

## SAVINGS PROVISION

For provisions that nothing in amendment by section 11813 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.

Pub. L. 94-455, title XIX, §1951(b)(2)(B), Oct. 4, 1976, 90 Stat. 1837, provided that: "If any discharge, cancellation, or modification of indebtedness of a railroad corporation occurs in a taxable year beginning after December 31, 1976, pursuant to an order of a court in a proceeding referred to in section 108(b)(A) or (B) which commenced before January 1, 1960, then, notwithstanding the amendments made by subparagraph (A) [amending this section] the provisions of subsection (b) of section 108 shall be considered as not repealed with respect to such discharge, cancellation, or modification of indebtedness."

## EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS

Pub. L. 107-134, title I, §105, Jan. 23, 2002, 115 Stat. 2432, provided that:

"(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

"(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or as the result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002; and

"(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

"(b) EFFECTIVE DATE.—This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002."

## PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

**§ 109. Improvements by lessee on lessor's property**

Gross income does not include income (other than rent) derived by a lessor of real property on the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by the lessee.

(Aug. 16, 1954, ch. 736, 68A Stat. 33.)

**§ 110. Qualified lessee construction allowances for short-term leases****(a) In general**

Gross income of a lessee does not include any amount received in cash (or treated as a rent reduction) by a lessee from a lessor—

- (1) under a short-term lease of retail space, and
- (2) for the purpose of such lessee's constructing or improving qualified long-term

real property for use in such lessee's trade or business at such retail space,

but only to the extent that such amount does not exceed the amount expended by the lessee for such construction or improvement.

**(b) Consistent treatment by lessor**

Qualified long-term real property constructed or improved in connection with any amount excluded from a lessee's income by reason of subsection (a) shall be treated as nonresidential real property of the lessor (including for purposes of section 168(i)(8)(B)).

**(c) Definitions**

For purposes of this section—

**(1) Qualified long-term real property**

The term "qualified long-term real property" means nonresidential real property which is part of, or otherwise present at, the retail space referred to in subsection (a) and which reverts to the lessor at the termination of the lease.

**(2) Short-term lease**

The term "short-term lease" means a lease (or other agreement for occupancy or use) of retail space for 15 years or less (as determined under the rules of section 168(i)(3)).

**(3) Retail space**

The term "retail space" means real property leased, occupied, or otherwise used by a lessee in its trade or business of selling tangible personal property or services to the general public.

**(d) Information required to be furnished to Secretary**

Under regulations, the lessee and lessor described in subsection (a) shall, at such times and in such manner as may be provided in such regulations, furnish to the Secretary—

(1) information concerning the amounts received (or treated as a rent reduction) and expended as described in subsection (a), and

(2) any other information which the Secretary deems necessary to carry out the provisions of this section.

(Added Pub. L. 105-34, title XII, §1213(a), Aug. 5, 1997, 111 Stat. 1000.)

**Editorial Notes**

## PRIOR PROVISIONS

A prior section 110, act Aug. 16, 1954, ch. 736, 68A Stat. 33, related to income taxes paid by lessee corporations, prior to repeal by Pub. L. 101-508, title XI, §11801(a)(6), Nov. 5, 1990, 104 Stat. 1388-520.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Pub. L. 105-34, title XII, §1213(e), Aug. 5, 1997, 111 Stat. 1001, provided that: "The amendments made by this section [enacting this section and amending sections 168 and 6724 of this title] shall apply to leases entered into after the date of the enactment of this Act [Aug. 5, 1997]."

**§ 111. Recovery of tax benefit items****(a) Deductions**

Gross income does not include income attributable to the recovery during the taxable year