

shall be waived solely for purposes of making such adjustment.

“(3) TAX TREATMENT OF EXPENDITURES.—With respect to any payment by the Corporation of qualified expenses described in subsection (e)(1)(A) during any taxable year from the amount of any refund of the payment described in subsection (a)(1)—

“(A) no deduction shall be allowed to the Corporation with respect to any amount paid or incurred which is attributable to such amount, and

“(B) the basis of any property shall be reduced by the portion of the cost of such property which is attributable to such amount.

“(4) PAYMENTS TO A NON-AMTRAK STATE.—No deduction shall be allowed to the Corporation under chapter 1 of the Internal Revenue Code of 1986 for any payment to a non-Amtrak State required under subsection (a)(2)(A)(ii).

“(e) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED EXPENSES.—The term ‘qualified expenses’ means expenses incurred for—

“(A) in the case of the Corporation—

“(i) the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail service, and

“(ii) the payment of interest and principal on obligations incurred for such acquisition, upgrading, and maintenance, and

“(B) in the case of a non-Amtrak State—

“(i) the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity passenger rail service,

“(ii) the acquisition of equipment, rolling stock, and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment, in intercity bus service,

“(iii) the purchase of intercity passenger rail services from the Corporation,

“(iv) capital expenditures related to State-owned rail operations in the State,

“(v) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code,

“(vi) any project that is eligible to receive funding under section 103, 130, 133, 144, 149, or 152 of title 23, United States Code,

“(vii) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs,

“(viii) the provision of passenger ferryboat service within the State,

“(ix) the provision of harbor improvements within the State, and

“(x) the payment of interest and principal on obligations incurred for such acquisition, upgrading, maintenance, purchase, expenditures, provision, and projects.

In the case of a non-Amtrak State which provides its own intercity passenger rail service on the date of the enactment of this paragraph [Aug. 5, 1997], subparagraph (B) shall be applied by only taking into account clauses (i) and (iv).

“(2) NON-AMTRAK STATE.—The term ‘non-Amtrak State’ means any State which is not receiving intercity passenger rail service from the Corporation as of the date of the enactment of this Act [Aug. 5, 1997].

“(f) AUTHORIZING REFORM REQUIRED.—

“(1) IN GENERAL.—The Secretary of the Treasury shall not make payment of any refund of any payment described in subsection (a)(1) earlier than the date of the enactment of Federal legislation, other than legislation included in this section, which is enacted after July 29, 1997, and which authorizes reforms of the National Railroad Passenger Corporation.

“(2) NO INTEREST.—Notwithstanding any other provision of law, if the payment of any refund is delayed by reason of paragraph (1), no interest shall accrue with respect to such payment prior to the 45th day following the date of the enactment of Federal legislation described in paragraph (1).

“(3) ESTIMATE OF REVENUE.—For purposes of estimating revenues under budget reconciliation, the impact of this section on Federal revenues shall be determined without regard to this subsection.”

[Pub. L. 105-178, title IX, §9007(b), June 9, 1998, 112 Stat. 506, provided that: “The amendments made by this section [amending section 977 of Pub. L. 105-34, set out above] shall take effect as if included in the enactment of section 977 of the Taxpayer Relief Act of 1997 [Pub. L. 105-34].”]

DEDUCTION FOR SPECIAL ASSESSMENTS

Subsec. (f) of this section not applicable to deduction for special assessments, see section 2711(2) of Pub. L. 104-208, set out as a note under section 162 of this title.

CARRYBACK OF DEFERRED STATUTORY OR TORT LIABILITY LOSS TO TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 1984

Pub. L. 101-508, title XI, §11811(b)(2)(B), Nov. 5, 1990, 104 Stat. 1388-533, provided that: “The portion of any loss which is attributable to a deferred statutory or tort liability loss (as defined in section 172(k) of the Internal Revenue Code of 1986 as in effect on the day before the date of the enactment of this Act [Nov. 5, 1990]) may not be carried back to any taxable year beginning before January 1, 1984, by reason of the amendment made by subparagraph (A) [amending this section].”

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.

REFUND OR CREDIT OF OVERPAYMENT; LIMITATIONS; INTEREST

Pub. L. 85-866, title I, §14, Sept. 2, 1958, 72 Stat. 1611, provided that if any refund or credit of any overpayment resulting from application of subsecs. (a) and (b) of Pub. L. 85-866, amending former subsecs. (f)(3), (4) and (g)(3), (4), was prevented on Sept. 2, 1958 or 6 months thereafter, by operation of any law or rule of law, refund was to be allowed if a claim was filed within six months of the date of such date but such refund was to be without interest.

INTEREST ATTRIBUTABLE TO NET OPERATING LOSS CARRYBACK FOR CERTAIN TAXABLE YEARS ENDING IN 1954

For payment of interest attributable to net operating loss carryback, see section 83(e) of Pub. L. 85-866, set out as a note under section 6601 of this title.

§ 173. Circulation expenditures

(a) General rule

Notwithstanding section 263, all expenditures (other than expenditures for the purchase of land or depreciable property or for the acquisition of circulation through the purchase of any part of the business of another publisher of a newspaper, magazine, or other periodical) to establish, maintain, or increase the circulation of a newspaper, magazine, or other periodical shall be allowed as a deduction; except that the de-

duction shall not be allowed with respect to the portion of such expenditures as, under regulations prescribed by the Secretary, is chargeable to capital account if the taxpayer elects, in accordance with such regulations, to treat such portion as so chargeable. Such election, if made, must be for the total amount of such portion of the expenditures which is so chargeable to capital account, and shall be binding for all subsequent taxable years unless, upon application by the taxpayer, the Secretary permits a revocation of such election subject to such conditions as he deems necessary.

(b) Cross reference

For election of 3-year amortization of expenditures allowable as a deduction under subsection (a), see section 59(e).

(Aug. 16, 1954, ch. 736, 68A Stat. 65; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title II, §201(d)(9)(A), formerly §201(c)(9)(A), Sept. 3, 1982, 96 Stat. 420, renumbered §201(d)(9)(A), Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 98-369, div. A, title VII, §711(a)(3)(C), July 18, 1984, 98 Stat. 942; Pub. L. 99-514, title VII, §701(e)(4)(D), Oct. 22, 1986, 100 Stat. 2343; Pub. L. 100-647, title I, §1007(g)(5), Nov. 10, 1988, 102 Stat. 3435.)

Editorial Notes

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-647 substituted “section 59(e)” for “section 59(d)”.

1986—Subsec. (b). Pub. L. 99-514 substituted “section 59(d)” for “section 58(i)”.

1984—Subsec. (b). Pub. L. 98-369 substituted “3-year” for “10-year”.

1982—Pub. L. 97-248, §201(d)(9)(A), designated existing provisions as subsec. (a), added subsec. (a) heading, and added subsec. (b).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” in two places.

Statutory Notes and Related Subsidiaries

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, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1)

of Pub. L. 97-248, set out as a note under section 5 of this title.

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

For applicability of amendment by Pub. L. 99-514 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.

§ 174. Amortization of research and experimental expenditures

(a) In general

In the case of a taxpayer's specified research or experimental expenditures for any taxable year—

(1) except as provided in paragraph (2), no deduction shall be allowed for such expenditures, and

(2) the taxpayer shall—

(A) charge such expenditures to capital account, and

(B) be allowed an amortization deduction of such expenditures ratably over the 5-year period (15-year period in the case of any specified research or experimental expenditures which are attributable to foreign research (within the meaning of section 41(d)(4)(F))) beginning with the midpoint of the taxable year in which such expenditures are paid or incurred.

(b) Specified research or experimental expenditures

For purposes of this section, the term “specified research or experimental expenditures” means, with respect to any taxable year, research or experimental expenditures which are paid or incurred by the taxpayer during such taxable year in connection with the taxpayer's trade or business.

(c) Special rules

(1) Land and other property

This section shall not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of property to be used in connection with the research or experimentation and of a character which is subject to the allowance under section 167 (relating to allowance for depreciation, etc.) or section 611 (relating to allowance for depletion); but for purposes of this section allowances under section 167, and allowances under section 611, shall be considered as expenditures.

(2) Exploration expenditures

This section shall not apply to any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(3) Software development

For purposes of this section, any amount paid or incurred in connection with the development of any software shall be treated as a research or experimental expenditure.