

## PART IX—ITEMS NOT DEDUCTIBLE

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## Editorial Notes

## AMENDMENTS

2018—Pub. L. 115-141, div. U, title IV, § 401(a)(59), Mar. 23, 2018, 132 Stat. 1187, substituted “Limitation on certain amounts paid to employee-owners by personal service corporations electing alternative taxable years” for “Limitation on certain amounts paid to owner-employees by personal service corporations electing alternative taxable years” in item 280H.

2017—Pub. L. 115-97, title I, § 14222(b), Dec. 22, 2017, 131 Stat. 2220, added item 267A.

1996—Pub. L. 104-188, title I, § 1704(t)(55), Aug. 20, 1996, 110 Stat. 1890, provided that section 11813(b)(13)(F) of Pub. L. 101-508 shall be applied as if “tax” appeared after “investment” in the material proposed to be stricken. See 1990 Amendment note below.

1990—Pub. L. 101-508, title XI, § 11813(b)(13)(F), Nov. 5, 1990, 104 Stat. 1388-555, which directed the striking out of “investment credit and” in item 280F, was executed by striking out “investment tax credit and” after “Limitation on”. See 1996 Amendment note above.

1988—Pub. L. 100-418, title I, § 1941(b)(4)(B), Aug. 23, 1988, 102 Stat. 1324, struck out item 280D “Portion of chapter 45 taxes for which credit or refund is allowable under section 6429”.

1987—Pub. L. 100-203, title X, § 10206(c)(2), Dec. 22, 1987, 101 Stat. 1330-402, added item 280H.

1986—Pub. L. 99-514, title VIII, § 803(c)(1), (3), Oct. 22, 1986, 100 Stat. 2356, added item 263A and struck out items 278 “Capital expenditures incurred in planting and developing citrus and almond groves” and 280 “Certain expenditures incurred in production of films, books, records, or similar property”.

1984—Pub. L. 98-369, div. A, title I, §§ 67(d)(1), 136(b), 179(c), title X, § 1063(b)(2), July 18, 1984, 98 Stat. 587, 670, 718, 1047, added items 269B, 280F, and 280G, and struck out “certain historic” before “structures” in item 280B.

1983—Pub. L. 97-414, § 4(b)(2)(B), Jan. 4, 1983, 96 Stat. 2056, substituted “Certain expenses for which credits are allowable” for “Portion of wages for which credit is claimed under section 44B” in item 280C.

1982—Pub. L. 97-248, title II, § 250(b), title III, § 351(b), Sept. 3, 1982, 96 Stat. 528, 640, added items 269A and 280E.

1980—Pub. L. 96-499, title XI, § 1131(d)(2), Dec. 5, 1980, 94 Stat. 2693, added item 280D.

1977—Pub. L. 95-30, title II, § 202(c)(2), May 23, 1977, 91 Stat. 147, added item 280C.

1976—Pub. L. 94-455, title II, § 210(b), title VI, § 601(b), title XXI, § 2124(b)(2), Oct. 4, 1976, 90 Stat. 1544, 1572, 1918, added items 280, 280A, and 280B.

1971—Pub. L. 91-680, § 1(c), Jan. 12, 1971, 84 Stat. 2064, inserted “and almond” after “citrus” in item 278.

1969—Pub. L. 91-172, title I, § 121(b)(3)(B), title II, §§ 213(c)(2), 216(b), title IV, § 411(b), Dec. 30, 1969, 83 Stat. 541, 572, 574, 608, struck out item 270 “Limitation on deductions allowable to individuals in certain cases”, and added items 277 to 279.

1966—Pub. L. 89-368, title III, § 301(b), Mar. 15, 1966, 80 Stat. 67, added item 276.

1964—Pub. L. 88-272, title II, §§ 207(b)(3)(B), 227(b)(4), Feb. 26, 1964, 78 Stat. 42, 98, inserted “or domestic iron ore” in item 272, and added item 275.

1962—Pub. L. 87-834, § 4(a)(2), Oct. 16, 1962, 76 Stat. 976, added item 274.

### § 261. General rule for disallowance of deductions

In computing taxable income no deduction shall in any case be allowed in respect of the items specified in this part.

(Aug. 16, 1954, ch. 736, 68A Stat. 76.)

### § 262. Personal, living, and family expenses

#### (a) General rule

Except as otherwise expressly provided in this chapter, no deduction shall be allowed for personal, living, or family expenses.

#### (b) Treatment of certain phone expenses

For purposes of subsection (a), in the case of an individual, any charge (including taxes thereon) for basic local telephone service with respect to the 1st telephone line provided to any residence of the taxpayer shall be treated as a personal expense.

(Aug. 16, 1954, ch. 736, 68A Stat. 76; Pub. L. 100-647, title V, § 5073(a), Nov. 10, 1988, 102 Stat. 3682.)

## Editorial Notes

## AMENDMENTS

1988—Pub. L. 100-647 amended section generally. Prior to amendment, section read as follows: “Except as otherwise expressly provided in this chapter, no deduction

shall be allowed for personal, living, or family expenses.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title V, §5073(b), Nov. 10, 1988, 102 Stat. 3682, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1988.”

### § 263. Capital expenditures

#### (a) General rule

No deduction shall be allowed for—

(1) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This paragraph shall not apply to—

(A) expenditures for the development of mines or deposits deductible under section 616,

(B) research and experimental expenditures deductible under section 174,

(C) soil and water conservation expenditures deductible under section 175,

(D) expenditures by farmers for fertilizer, etc., deductible under section 180,

(E) expenditures for removal of architectural and transportation barriers to the handicapped and elderly which the taxpayer elects to deduct under section 190,

(F) expenditures for tertiary injectants with respect to which a deduction is allowed under section 193,

(G) expenditures for which a deduction is allowed under section 179,

(H) expenditures for which a deduction is allowed under section 179B,

(I) expenditures for which a deduction is allowed under section 179C,

(J) expenditures for which a deduction is allowed under section 179D, or

(K) expenditures for which a deduction is allowed under section 179E.

(2) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

**[(b) Repealed. Pub. L. 101-508, title XI, §11801(a)(16), Nov. 5, 1990, 104 Stat. 1388-520]**

#### (c) Intangible drilling and development costs in the case of oil and gas wells and geothermal wells

Notwithstanding subsection (a), and except as provided in subsection (i), regulations shall be prescribed by the Secretary under this subtitle corresponding to the regulations which granted the option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells and which were recognized and approved by the Congress in House Concurrent Resolution 50, Seventy-ninth Congress. Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled for any geothermal deposit (as defined in section 613(e)(2)) to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells. This subsection shall not apply

with respect to any costs to which any deduction is allowed under section 59(e) or 291.

#### (d) Expenditures in connection with certain railroad rolling stock

In the case of expenditures in connection with the rehabilitation of a unit of railroad rolling stock (except a locomotive) used by a domestic common carrier by railroad which would, but for this subsection, be properly chargeable to capital account, such expenditures, if during any 12-month period they do not exceed an amount equal to 20 percent of the basis of such unit in the hands of the taxpayer, shall, at the election of the taxpayer, be treated (notwithstanding subsection (a)) as deductible repairs under section 162 or 212. An election under this subsection shall be made for any taxable year at such time and in such manner as the Secretary prescribes by regulations. An election may not be made under this subsection for any taxable year to which an election under subsection (e) applies to railroad rolling stock (other than locomotives).

**[(e) Repealed. Pub. L. 97-34, title II, §201(c), Aug. 13, 1981, 95 Stat. 219]**

#### (f) Railroad ties

In the case of a domestic common carrier by rail (including a railroad switching or terminal company) which uses the retirement-replacement method of accounting for depreciation of its railroad track, expenditures for acquiring and installing replacement ties of any material (and fastenings related to such ties) shall be accorded the same tax accounting treatment as expenditures for replacement ties of wood (and fastenings related to such ties).

#### (g) Certain interest and carrying costs in the case of straddles

##### (1) General rule

No deduction shall be allowed for interest and carrying charges properly allocable to personal property which is part of a straddle (as defined in section 1092(c)). Any amount not allowed as a deduction by reason of the preceding sentence shall be chargeable to the capital account with respect to the personal property to which such amount relates.

##### (2) Interest and carrying charges defined

For purposes of paragraph (1), the term “interest and carrying charges” means the excess of—

(A) the sum of—

(i) interest on indebtedness incurred or continued to purchase or carry the personal property, and

(ii) all other amounts (including charges to insure, store, or transport the personal property) paid or incurred to carry the personal property, over

(B) the sum of—

(i) the amount of interest (including original issue discount) includible in gross income for the taxable year with respect to the property described in subparagraph (A),

(ii) any amount treated as ordinary income under section 1271(a)(3)(A), 1276, or 1281(a) with respect to such property for the taxable year,