

§ 175. Soil and water conservation expenditures; endangered species recovery expenditures

(a) In general

A taxpayer engaged in the business of farming may treat expenditures which are paid or incurred by him during the taxable year for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming, or for endangered species recovery, as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(b) Limitation

The amount deductible under subsection (a) for any taxable year shall not exceed 25 percent of the gross income derived from farming during the taxable year. If for any taxable year the total of the expenditures treated as expenses which are not chargeable to capital account exceeds 25 percent of the gross income derived from farming during the taxable year, such excess shall be deductible for succeeding taxable years in order of time; but the amount deductible under this section for any one such succeeding taxable year (including the expenditures actually paid or incurred during the taxable year) shall not exceed 25 percent of the gross income derived from farming during the taxable year.

(c) Definitions

For purposes of subsection (a)—

(1) The term “expenditures which are paid or incurred by him during the taxable year for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming, or for endangered species recovery” means expenditures paid or incurred for the treatment or moving of earth, including (but not limited to) leveling, grading and terracing, contour furrowing, the construction, control, and protection of diversion channels, drainage ditches, earthen dams, watercourses, outlets, and ponds, the eradication of brush, and the planting of windbreaks. Such term shall include expenditures paid or incurred for the purpose of achieving site-specific management actions recommended in recovery plans approved pursuant to the Endangered Species Act of 1973. Such term does not include—

(A) the purchase, construction, installation, or improvement of structures, appliances, or facilities which are of a character which is subject to the allowance for depreciation provided in section 167, or

(B) any amount paid or incurred which is allowable as a deduction without regard to this section.

Notwithstanding the preceding sentences, such term also includes any amount, not otherwise allowable as a deduction, paid or incurred to satisfy any part of an assessment levied by a soil or water conservation or drainage district to defray expenditures made by such district (i) which, if paid or incurred by the taxpayer, would without regard to this sentence constitute expenditures deductible under this section, or (ii) for property of a character subject

to the allowance for depreciation provided in section 167 and used in the soil or water conservation or drainage district’s business as such (to the extent that the taxpayer’s share of the assessment levied on the members of the district for such property does not exceed 10 percent of such assessment).

(2) The term “land used in farming” means land used (before or simultaneously with the expenditures described in paragraph (1)) by the taxpayer or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock.

(3) **ADDITIONAL LIMITATIONS.—**

(A) **EXPENDITURES MUST BE CONSISTENT WITH SOIL CONSERVATION PLAN OR ENDANGERED SPECIES RECOVERY PLAN.—**Notwithstanding any other provision of this section, subsection (a) shall not apply to any expenditures unless such expenditures are consistent with—

(i) the plan (if any) approved by the Soil Conservation Service of the Department of Agriculture or the recovery plan approved pursuant to the Endangered Species Act of 1973 for the area in which the land is located, or

(ii) if there is no plan described in clause (i), any soil conservation plan of a comparable State agency.

(B) **CERTAIN WETLAND, ETC., ACTIVITIES NOT QUALIFIED.—**Subsection (a) shall not apply to any expenditures in connection with the draining or filling of wetlands or land preparation for center pivot irrigation systems.

(d) When method may be adopted

(1) Without consent

A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for the taxpayer’s first taxable year for which expenditures described in subsection (a) are paid or incurred.

(2) With consent

A taxpayer may, with the consent of the Secretary, adopt at any time the method provided in this section.

(e) Scope

The method adopted under this section shall apply to all expenditures described in subsection (a). The method adopted shall be adhered to in computing taxable income for the taxable year and for all subsequent taxable years unless, with the approval of the Secretary, a change to a different method is authorized with respect to part or all of such expenditures.

(f) Rules applicable to assessments for depreciable property

(1) Amounts treated as paid or incurred over 9-year period

In the case of an assessment levied to defray expenditures for property described in clause (ii) of the last sentence of subsection (c)(1), if the amount of such assessment paid or incurred by the taxpayer during the taxable year (determined without the application of this paragraph) is in excess of an amount equal to 10 percent of the aggregate amounts which

have been and will be assessed as the taxpayer's share of the expenditures by the district for such property, and if such excess is more than \$500, the entire excess shall be treated as paid or incurred ratably over each of the 9 succeeding taxable years.

(2) Disposition of land during 9-year period

If paragraph (1) applies to an assessment and the land with respect to which such assessment was made is sold or otherwise disposed of by the taxpayer (other than by the reason of his death) during the 9 succeeding taxable years, any amount of the excess described in paragraph (1) which has not been treated as paid or incurred for a taxable year ending on or before the sale or other disposition shall be added to the adjusted basis of such land immediately prior to its sale or other disposition and shall not thereafter be treated as paid or incurred ratably under paragraph (1).

(3) Disposition by reason of death

If paragraph (1) applies to an assessment and the taxpayer dies during the 9 succeeding taxable years, any amount of the excess described in paragraph (1) which has not been treated as paid or incurred for a taxable year ending before his death shall be treated as paid or incurred in the taxable year in which he dies.

(Aug. 16, 1954, ch. 736, 68A Stat. 67; Pub. L. 90-630, §5(a), (b), Oct. 22, 1968, 82 Stat. 1329; Pub. L. 94-455, title XIX, §§1901(a)(30), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1769, 1834; Pub. L. 99-514, title IV, §401(a), Oct. 22, 1986, 100 Stat. 2221; Pub. L. 110-234, title XV, §15303(a)(1)-(2)(B), (b), May 22, 2008, 122 Stat. 1501, 1502; Pub. L. 110-246, §4(a), title XV, §15303(a)(1)-(2)(B), (b), June 18, 2008, 122 Stat. 1664, 2263, 2264; Pub. L. 113-295, div. A, title II, §221(a)(33), Dec. 19, 2014, 128 Stat. 4042.)

Editorial Notes

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (c)(1), (3)(A)(i), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2014—Subsec. (d)(1). Pub. L. 113-295 amended par. (1) generally. Prior to amendment, text read as follows: "A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year—

"(A) which begins after December 31, 1953, and ends after August 16, 1954, and

"(B) for which expenditures described in subsection (a) are paid or incurred."

2008—Pub. L. 110-246, §15303(a)(2)(B), inserted "; endangered species recovery expenditures" after "conservation expenditures" in section catchline.

Subsec. (a). Pub. L. 110-246, §15303(a)(2)(A), inserted ", or for endangered species recovery" after "erosion of land used in farming".

Subsec. (c)(1). Pub. L. 110-246, §15303(a)(1), (2)(A), in introductory provisions, inserted ", or for endangered

species recovery" after "erosion of land used in farming" and "Such term shall include expenditures paid or incurred for the purpose of achieving site-specific management actions recommended in recovery plans approved pursuant to the Endangered Species Act of 1973." after first sentence.

Subsec. (c)(3)(A). Pub. L. 110-246, §15303(b)(1), inserted "or endangered species recovery plan" after "conservation plan" in heading.

Subsec. (c)(3)(A)(i). Pub. L. 110-246, §15303(b)(2), inserted "or the recovery plan approved pursuant to the Endangered Species Act of 1973" after "Department of Agriculture".

1986—Subsec. (c)(3). Pub. L. 99-514 added par. (3).

1976—Subsec. (d)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsec. (d)(1)(A). Pub. L. 94-455, §1901(a)(30), substituted "August 16, 1954" for "the date on which this title is enacted" after "and ends after".

Subsecs. (d)(2), (e). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

1968—Subsec. (c)(1). Pub. L. 90-630, §5(a), in text following subpar. (B), designated as cl. (i) existing provisions covering amounts which, if paid or incurred by the taxpayer, would without regard to the exception constitute deductible expenditures, and added cl. (ii).

Subsec. (f). Pub. L. 90-630, §5(b), added subsec. (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

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

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title XV, §15303(c), May 22, 2008, 122 Stat. 1502, and Pub. L. 110-246, §4(a), title XV, §15303(c), June 18, 2008, 122 Stat. 1664, 2264, provided that: "The amendments made by this section [amending this section] shall apply to expenditures paid or incurred after December 31, 2008."

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title IV, §401(b), Oct. 22, 1986, 100 Stat. 2221, provided that: "The amendment made by this section [amending this section] shall apply to amounts paid or incurred after December 31, 1986, in taxable years ending after such date."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(30) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-630, §5(c), Oct. 22, 1968, 82 Stat. 1330, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply to assessments levied after the date of the enactment of this Act [Oct. 22, 1968] in taxable years ending after such date."

§ 176. Payments with respect to employees of certain foreign corporations

In the case of a domestic corporation, there shall be allowed as a deduction amounts (to the