

the partners of such partnership in proportion to their distributive share of the capital gain or loss realized by the partnership with respect to such asset and to treat each such asset as having been sold by each partner on the date of the sale of the asset by the partnership. If such an election is made, the consideration received by the partnership in connection with the sale of such assets shall be treated as having been received by the partners in connection with the deemed sale of such assets. In the case of a tiered partnership, for purposes of this paragraph each partnership shall be treated as having realized net capital gain equal to its proportionate share of the net capital gain of each partnership in which it is a partner, and the election provided by this paragraph shall apply to each tier."

**EFFECTIVE DATE OF 1984 AMENDMENT**

Section 163(c) of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendments made by this section [amending this section and sections 6501 and 6511 of this title] shall apply to expenditures with respect to which the second taxable year described in section 118(b)(2)(B) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] ends after December 31, 1984."

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96-589 applicable to transactions which occur after Dec. 31, 1980, other than transactions which occur in a proceeding in a bankruptcy case or similar judicial proceeding or in a proceeding under Title 11 commencing on or after Dec. 31, 1980, with an exception permitting the debtor to make the amendment applicable to transactions occurring after Sept. 30, 1979, in a specified manner, see section 7(a)(1), (f) of Pub. L. 96-589, set out as a note under section 108 of this title.

**EFFECTIVE DATE OF 1978 AMENDMENT**

Section 364(b) of Pub. L. 95-600 provided that: "The amendments made by this section [amending this section] shall apply to contributions made after January 31, 1976."

**EFFECTIVE DATE OF 1976 AMENDMENT**

Section 2120(c) of Pub. L. 94-455 provided that: "The amendments made by this section [amending this section and section 362 of this title] apply to contributions made after January 31, 1976."

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 108 of this title.

**§ 119. Meals or lodging furnished for the convenience of the employer**

**(a) Meals and lodging furnished to employee, his spouse, and his dependents, pursuant to employment**

There shall be excluded from gross income of an employee the value of any meals or lodging furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer, but only if—

(1) in the case of meals, the meals are furnished on the business premises of the employer, or

(2) in the case of lodging, the employee is required to accept such lodging on the business premises of his employer as a condition of his employment.

**(b) Special rules**

For purposes of subsection (a)—

**(1) Provisions of employment contract or State statute not to be determinative**

In determining whether meals or lodging are furnished for the convenience of the employer,

the provisions of an employment contract or of a State statute fixing terms of employment shall not be determinative of whether the meals or lodging are intended as compensation.

**(2) Certain factors not taken into account with respect to meals**

In determining whether meals are furnished for the convenience of the employer, the fact that a charge is made for such meals, and the fact that the employee may accept or decline such meals, shall not be taken into account.

**(3) Certain fixed charges for meals**

**(A) In general**

If—

(i) an employee is required to pay on a periodic basis a fixed charge for his meals, and

(ii) such meals are furnished by the employer for the convenience of the employer,

there shall be excluded from the employee's gross income an amount equal to such fixed charge.

**(B) Application of subparagraph (A)**

Subparagraph (A) shall apply—

(i) whether the employee pays the fixed charge out of his stated compensation or out of his own funds, and

(ii) only if the employee is required to make the payment whether he accepts or declines the meals.

**(4) Meals furnished to employees on business premises where meals of most employees are otherwise excludable**

All meals furnished on the business premises of an employer to such employer's employees shall be treated as furnished for the convenience of the employer if, without regard to this paragraph, more than half of the employees to whom such meals are furnished on such premises are furnished such meals for the convenience of the employer.

**(c) Employees living in certain camps**

**(1) In general**

In the case of an individual who is furnished lodging in a camp located in a foreign country by or on behalf of his employer, such camp shall be considered to be part of the business premises of the employer.

**(2) Camp**

For purposes of this section, a camp constitutes lodging which is—

(A) provided by or on behalf of the employer for the convenience of the employer because the place at which such individual renders services is in a remote area where satisfactory housing is not available on the open market,

(B) located, as near as practicable, in the vicinity of the place at which such individual renders services, and

(C) furnished in a common area (or enclave) which is not available to the public and which normally accommodates 10 or more employees.

**(d) Lodging furnished by certain educational institutions to employees****(1) In general**

In the case of an employee of an educational institution, gross income shall not include the value of qualified campus lodging furnished to such employee during the taxable year.

**(2) Exception in cases of inadequate rent**

Paragraph (1) shall not apply to the extent of the excess of—

(A) the lesser of—

(i) 5 percent of the appraised value of the qualified campus lodging, or

(ii) the average of the rentals paid by individuals (other than employees or students of the educational institution) during such calendar year for lodging provided by the educational institution which is comparable to the qualified campus lodging provided to the employee, over

(B) the rent paid by the employee for the qualified campus lodging during such calendar year.

The appraised value under subparagraph (A)(i) shall be determined as of the close of the calendar year in which the taxable year begins, or, in the case of a rental period not greater than 1 year, at any time during the calendar year in which such period begins.

**(3) Qualified campus lodging**

For purposes of this subsection, the term “qualified campus lodging” means lodging to which subsection (a) does not apply and which is—

(A) located on, or in the proximity of, a campus of the educational institution, and

(B) furnished to the employee, his spouse, and any of his dependents by or on behalf of such institution for use as a residence.

**(4) Educational institution, etc.**

For purposes of this subsection—

**(A) In general**

The term “educational institution” means—

(i) an institution described in section 170(b)(1)(A)(ii) (or an entity organized under State law and composed of public institutions so described), or

(ii) an academic health center.

**(B) Academic health center**

For purposes of subparagraph (A), the term “academic health center” means an entity—

(i) which is described in section 170(b)(1)(A)(iii),

(ii) which receives (during the calendar year in which the taxable year of the taxpayer begins) payments under subsection (d)(5)(B) or (h) of section 1886 of the Social Security Act (relating to graduate medical education), and

(iii) which has as one of its principal purposes or functions the providing and teaching of basic and clinical medical science and research with the entity’s own faculty.

(Aug. 16, 1954, ch. 736, 68A Stat. 39; Pub. L. 95-427, §4(a), Oct. 7, 1978, 92 Stat. 997; Pub. L. 95-615,

title II, §205, Nov. 8, 1978, 92 Stat. 3107; Pub. L. 96-222, title I, §108(a)(1)(G), Apr. 1, 1980, 94 Stat. 225; Pub. L. 97-34, title I, §113, Aug. 13, 1981, 95 Stat. 195; Pub. L. 99-514, title XI, §1164(a), Oct. 22, 1986, 100 Stat. 2511; Pub. L. 100-647, title I, §1011B(d), Nov. 10, 1988, 102 Stat. 3489; Pub. L. 104-188, title I, §1123(a), Aug. 20, 1996, 110 Stat. 1768; Pub. L. 105-206, title V, §5002(a), July 22, 1998, 112 Stat. 788.)

## REFERENCES IN TEXT

Section 1886(d)(5)(B) or (h) of the Social Security Act, referred to in subsec. (d)(4)(B)(ii), is classified to section 1395ww(d)(5)(B) or (h) of Title 42, The Public Health and Welfare.

## AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105-206 added par. (4).

1996—Subsec. (d)(4). Pub. L. 104-188 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “EDUCATIONAL INSTITUTION.—For purposes of this paragraph, the term ‘educational institution’ means an institution described in section 170(b)(1)(A)(ii).”

1988—Subsec. (d). Pub. L. 100-647 struck out “(as of the close of the calendar year in which the taxable year begins)” after “appraised value” in par. (2)(A)(i) and inserted at end “The appraised value under subparagraph (A)(i) shall be determined as of the close of the calendar year in which the taxable year begins, or, in the case of a rental period not greater than 1 year, at any time during the calendar year in which such period begins.” as concluding provision.

1986—Subsec. (d). Pub. L. 99-514 added subsec. (d).

1981—Subsec. (c). Pub. L. 97-34 added subsec. (c).

1980—Subsec. (a). Pub. L. 96-222 struck out “General rule” in subsec. (a) as in effect on the day before the date of enactment of the Foreign Earned Income Act of 1978 to correct a legislative oversight in the amendment of subsec. (a) of this section by section 205 of Pub. L. 95-615. The amendment by Pub. L. 95-615, however, was executed without reference to “General rule” as the probable intent of Congress, thereby requiring no change in text.

1978—Subsec. (a). Pub. L. 95-615 designated existing provisions as subsec. (a), added subsec. (a) heading, and substituted “furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer” for “furnished to him by his employer for the convenience of the employer”.

Pub. L. 95-427 inserted provisions relating to factors not taken into account with respect to meals and certain fixed charges for meals.

## EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title v, §5002(b), July 22, 1998, 112 Stat. 789, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning before, on, or after the date of the enactment of this Act [July 22, 1998].”

## EFFECTIVE DATE OF 1996 AMENDMENT

Section 1123(b) of Pub. L. 104-188 provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1995.”

## 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

Section 1164(b) of Pub. L. 99-514 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1985.”

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97-34, set out as a note under section 911 of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective as if included in the Foreign Earned Income Act of 1978, Pub. L. 95-615, see section 108(a)(2)(A) of Pub. L. 96-222, set out as a note under section 3 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENT

Section 4(b) of Pub. L. 95-427 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954."

## EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

Amendment by Pub. L. 95-615 applicable to taxable years beginning after Dec. 31, 1977, with provision for election of prior law, see section 209 of Pub. L. 95-615, set out as a note under section 911 of this title.

## STATUTE OF LIMITATIONS

Pub. L. 96-605, title I, §107(b), Dec. 28, 1980, 94 Stat. 3524, provided that: "In the case of any allowance received during calendar year 1974, 1975, 1976, or 1977, subsections (a)(2) and (e) of such section 3 [section 3 of Pub. L. 95-427, set out below] shall be applied by substituting the date one year after the date of the enactment of this Act [Dec. 28, 1980] for 'April 15, 1979' each place it appears."

## TREATMENT OF CERTAIN STATUTORY SUBSISTENCE ALLOWANCES OR SUBSISTENCE ALLOWANCES NEGOTIATED IN ACCORDANCE WITH STATE LAW RECEIVED BY STATE POLICE OFFICERS BEFORE JANUARY 1, 1978

Section 3 of Pub. L. 95-427, as amended by Pub. L. 96-605, title I, §107(a), Dec. 28, 1980, 94 Stat. 3524; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

## "(a) GENERAL RULE.—If—

"(1) an individual who was employed as a State police officer received a statutory subsistence allowance or a subsistence allowance negotiated in accordance with State law while so employed,

"(2) such individual elects, on or before April 15, 1979, and in such manner and form as the Secretary of the Treasury may prescribe, to have this section apply to such allowance, and

"(3) this section applies to such allowance, then, for purposes of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], such allowance shall not be included in such individual's gross income.

"(b) ALLOWANCES TO WHICH SECTION APPLIES.—For purposes of this section, this section applies to any statutory subsistence allowance or subsistence allowance negotiated in accordance with State law which was received—

"(1) after December 31, 1969, and before January 1, 1974, to the extent such individual did not include such allowance in gross income on his income tax return for the taxable year in which such allowance was received, or

"(2) during the calendar year 1974, 1975, 1976, or 1977.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) STATE POLICE OFFICER.—The term 'State police officer' means any police officer (including a highway patrolman) employed by a State (or the District of Columbia) on a full-time basis with the power to arrest.

"(2) INCOME TAX RETURN.—The term 'income tax return' means the return of the taxes imposed by subtitle A of the Internal Revenue Code of 1986. If an individual filed before November 29, 1977, an amended

return for any taxable year, such amended return shall be treated as the return for such taxable year.

"(d) LIMITATION ON DEDUCTION.—If any individual receives a subsistence allowance which is excluded from gross income under subsection (a), no deduction shall be allowed under any provision of chapter 1 of the Internal Revenue Code of 1986 for expenses in respect of which he has received such allowance, except to the extent that such expenses exceed the amount excludable from gross income under subsection (a) and the excess is otherwise allowed as a deduction under such chapter 1.

"(e) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of this section is prevented at any time on or before April 15, 1979, by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of this section) may, nevertheless, be made or allowed if claim therefor is filed on or before April 15, 1979."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 132, 280A, 1402, 3121, 3231, 3306 of this title; title 42 sections 409, 411.

**§ 120. Amounts received under qualified group legal services plans****(a) Exclusion by employee for contributions and legal services provided by employer**

Gross income of an employee, his spouse, or his dependents, does not include—

(1) amounts contributed by an employer on behalf of an employee, his spouse, or his dependents under a qualified group legal services plan (as defined in subsection (b)); or

(2) the value of legal services provided, or amounts paid for legal services, under a qualified group legal services plan (as defined in subsection (b)) to, or with respect to, an employee, his spouse, or his dependents.

No exclusion shall be allowed under this section with respect to an individual for any taxable year to the extent that the value of insurance (whether through an insurer or self-insurance) against legal costs incurred by the individual (or his spouse or dependents) provided under a qualified group legal services plan exceeds \$70.

**(b) Qualified group legal services plan**

For purposes of this section, a qualified group legal services plan is a separate written plan of an employer for the exclusive benefit of his employees or their spouses or dependents to provide such employees, spouses, or dependents with specified benefits consisting of personal legal services through prepayment of, or provision in advance for, legal fees in whole or in part by the employer, if the plan meets the requirements of subsection (c).

**(c) Requirements****(1) Discrimination**

The contributions or benefits provided under the plan shall not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)).

**(2) Eligibility**

The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are described in paragraph (1). For purposes of this