

any taxable year beginning after December 31, 2017, and before January 1, 2026.

(Added Pub. L. 99-514, title I, § 132(a), Oct. 22, 1986, 100 Stat. 2113; amended Pub. L. 100-647, title I, § 1001(f), title IV, § 4011(a), Nov. 10, 1988, 102 Stat. 3351, 3655; Pub. L. 101-239, title VII, § 7814(f), Dec. 19, 1989, 103 Stat. 2414; Pub. L. 103-66, title XIII, § 13213(c)(2), Aug. 10, 1993, 107 Stat. 474; Pub. L. 105-277, div. J, title IV, § 4004(b)(1), Oct. 21, 1998, 112 Stat. 2681-910; Pub. L. 106-554, § 1(a)(7) [title III, § 319(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-646; Pub. L. 115-97, title I, § 11045(a), Dec. 22, 2017, 131 Stat. 2088.)

Editorial Notes

REFERENCES IN TEXT

Section 4 of the Securities Act of 1933, referred to in subsec. (c)(2)(B)(i)(I), is classified to section 77d of Title 15, Commerce and Trade.

AMENDMENTS

2017—Subsec. (g). Pub. L. 115-97 added subsec. (g).
 2000—Subsec. (f). Pub. L. 106-554 substituted “the second sentence” for “the last sentence”.
 1998—Subsec. (b)(3). Pub. L. 105-277 substituted “for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)” for “for losses described in subsection (c)(3) or (d) of section 165”.
 1993—Subsec. (b)(6) to (13). Pub. L. 103-66 redesignated pars. (7) to (13) as (6) to (12), respectively, and struck out former par. (6) which read as follows: “the deduction under section 217 (relating to moving expenses).”.
 1989—Subsec. (c)(4). Pub. L. 101-239 struck out par. (4) which read as follows: “TERMINATION.—This subsection shall not apply to any taxable year beginning after December 31, 1989.”
 1988—Subsec. (b)(4). Pub. L. 100-647, § 1001(f)(2), substituted “deductions” for “deduction” and inserted before comma at end “and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose)”.
 Subsec. (c). Pub. L. 100-647, § 4011(a), amended subsec. (c) generally. Prior to amendment subsec. (c) read as follows: “The Secretary shall prescribe regulations which prohibit the indirect deduction through pass-thru entities of amounts which are not allowable as a deduction if paid or incurred directly by an individual and which contain such reporting requirements as may be necessary to carry out the purposes of this subsection. The preceding sentence shall not apply—
 “(1) with respect to cooperatives and real estate investment trusts, and
 “(2) except as provided in regulations, with respect to estates and trusts.”
 Pub. L. 100-647, § 1001(f)(4), amended last sentence generally. Prior to amendment, last sentence read as follows: “The preceding sentence shall not apply with respect to estates, trusts, cooperatives, and real estate investment trusts.”
 Subsec. (e). Pub. L. 100-647, § 1001(f)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs which are paid or incurred in connection with the administration of the estate or trust and would not have been incurred if the property were not held in such trust or estate shall be treated as allowable in arriving at adjusted gross income.”
 Subsec. (f). Pub. L. 100-647, § 1001(f)(1), added subsec. (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, § 11045(b), Dec. 22, 2017, 131 Stat. 2088, provided that: “The amendment made by this sec-

tion [amending this section] shall apply to taxable years beginning after December 31, 2017.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. J, title IV, § 4004(c)(2), Oct. 21, 1998, 112 Stat. 2681-911, provided that: “The amendment made by subsection (b)(1) [amending this section] shall apply to taxable years beginning after December 31, 1986.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to expenses incurred after Dec. 31, 1993, see section 13213(e) of Pub. L. 103-66 set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1001(f) of 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.

Pub. L. 100-647, title IV, § 4011(b), Nov. 10, 1988, 102 Stat. 3656, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1987.”

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 1 of this title.

1-YEAR DELAY IN TREATMENT OF PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR

Pub. L. 100-203, title X, § 10104(a), Dec. 22, 1987, 101 Stat. 1330-386, provided that:

“(1) GENERAL RULE.—Section 67(c) of the Internal Revenue Code of 1986 to the extent it relates to indirect deductions through a publicly offered regulated investment company shall apply only to taxable years beginning after December 31, 1987.

“(2) PUBLICLY OFFERED REGULATED INVESTMENT COMPANY DEFINED.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘publicly offered regulated investment company’ means a regulated investment company the shares of which are—

“(i) continuously offered pursuant to a public offering (within the meaning of section 4 of the Securities Act of 1933, as amended (15 U.S.C. 77a to 77aa) [15 U.S.C. 77d]),

“(ii) regularly traded on an established securities market, or

“(iii) held by or for no fewer than 500 persons at all times during the taxable year.

“(B) SECRETARY MAY REDUCE 500 PERSON REQUIREMENT.—The Secretary of the Treasury or his delegate may by regulation decrease the minimum shareholder requirement of subparagraph (A)(iii) in the case of regulated investment companies which experience a loss of shareholders through net redemptions of their shares.”

§ 68. Overall limitation on itemized deductions

(a) General rule

In the case of an individual whose adjusted gross income exceeds the applicable amount, the amount of the itemized deductions otherwise al-

allowable for the taxable year shall be reduced by the lesser of—

- (1) 3 percent of the excess of adjusted gross income over the applicable amount, or
- (2) 80 percent of the amount of the itemized deductions otherwise allowable for such taxable year.

(b) Applicable amount

(1) In general

For purposes of this section, the term “applicable amount” means—

- (A) \$300,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),
- (B) \$275,000 in the case of a head of household (as defined in section 2(b)),
- (C) \$250,000 in the case of an individual who is not married and who is not a surviving spouse or head of household, and
- (D) ½ the amount applicable under subparagraph (A) (after adjustment, if any, under paragraph (2)) in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

(2) Inflation adjustment

In the case of any taxable year beginning in calendar years after 2013, each of the dollar amounts under subparagraphs (A), (B), and (C) of paragraph (1) shall be increased by an amount equal to—

- (A) such dollar amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(A)(ii) shall be applied by substituting “2012” for “2016”.

If any amount after adjustment under the preceding sentence is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.

(c) Exception for certain itemized deductions

For purposes of this section, the term “itemized deductions” does not include—

- (1) the deduction under section 213 (relating to medical, etc. expenses),
- (2) any deduction for investment interest (as defined in section 163(d)), and
- (3) the deduction under section 165(a) for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d).

(d) Coordination with other limitations

This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

(e) Exception for estates and trusts

This section shall not apply to any estate or trust.

(f) Section not to apply

This section shall not apply to any taxable year beginning after December 31, 2017, and before January 1, 2026.

(Added Pub. L. 101-508, title XI, §11103(a), Nov. 5, 1990, 104 Stat. 1388-406; amended Pub. L. 103-66,

title XIII, §§13201(b)(3)(E), 13204, Aug. 10, 1993, 107 Stat. 459, 462; Pub. L. 105-277, div. J, title IV, §4004(b)(2), Oct. 21, 1998, 112 Stat. 2681-911; Pub. L. 107-16, title I, §103(a), June 7, 2001, 115 Stat. 44; Pub. L. 112-240, title I, §101(b)(2)(A), Jan. 2, 2013, 126 Stat. 2316; Pub. L. 115-97, title I, §§11002(d)(2), 11046(a), Dec. 22, 2017, 131 Stat. 2061, 2088; Pub. L. 115-141, div. U, title IV, §401(a)(33), Mar. 23, 2018, 132 Stat. 1186.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

Editorial Notes

AMENDMENTS

2018—Subsec. (b)(2). Pub. L. 115-141 substituted “shall be” for “shall be shall be” in introductory provisions.

2017—Subsec. (b)(2)(B). Pub. L. 115-97, §11002(d)(2), substituted “1(f)(3)(A)(ii)” for “1(f)(3)(B)” and “2016” for “1992”.

Subsec. (f). Pub. L. 115-97, §11046(a), added subsec. (f). 2013—Subsec. (b). Pub. L. 112-240, §101(b)(2)(A)(i), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows:

“(1) IN GENERAL.—For purposes of this section, the term ‘applicable amount’ means \$100,000 (\$50,000 in the case of a separate return by a married individual with in the meaning of section 7703).

“(2) INFLATION ADJUSTMENTS.—In the case of any taxable year beginning in a calendar year after 1991, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

- “(A) such dollar amount, multiplied by
- “(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 1990’ for ‘calendar year 1992’ in subparagraph (B) thereof.”

Subsecs. (f), (g). Pub. L. 112-240, §101(b)(2)(A)(ii), struck out subsecs. (f) and (g), which related to phase-out of limitation and termination of applicability of section, respectively.

2001—Subsecs. (f), (g). Pub. L. 107-16 added subsecs. (f) and (g).

1998—Subsec. (c)(3). Pub. L. 105-277 substituted “for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)” for “for losses described in subsection (c)(3) or (d) of section 165”.

1993—Subsec. (b)(2)(B). Pub. L. 103-66, §13201(b)(3)(E), substituted “1992” for “1989”.

Subsec. (f). Pub. L. 103-66, §13204, struck out heading and text of subsec. (f). Text read as follows: “This section shall not apply to any taxable year beginning after December 31, 1995.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 11002(d)(2) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

Pub. L. 115-97, title I, §11046(b), Dec. 22, 2017, 131 Stat. 2088, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2017.”

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 applicable to taxable years beginning after Dec. 31, 2012, see section 101(b)(3) of Pub. L. 112-240, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title I, §103(b), June 7, 2001, 115 Stat. 45, provided that: “The amendment made by this sec-

tion [amending this section] shall apply to taxable years beginning after December 31, 2005.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. J, title IV, § 4004(c)(3), Oct. 21, 1998, 112 Stat. 2681-911, provided that: “The amendment made by subsection (b)(2) [amending this section] shall apply to taxable years beginning after December 31, 1990.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13201(b)(3)(E) of Pub. L. 103-66 applicable to taxable years beginning after Dec. 31, 1992, see section 13201(c) of Pub. L. 103-66, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1990, see section 11103(e) of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 1 of this title.

PART II—ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME

Sec.

- [71. Repealed.]
- 72. Annuities; certain proceeds of endowment and life insurance contracts.
- 73. Services of child.
- 74. Prizes and awards.
- 75. Dealers in tax-exempt securities.
- [76. Repealed.]
- 77. Commodity credit loans.
- 78. Dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit.¹
- 79. Group-term life insurance purchased for employees.
- 80. Restoration of value of certain securities.
- [81. Repealed.]
- 82. Reimbursement of moving expenses.
- 83. Property transferred in connection with performance of services.
- 84. Transfer of appreciated property to political organizations.
- 85. Unemployment compensation.
- 86. Social security and tier 1 railroad retirement benefits.
- 87. Alcohol and biodiesel fuels credits.
- 88. Certain amounts with respect to nuclear decommissioning costs.
- [89. Repealed.]
- 90. Illegal Federal irrigation subsidies.
- 91. Certain foreign branch losses transferred to specified 10-percent owned foreign corporations.

Editorial Notes

AMENDMENTS

2017—Pub. L. 115-97, title I, §§ 11051(b)(1)(B), 14102(d)(2), Dec. 22, 2017, 131 Stat. 2089, 2194, struck out item 71 “Alimony and separate maintenance payments” and added item 91.

2004—Pub. L. 108-357, title III, § 302(c)(1)(B), Oct. 22, 2004, 118 Stat. 1465, substituted “and biodiesel fuels credits” for “fuel credit” in item 87.

1989—Pub. L. 101-239, title VII, § 7822(c), Dec. 19, 1989, 103 Stat. 2425, substituted “Illegal Federal irrigation” for “Federal irrigation” in item 90.

Pub. L. 101-140, title II, § 202(b), Nov. 8, 1989, 103 Stat. 830, struck out item 89 “Benefits provided under certain employee benefit plans”.

1987—Pub. L. 100-203, title X, §§ 10201(b)(6), 10611(b), Dec. 22, 1987, 101 Stat. 1330-387, 1330-452, struck out item

¹Section catchline amended by Pub. L. 115-97 without corresponding amendment of analysis.

81 “Increase in vacation pay suspense account” and added item 90.

1986—Pub. L. 99-514, title VIII, § 805(c)(1)(B), title XI, § 1151(j)(1), Oct. 22, 1986, 100 Stat. 2362, 2508, substituted “Increase in vacation pay suspense account” for “Certain increases in suspense accounts” in item 81, and added item 89.

1984—Pub. L. 98-369, div. A, title I, § 91(f)(2), July 18, 1984, 98 Stat. 608, added item 88.

1983—Pub. L. 98-21, title I, § 121(f)(3), Apr. 20, 1983, 97 Stat. 84, added item 86 and redesignated former item 86 as 87.

1980—Pub. L. 96-223, title II, § 232(c)(3), Apr. 2, 1980, 94 Stat. 277, added item 86.

1978—Pub. L. 95-600, title I, § 112(c)(1), Nov. 6, 1978, 92 Stat. 2778, added item 85.

1976—Pub. L. 94-455, title XIX, § 1901(b)(5), Oct. 4, 1976, 90 Stat. 1793, struck out item 76 “Mortgages made or obligations issued by joint-stock land banks”.

1975—Pub. L. 93-625, §§ 4(c)(2), 13(a)(2), Jan. 3, 1975, 88 Stat. 2111, 2121, substituted “Certain increases in suspense accounts” for “Increases in suspense account under section 166(g)” in item 81, and added item 84.

1969—Pub. L. 91-172, title II, § 231(c)(1), title III, § 321(c), Dec. 30, 1969, 83 Stat. 579, 591, added items 82, 83.

1966—Pub. L. 89-722, § 1(b)(2), Nov. 2, 1966, 80 Stat. 1152, added item 81.

Pub. L. 89-384, § 1(b)(2), Apr. 8, 1966, 80 Stat. 102, added item 80.

1964—Pub. L. 88-272, title II, § 204(a)(2), Feb. 26, 1964, 78 Stat. 36, added item 79.

1962—Pub. L. 87-834, § 9(d)(1), Oct. 16, 1962, 76 Stat. 1001, added item 78.

[§ 71. Repealed. Pub. L. 115-97, title I, § 11051(b)(1)(B), Dec. 22, 2017, 131 Stat. 2089]

Section, Aug. 16, 1954, ch. 736, 68A Stat. 19; Pub. L. 98-369, div. A, title IV, § 422(a), July 18, 1984, 98 Stat. 795; Pub. L. 99-514, title XVIII, § 1843(a)-(c)(1), (d), Oct. 22, 1986, 100 Stat. 2853, 2855, related to inclusion in gross income of amounts received as alimony or separate maintenance payments.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable to any divorce or separation instrument (as defined in former subsec. (b)(2) of this section as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115-97 applies to such modification, see section 11051(c) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 61 of this title.

§ 72. Annuities; certain proceeds of endowment and life insurance contracts

(a) General rules for annuities

(1) Income inclusion

Except as otherwise provided in this chapter, gross income includes any amount received as an annuity (whether for a period certain or during one or more lives) under an annuity, endowment, or life insurance contract.

(2) Partial annuitization

If any amount is received as an annuity for a period of 10 years or more or during one or more lives under any portion of an annuity, endowment, or life insurance contract—

(A) such portion shall be treated as a separate contract for purposes of this section,

(B) for purposes of applying subsections (b), (c), and (e), the investment in the con-