

103-296, title III, §320(a)(2), Aug. 15, 1994, 108 Stat. 1535; Pub. L. 108-357, title IV, §419(a), Oct. 22, 2004, 118 Stat. 1513.)

Editorial Notes

REFERENCES IN TEXT

Section 101 of the Immigration and Nationality Act, referred to in subsec. (b)(3), is classified to section 1101 of Title 8, Aliens and Nationality.

AMENDMENTS

2004—Subsec. (b)(5) to (8). Pub. L. 108-357 added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

1994—Subsec. (b)(3). Pub. L. 103-296 substituted “(F), (J), or (Q)” for “(F) or (J)”.

1989—Subsec. (b)(7). Pub. L. 101-239 added par. (7).

1988—Subsec. (a). Pub. L. 100-647, §1012(s)(2)(A), inserted “, except where the context clearly indicates otherwise” after “individual”.

Subsec. (b)(1), (2). Pub. L. 100-647, §1012(e)(2)(B), (5), substituted “to individual residents of the United States” for “to citizens of the United States and to corporations organized in the United States” and “international operation” for “operation”.

1986—Subsec. (b)(1). Pub. L. 99-514, §1212(c)(1), added par. (1) and struck out former par. (1), ships under foreign flag, which read as follows: “Earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.”

Subsec. (b)(2). Pub. L. 99-514, §1212(c)(1), added par. (2) and struck out former par. (2), aircraft of foreign registry, which read as follows: “Earnings derived from the operation of aircraft registered under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.”

Subsec. (b)(5), (6). Pub. L. 99-514, §1212(c)(2), added pars. (5) and (6).

1966—Subsec. (a). Pub. L. 89-809, §103(b)(1), limited the inclusion of gross income which is derived from sources within the United States to such income which is not effectively connected with the conduct of a trade or business within the United States and inserted provision including gross income without the limitation as to source which is effectively connected with the conduct of a trade or business within the United States.

Subsec. (b)(3)(B). Pub. L. 89-809, §103(b)(2), substituted “by a domestic corporation, a domestic partnership, or an individual who is a citizen or resident of the United States” for “by a domestic corporation”.

Subsec. (b)(4). Pub. L. 89-809, §102(b)(3), added par. (4).

1961—Subsec. (b)(3). Pub. L. 87-256 added par. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title IV, §419(c), Oct. 22, 2004, 118 Stat. 1513, provided that: “The amendments made by this section [amending this section and section 883 of this title] shall apply to wagers made after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective with calendar quarter following Aug. 15, 1994, see section 320(c) of Pub. L. 103-296, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, 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 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1212(f) of Pub. L. 99-514, set out as a note under section 863 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 103(n)(1) of Pub. L. 89-809, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-256 applicable to taxable years beginning after Dec. 31, 1961, see section 110(h)(1) of Pub. L. 87-256, set out as a note under section 117 of this title.

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

For nonapplication of amendment by section 1212(c)(1), (2) of Pub. L. 99-514 to the extent application of such amendment would be contrary to 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)(3), (4) of Pub. L. 100-647, set out as a note under section 861 of this title.

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 873. Deductions

(a) General rule

In the case of a nonresident alien individual, the deductions shall be allowed only for purposes of section 871(b) and (except as provided by subsection (b)) only if and to the extent that they are connected with income which is effectively connected with the conduct of a trade or business within the United States; and the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in regulations prescribed by the Secretary.

(b) Exceptions

The following deductions shall be allowed whether or not they are connected with income which is effectively connected with the conduct of a trade or business within the United States:

(1) Losses

The deduction allowed by section 165 for casualty or theft losses described in paragraph (2) or (3) of section 165(c), but only if the loss is of property located within the United States.

(2) Charitable contributions

The deduction for charitable contributions and gifts allowed by section 170.

(3) Personal exemption

The deduction for personal exemptions allowed by section 151, except that only one exemption shall be allowed under section 151 unless the taxpayer is a resident of a contiguous country or is a national of the United States.

(c) Cross reference

For rule that certain foreign taxes are not to be taken into account in determining deduction or credit, see section 906(b)(1).

(Aug. 16, 1954, ch. 736, 68A Stat. 280; Pub. L. 89-809, title I, §103(c)(1), Nov. 13, 1966, 80 Stat. 1550; Pub. L. 92-580, §1(b), Oct. 27, 1972, 86 Stat. 1276; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-30, title I, §101(d)(11), May 23, 1977, 91 Stat. 134; Pub. L. 98-369, div. A, title VII, §711(c)(2)(A)(iv), July 18, 1984, 98 Stat. 945; Pub. L. 105-277, div. J, title IV, §4004(b)(3), Oct. 21, 1998, 112 Stat. 2681-911.)

Editorial Notes

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-277 amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “The deduction for losses allowed by section 165(c)(3), but only if the loss is of property located within the United States.”

1984—Subsec. (b)(1). Pub. L. 98-369 substituted “for losses” for “, for losses of property not connected with the trade or business if arising from certain casualties or theft.”

1977—Subsec. (c). Pub. L. 95-30 struck out par. (1) which made a cross reference to section 142(b)(1) for disallowance of the standard deduction and struck out “(2)” at beginning of single remaining cross reference.

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

1972—Subsec. (b)(3). Pub. L. 92-580 substituted exception that only one exemption be allowed under section 151 unless the taxpayer is a resident of a contiguous country or is a national of the United States, for exception that in the case of a non-resident alien individual who is not a resident of a contiguous country only one exception be allowed under section 151.

1966—Pub. L. 89-809 amended section generally, substituting “connected with income which is effectively connected with the conduct of a trade or business within the United States” for “connected with income from sources within the United States” in subsec. (a), striking out provisions relating to the deduction of losses not connected with a trade or business but incurred in transactions entered into for profit in subsec. (b), making the casualty loss deduction available even if the property giving rise to the loss is not effectively connected with the conduct of a trade or business in the United States if the property is located in this country, making the charitable contribution deduction available even though not related to the trade or business, and adding subsec. (c)(2) making a cross reference to section 906(b)(1) for rule that certain foreign taxes are not to be taken into account in determining deduction or credit.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 applicable to taxable years beginning after Dec. 31, 1983, see section 4004(c)(1) of Pub. L. 105-277, set out as a note under section 172 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section

711(c)(2)(A)(v) of Pub. L. 98-369, set out as a note under section 165 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-580 applicable to taxable years beginning after Dec. 31, 1971, see section 1(c) of Pub. L. 92-580, set out as a note under section 152 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 103(n)(1) of Pub. L. 89-809, set out as a note under section 871 of this title.

§ 874. Allowance of deductions and credits**(a) Return prerequisite to allowance**

A nonresident alien individual shall receive the benefit of the deductions and credits allowed to him in this subtitle only by filing or causing to be filed with the Secretary a true and accurate return, in the manner prescribed in subtitle F (sec. 6001 and following, relating to procedure and administration), including therein all the information which the Secretary may deem necessary for the calculation of such deductions and credits. This subsection shall not be construed to deny the credits provided by sections 31 and 33 for tax withheld at source or the credit provided by section 34 for certain uses of gasoline and special fuels.

(b) Tax withheld at source

The benefit of the deduction for exemptions under section 151 may, in the discretion of the Secretary, and under regulations prescribed by the Secretary, be received by a non-resident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

(c) Foreign tax credit

Except as provided in section 906, a non-resident alien individual shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 901.

(Aug. 16, 1954, ch. 736, 68A Stat. 281; Pub. L. 89-44, title VIII, §809(d)(3), June 21, 1965, 79 Stat. 167; Pub. L. 89-809, title I, §§103(d), 106(a)(3), Nov. 13, 1966, 80 Stat. 1551, 1569; Pub. L. 91-258, title II, §207(d)(1), May 21, 1970, 84 Stat. 248; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-424, title V, §515(b)(6)(E), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IV, §474(r)(19), July 18, 1984, 98 Stat. 843.)

Editorial Notes

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369 substituted reference to section “33” for “32” and “34” for “39”.

1983—Subsec. (a). Pub. L. 97-424 substituted “and special fuels” for “, special fuels, and lubricating oil”.

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

1970—Subsec. (a). Pub. L. 91-258 included provision against construction of subsec. (a) to deny credit provided by section 39 for certain uses of special fuels.