

sale or exchange of such property shall be treated as—

(A) for such amount of the income or gain as is equal to or less than the amount of income which would be included in income at the time of contribution under subsection (f)(3) but for the taxpayer's election under this subsection, ordinary income, and

(B) for any amounts of the income or gain which are in excess of the amount of income which would be included in income at the time of contribution under subsection (f)(3) but for the taxpayer's election under this subsection, having the same character as if this subsection did not apply.

### (3) Election

#### (A) In general

For each taxable year, a Settlement Trust may elect to apply this subsection for any property described in paragraph (1) which was contributed during such year. Any property to which the election applies shall be identified and described with reasonable particularity on the income tax return or an amendment or supplement to the return of the Settlement Trust, with such election to have effect solely for such taxable year.

#### (B) Revocation

Any election made by a Settlement Trust pursuant to this subsection may be revoked pursuant to a timely filed amendment or supplement to the income tax return of such Settlement Trust.

#### (C) Certain dispositions

##### (i) In general

In the case of any property for which an election is in effect under this subsection and which is disposed of within the first taxable year subsequent to the taxable year in which such property was contributed to the Settlement Trust—

(I) this section shall be applied as if the election under this subsection had not been made,

(II) any income or gain which would have been included in the year of contribution under subsection (f)(3) but for the taxpayer's election under this subsection shall be included in income for the taxable year of such contribution, and

(III) the Settlement Trust shall pay any increase in tax resulting from such inclusion, including any applicable interest, and increased by 10 percent of the amount of such increase with interest.

##### (ii) Assessment

Notwithstanding section 6501(a), any amount described in subclause (III) of clause (i) may be assessed, or a proceeding in court with respect to such amount may be initiated without assessment, within 4 years after the date on which the return making the election under this subsection for such property was filed.

(Added Pub. L. 115-97, title I, §13821(b)(1), Dec. 22, 2017, 131 Stat. 2179.)

### Editorial Notes

#### PRIOR PROVISIONS

A prior section 247, Aug. 16, 1954, ch. 736, 68A Stat. 75; Pub. L. 94-455, title XIX, §1901(a)(35), Oct. 4, 1976, 90 Stat. 1770; Pub. L. 95-600, title III, §301(b)(4), Nov. 6, 1978, 92 Stat. 2820; Pub. L. 101-508, title XI, §11801(c)(8)(C), Nov. 5, 1990, 104 Stat. 1388-524; Pub. L. 104-188, title I, §1704(t)(49), Aug. 20, 1996, 110 Stat. 1890; Pub. L. 109-135, title IV, §402(a)(5), Dec. 21, 2005, 119 Stat. 2610, allowed to public utilities as a deduction a percentage of the amount of the lesser of dividends paid during the taxable year on its preferred stock or taxable income for the taxable year under certain conditions, prior to repeal by Pub. L. 113-295, div. A, title II, §221(a)(41)(A), Dec. 19, 2014, 128 Stat. 4043.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE

Pub. L. 115-97, title I, §13821(b)(3), Dec. 22, 2017, 131 Stat. 2181, provided that:

“(A) IN GENERAL.—The amendments made by this subsection [enacting this section] shall apply to taxable years for which the period of limitation on refund or credit under section 6511 of the Internal Revenue Code of 1986 has not expired.

“(B) ONE-YEAR WAIVER OF STATUTE OF LIMITATIONS.—If the period of limitation on a credit or refund resulting from the amendments made by paragraph (1) expires before the end of the 1-year period beginning on the date of the enactment of this Act [Dec. 22, 2017], refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.”

### § 248. Organizational expenditures

#### (a) Election to deduct

If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

(A) the amount of organizational expenditures with respect to the taxpayer, or

(B) \$5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed \$50,000, and

(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.

#### (b) Organizational expenditures defined

The term “organizational expenditures” means any expenditure which—

(1) is incident to the creation of the corporation;

(2) is chargeable to capital account; and

(3) is of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life.

#### (c) Time for and scope of election

The election provided by subsection (a) may be made for any taxable year but only if made not later than the time prescribed by law for filing the return for such taxable year (including ex-

tensions thereof). The period so elected shall be adhered to in computing the taxable income of the corporation for the taxable year for which the election is made and all subsequent taxable years.

(Aug. 16, 1954, ch. 736, 68A Stat. 76; Pub. L. 94-455, title XIX, §§ 1901(a)(36), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1770, 1834; Pub. L. 108-357, title VIII, § 902(b), Oct. 22, 2004, 118 Stat. 1651; Pub. L. 113-295, div. A, title II, § 221(a)(42), Dec. 19, 2014, 128 Stat. 4044.)

#### Editorial Notes

##### AMENDMENTS

2014—Subsec. (c). Pub. L. 113-295 struck out “beginning after December 31, 1953,” after “any taxable year” and “The election shall apply only with respect to expenditures paid or incurred on or after August 16, 1954.” at end.

2004—Subsec. (a). Pub. L. 108-357 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The organizational expenditures of a corporation may, at the election of the corporation (made in accordance with regulations prescribed by the Secretary, be treated as deferred expenses. In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the corporation (beginning with the month in which the corporation begins business).”

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

Subsec. (c). Pub. L. 94-455, § 1901(a)(36), substituted “August 16, 1954” for “the date of enactment of this title”.

#### 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 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to amounts paid or incurred after Oct. 22, 2004, see section 902(d) of Pub. L. 108-357, set out as a note under section 195 of this title.

##### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(36) of Pub. L. 94-455 effective for 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.

Amendment by section 1906(b)(13)(A) of Pub. L. 94-455 effective Feb. 1, 1977, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

### § 249. Limitation on deduction of bond premium on repurchase

#### (a) General rule

No deduction shall be allowed to the issuing corporation for any premium paid or incurred upon the repurchase of a bond, debenture, note, or certificate or other evidence of indebtedness which is convertible into the stock of the issuing corporation, or a corporation in the same parent-subsidiary controlled group (within the meaning of section 1563(a)(1)) as the issuing corporation, to the extent the repurchase price exceeds an amount equal to the adjusted issue price plus a normal call premium on bonds or other evidences of indebtedness which are not

convertible. The preceding sentence shall not apply to the extent that the corporation can demonstrate to the satisfaction of the Secretary that such excess is attributable to the cost of borrowing and is not attributable to the conversion feature.

#### (b) Adjusted issue price

For purposes of subsection (a), the adjusted issue price is the issue price (as defined in sections 1273(b) and 1274) increased by any amount of discount deducted before repurchase, or decreased by any amount of premium included in gross income before repurchase by the issuing corporation.

(Added Pub. L. 91-172, title IV, § 414(a), Dec. 30, 1969, 83 Stat. 612; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, § 42(a)(5), July 18, 1984, 98 Stat. 557; Pub. L. 112-95, title XI, § 1108(a), (b), Feb. 14, 2012, 126 Stat. 154; Pub. L. 113-295, div. A, title II, §§ 220(i), 221(a)(43), Dec. 19, 2014, 128 Stat. 4036, 4044.)

#### Editorial Notes

##### AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295, § 220(i), substituted “1563(a)(1)” for “1563(a)(1)”.

Subsec. (b). Pub. L. 113-295, § 221(a)(43), which directed amendment of subsec. (b)(1) by striking out “, in the case of bonds or other evidences of indebtedness issued after February 28, 1913,” after “repurchase, or”, was executed by making the amendment in subsec. (b) to reflect the probable intent of Congress and the prior amendment by Pub. L. 112-95, § 1108(b). See 2012 Amendment note below.

2012—Subsec. (a). Pub. L. 112-95, § 1108(a), substituted “, or a corporation in the same parent-subsidiary controlled group (within the meaning of section 1563(a)(1) as” for “, or a corporation in control of, or controlled by,”.

Subsec. (b). Pub. L. 112-95, § 1108(b), substituted “Adjusted issue price” for “Special rules” in heading and “For purposes of subsection (a),” for “For purposes of subsection (a)—” and par. (1) designation and heading, and “the adjusted issue price” for “The adjusted issue price”, and struck out par. (2), which defined “control” as having the meaning assigned to such term by section 368(c).

1984—Subsec. (b)(1). Pub. L. 98-369 substituted “sections 1273(b) and 1274” for “section 1232(b)”.

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

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 221(a)(43) of 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 2012 AMENDMENT

Pub. L. 112-95, title XI, § 1108(c), Feb. 14, 2012, 126 Stat. 154, provided that: “The amendments made by this section [amending this section] shall apply to repurchases after the date of the enactment of this Act [Feb. 14, 2012].”

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.