preferences, prior to the general revision of this part by Pub. L. 99-514, §701(a).

AMENDMENTS

2018—Subsec. (a)(2)(A). Pub. L. 115-141 substituted “461(k)” for “461(j)”.

2017—Subsec. (a)(3), (4). Pub. L. 115-97 redesignated par. (4) as (3) and struck out former par. (3). Prior to amendment, text of par. (3) read as follows: “For purposes of paragraph (1), a personal service corporation (within the meaning of section 469(j)(2)) shall be treated as a taxpayer other than a corporation.”

2014—Subsec. (a)(2)(A). Pub. L. 113-295, §221(a)(58)(E), substituted “section 461(j)” for “section 464(c)”.

Subsec. (b). Pub. L. 113-295, §221(a)(60)(B), inserted “and” at end of par. (1), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “the provisions of section 469(m) (relating to phase-in of disallowance) shall not apply, and”.

1988—Subsec. (a)(2). Pub. L. 100-647, §1007(d)(1), struck out “(as modified by section 461(i)(4)(A))” after “section 464(c)” in subpar. (A) and substituted “section 469(c)” for “section 469(d), without regard to paragraph (1)(B) thereof” in subpar. (B).

Subsec. (a)(3). Pub. L. 100-647, §1007(d)(2), substituted “469(j)(2)” for “469(g)(1)(C)”.

Subsec. (a)(4). Pub. L. 100-647, §1007(d)(3), added par. (4).

Subsec. (b). Pub. L. 100-647, §1007(d)(4), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

“(1) the adjustments of section 56 shall apply.

“(2) any deduction to the extent such deduction is an item of tax preference under section 57(a) shall not be taken into account, and

“(3) the provisions of section 469(m) (relating to phase-in of disallowance) shall not apply.”

1987—Subsec. (b)(3). Pub. L. 100-203 substituted “section 469(m)” for “section 469(l)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 12001(c) of Pub. L. 115-97, set out as a note under section 11 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 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 1987 AMENDMENT

Section 10212(c) of Pub. L. 100-203 provided that: “The amendments made by this section [amending this section and sections 163 and 469 of this title] shall take effect as if included in the amendments made by section 501 of the Tax Reform Act of 1986 [section 501 of Pub. L. 99-514, see section 501(c) of Pub. L. 99-514, set out as an Effective Date note under section 469 of this title].”

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifica-

tions, see section 701(f) of Pub. L. 99-514, set out as a note under section 55 of this title.

APPLICABILITY OF 1986 REPEAL

Pub. L. 101-239, title VII, §7811(d)(1)(B), Dec. 19, 1989, 103 Stat. 2408, provided that: “The repeal of section 58(h) of the Internal Revenue Code of 1954 by the Tax Reform Act of 1986 [Pub. L. 99-514] shall be effective only with respect to items of tax preference arising in taxable years beginning after December 31, 1986.”

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(a) of Pub. L. 99-514 [enacting this section] notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100-647 be treated as if it had been included in the provision of Pub. L. 99-514 to which such amendment relates, see section 1012(aa)(2), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

§ 59. Other definitions and special rules

(a) Alternative minimum tax foreign tax credit

For purposes of this part—

(1) In general

The alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27 for such taxable year if—

(A) the pre-credit tentative minimum tax were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1986,

(B) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and

(C) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were made on the basis of the applicable rate specified in section 55(b)(1) in lieu of the highest rate of tax specified in section 1.

(2) Pre-credit tentative minimum tax

For purposes of this subsection, the term “pre-credit tentative minimum tax” means the amount determined under the first sentence of section 55(b)(1)(A).

(3) Election to use simplified section 904 limitation

(A) In general

In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

(i) subparagraph (B) of paragraph (1) shall not apply, and

(ii) the limitation of section 904 shall be based on the proportion which—

(I) the taxpayer’s taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer’s entire alternative minimum taxable income), bears to

(II) the taxpayer’s entire alternative minimum taxable income for the taxable year.