

tion [enacting this section] shall apply to expenditures paid or incurred after the date of the enactment of this Act [Aug. 5, 1997], in taxable years ending after such date.”

[§ 198A. Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(35), Dec. 19, 2014, 128 Stat. 4042]

Section, added Pub. L. 110-343, div. C, title VII, § 707(a), Oct. 3, 2008, 122 Stat. 3923, related to expensing of qualified disaster expenses. Repeal was executed to this section, which is in part VI of subchapter B of chapter 1, to reflect the probable intent of Congress, notwithstanding directory language of Pub. L. 113-295, which repealed section 198A in part VI of subchapter A of chapter 1.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

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

[§ 199. Repealed. Pub. L. 115-97, title I, § 13305(a), Dec. 22, 2017, 131 Stat. 2126]

Section, added Pub. L. 108-357, title I, § 102(a), Oct. 22, 2004, 118 Stat. 1424; amended Pub. L. 109-135, title IV, § 403(a)(1)-(13), Dec. 21, 2005, 119 Stat. 2615-2619; Pub. L. 109-222, title V, § 514(a), (b), May 17, 2006, 120 Stat. 366; Pub. L. 109-432, div. A, title IV, § 401(a), Dec. 20, 2006, 120 Stat. 2953; Pub. L. 110-343, div. B, title IV, § 401(a), (b), div. C, title III, § 312(a), title V, § 502(c), Oct. 3, 2008, 122 Stat. 3851, 3869, 3876; Pub. L. 111-312, title VII, § 746(a), Dec. 17, 2010, 124 Stat. 3319; Pub. L. 112-240, title III, § 318(a), Jan. 2, 2013, 126 Stat. 2331; Pub. L. 113-295, div. A, title I, § 130(a), title II, §§ 219(b), 221(a)(37), Dec. 19, 2014, 128 Stat. 4018, 4035, 4043; Pub. L. 114-113, div. P, title III, § 305(a), div. Q, title I, § 170(a), Dec. 18, 2015, 129 Stat. 3040, 3069, related to deduction of income attributable to domestic production activities.

SUBSECTION (c)(3)(C) OF THIS SECTION PRIOR TO REPEAL

Prior to repeal by section 13305(a) of Pub. L. 115-97, subsection (c)(3)(C) of this section read as follows:

(c) Qualified production activities income

(3) Special rules for determining costs

(C) Transportation costs of independent refiners

(i) In general

In the case of any taxpayer who is in the trade or business of refining crude oil and who is not a major integrated oil company (as defined in section 167(h)(5)(B), determined without regard to clause (iii) thereof) for the taxable year, in computing oil related qualified production activities income under subsection (d)(9)(B), the amount allocated to domestic production gross receipts under paragraph (1)(B) for costs related to the transportation of oil shall be 25 percent of the amount properly allocable under such paragraph (determined without regard to this subparagraph).

(ii) Termination

Clause (i) shall not apply to any taxable year beginning after December 31, 2021.

See Amendment Relating to Consolidated Appropriations Act, 2016 note below.

SUBSECTION (d)(8) OF THIS SECTION PRIOR TO REPEAL

Prior to repeal by section 13305(a) of Pub. L. 115-97, subsection (d)(8) of this section read as follows:

(d) Definitions and special rules

(8) Treatment of activities in Puerto Rico

(A) In general

In the case of any taxpayer with gross receipts for any taxable year from sources within the Commonwealth of Puerto Rico, if all of such receipts are taxable under section 1 or 11 for such taxable year, then for purposes of determining the domestic production gross receipts of such taxpayer for such taxable year under subsection (c)(4), the term “United States” shall include the Commonwealth of Puerto Rico.

(B) Special rule for applying wage limitation

In the case of any taxpayer described in subparagraph (A), for purposes of applying the limitation under subsection (b) for any taxable year, the determination of W-2 wages of such taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in Puerto Rico.

(C) Termination

This paragraph shall apply only with respect to the first 11 taxable years of the taxpayer beginning after December 31, 2005, and before January 1, 2017.

See Extension of Deduction Allowable With Respect to Income Attributable to Domestic Production Activities in Puerto Rico note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 2017, except as provided by transition rule, see section 13305(c) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 74 of this title.

AMENDMENT RELATING TO CONSOLIDATED APPROPRIATIONS ACT, 2016

Pub. L. 115-141, div. U, title I, § 102, Mar. 23, 2018, 132 Stat. 1169, provided that:

“(a) AMENDMENT RELATING TO SECTION 305 OF DIVISION P.—For purposes of applying section 199(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as in effect before its repeal by Public Law 115-97) [see Subsection (c)(3)(C) of this Section Prior to Repeal note above] to taxable years beginning after December 31, 2015, and before January 1, 2018, such section shall be applied—

“(1) by inserting ‘who elects the application of this clause for any taxable year,’ after ‘In the case of any taxpayer’.

“(2) by substituting ‘, and who’ for ‘and who’.

“(3) by substituting ‘such taxable year’ for ‘the taxable year’, and

“(4) by substituting ‘(as defined in subsection (d)(9)(B))’ for ‘under subsection (d)(9)(B)’.

“(b) EFFECTIVE DATE.—The amendment made by this section [amending this section] shall take effect as if included in section 305 of division P of the Consolidated Appropriations Act, 2016 [Pub. L. 114-113].”

EXTENSION OF DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO

Pub. L. 115-123, div. D, title I, § 40309, Feb. 9, 2018, 132 Stat. 146, provided that: “For purposes of applying sec-

tion 199(d)(8)(C) of the Internal Revenue Code of 1986 [see Subsection (d)(8) of this Section Prior to Repeal note above] with respect to taxable years beginning during 2017, such section shall be applied—

- “(1) by substituting ‘first 12 taxable years’ for ‘first 11 taxable years’, and
- “(2) by substituting ‘January 1, 2018’ for ‘January 1, 2017’.”

§ 199A. Qualified business income

(a) Allowance of deduction

In the case of a taxpayer other than a corporation, there shall be allowed as a deduction for any taxable year an amount equal to the lesser of—

- (1) the combined qualified business income amount of the taxpayer, or
- (2) an amount equal to 20 percent of the excess (if any) of—
 - (A) the taxable income of the taxpayer for the taxable year, over
 - (B) the net capital gain (as defined in section 1(h)) of the taxpayer for such taxable year.

(b) Combined qualified business income amount

For purposes of this section—

(1) In general

The term “combined qualified business income amount” means, with respect to any taxable year, an amount equal to—

- (A) the sum of the amounts determined under paragraph (2) for each qualified trade or business carried on by the taxpayer, plus
- (B) 20 percent of the aggregate amount of the qualified REIT dividends and qualified publicly traded partnership income of the taxpayer for the taxable year.

(2) Determination of deductible amount for each trade or business

The amount determined under this paragraph with respect to any qualified trade or business is the lesser of—

- (A) 20 percent of the taxpayer’s qualified business income with respect to the qualified trade or business, or
- (B) the greater of—
 - (i) 50 percent of the W-2 wages with respect to the qualified trade or business, or
 - (ii) the sum of 25 percent of the W-2 wages with respect to the qualified trade or business, plus 2.5 percent of the unadjusted basis immediately after acquisition of all qualified property.

(3) Modifications to limit based on taxable income

(A) Exception from limit

In the case of any taxpayer whose taxable income for the taxable year does not exceed the threshold amount, paragraph (2) shall be applied without regard to subparagraph (B).

(B) Phase-in of limit for certain taxpayers

(i) In general

If—

- (I) the taxable income of a taxpayer for any taxable year exceeds the threshold amount, but does not exceed the sum of the threshold amount plus \$50,000

(\$100,000 in the case of a joint return), and

(II) the amount determined under paragraph (2)(B) (determined without regard to this subparagraph) with respect to any qualified trade or business carried on by the taxpayer is less than the amount determined under paragraph (2)(A) with respect such trade or business,

then paragraph (2) shall be applied with respect to such trade or business without regard to subparagraph (B) thereof and by reducing the amount determined under subparagraph (A) thereof by the amount determined under clause (ii).

(ii) Amount of reduction

The amount determined under this subparagraph is the amount which bears the same ratio to the excess amount as—

- (I) the amount by which the taxpayer’s taxable income for the taxable year exceeds the threshold amount, bears to
- (II) \$50,000 (\$100,000 in the case of a joint return).

(iii) Excess amount

For purposes of clause (ii), the excess amount is the excess of—

- (I) the amount determined under paragraph (2)(A) (determined without regard to this paragraph), over
- (II) the amount determined under paragraph (2)(B) (determined without regard to this paragraph).

(4) Wages, etc.

(A) In general

The term “W-2 wages” means, with respect to any person for any taxable year of such person, the amounts described in paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year.

(B) Limitation to wages attributable to qualified business income

Such term shall not include any amount which is not properly allocable to qualified business income for purposes of subsection (c)(1).

(C) Return requirement

Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.

(5) Acquisitions, dispositions, and short taxable years

The Secretary shall provide for the application of this subsection in cases of a short taxable year or where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

(6) Qualified property

For purposes of this section: