

## Code Section 55 - Alternative minimum tax imposed

### (a) General rule.

There is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

- (1) the tentative minimum tax for the taxable year, over
- (2) the regular tax for the taxable year.

### (b) Tentative minimum tax.

For purposes of this part—

#### (1) Amount of tentative tax.

##### (A) Noncorporate taxpayers.

**(i) In general.** In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

- (I) 26 percent of so much of the taxable excess as does not exceed \$175,000, plus
- (II) 28 percent of so much of the taxable excess as exceeds \$175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

**(ii) Taxable excess.** For purposes of this subsection, the term "taxable excess" means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

**(iii) Married individual filing separate return.** In the case of a married individual filing a separate return, clause (i) shall be applied by substituting "\$87,500" for "\$175,000" each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

**(B) Corporations.** In the case of a corporation, the tentative minimum tax for the taxable year is—

- (i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by
- (ii) the alternative minimum tax foreign tax credit for the taxable year.

#### (2) Alternative minimum taxable income.

The term "alternative minimum taxable income" means the taxable income of the taxpayer for the taxable year—

- (A) determined with the adjustments provided in section 56 and section 58, and
- (B) increased by the amount of the items of tax preference described in section 57.

If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence).

#### (3) Maximum rate of tax on net capital gain of noncorporate taxpayers.

The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the lesser of—

- (i) the net capital gain; or
- (ii) the sum of—

- (I) the adjusted net capital gain, plus
- (II) the unrecaptured section 1250 gain, plus

(B) 5 percent (0 percent in the case of taxable years beginning after 2007) of so much of the adjusted net capital gain (or, if less, taxable excess) as does not exceed an amount equal to the excess described in section 1(h)(1)(B), plus

(C) 15 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B), plus

(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part.

**(c) Regular tax.**

**(1) In general.**

For purposes of this section, the term "regular tax" means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under section 27(a), the section 936 credit allowable under section 27(b), and the Puerto Rico economic activity credit under section 30A . Such term shall not include any increase in tax under section 49(b) or 50(a) or subsection (j) or (k) of section 42.

**(2) Coordination with income averaging for farmers and fishermen.**

Solely for purposes of this section, section 1301 (relating to averaging of farm and fishing income) shall not apply in computing the regular tax.

**(3) Cross references.**

For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 29(b)(6), 30(b)(3), and 38(c).

**(d) Exemption amount.**

For purposes of this section —

**(1) Exemption amount for taxpayers other than corporations.**

In the case of a taxpayer other than a corporation, the term "exemption amount" means—

**NOTE:** Subsections (d)(1)(A) and (B) have been amended for taxable years beginning after 12/31/2004. Following are Subsections (d)(1)(A) and (B) before amendment, effective for taxable years beginning before 01/01/2005. See below for amended Subsections (d)(1)(A) and (B).

(A) \$45,000 (\$58,000 in the case of taxable years beginning in 2003 and 2004) in the case of—

- (i) a joint return, or
- (ii) a surviving spouse,

(B) \$33,750 (\$40,250 in the case of taxable years beginning in 2003 and 2004) in the case of an individual who—

- (i) is not a married individual, and
- (ii) is not a surviving spouse,

**NOTE:** Following are amended Subsections (d)(1)(A) and (B), effective for tax. yrs. begin. after 12/31/2004.

(A) \$45,000 (\$58,000 in the case of taxable years beginning in 2003, 2004, and 2005) in the case of—

- (i) a joint return, or
- (ii) a surviving spouse,

(B) \$33,750 (\$40,250 in the case of taxable years beginning in 2003, 2004, and 2005) in the case of an individual who—

- (i) is not a married individual, and
- (ii) is not a surviving spouse,

(C) 50 percent of the dollar amount applicable under paragraph (1)(A) in the case of a married individual who files a separate return, and

(D) \$22,500 in the case of an estate or trust.

For purposes of this paragraph, the term "surviving spouse" has the meaning given to such term by section 2(a), and marital status shall be determined under section 7703.

**(2) Corporations.**

In the case of a corporation, the term "exemption amount" means \$40,000.

**(3) Phase-out of exemption amount.**

The exemption amount of any taxpayer shall be reduced (but not below zero) by an amount equal to 25 percent of the amount by which the alternative minimum taxable income of the taxpayer exceeds—

(A) \$150,000 in the case of a taxpayer described in paragraph (1)(A) or (2),

(B) \$112,500 in the case of a taxpayer described in paragraph (1)(B), and

(C) \$75,000 in the case of a taxpayer described in subparagraph (C) or (D) of paragraph (1).

In the case of a taxpayer described in paragraph (1)(C), alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over the minimum amount of such income (as so determined) for which the exemption amount under paragraph (1)(C) is zero, or (ii) such exemption amount (determined without regard to this paragraph).

**(e) Exemption for small corporations.**

**(1) In general.**

**(A) \$7,500,000 gross receipts test.** The tentative minimum tax of a corporation shall be zero for any taxable year if the corporation's average annual gross receipts for all 3-taxable-year periods ending before such taxable year does not exceed \$7,500,000. For purposes of the preceding sentence, only taxable years beginning after December 31, 1993, shall be taken into account.

**(B) \$5,000,000 gross receipts test for first 3-year period.** Subparagraph (A) shall be applied by substituting "\$5,000,000" for "\$7,500,000" for the first 3-taxable-year period (or portion thereof) of the corporation which is taken into account under subparagraph (A).

**(C) First taxable year corporation in existence.** If such taxable year is the first taxable year that such corporation is in existence, the tentative minimum tax of such corporation for such year shall be zero.

**(D) Special rules.** For purposes of this paragraph, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

**(2) Prospective application of minimum tax if small corporation ceases to be small.**

In the case of a corporation whose tentative minimum tax is zero for any prior taxable year by reason of paragraph (1), the application of this part for taxable years beginning with the first taxable year such corporation ceases to be described in paragraph (1) shall be determined with the following modifications:

(A) Section 56(a)(1) (relating to depreciation) and section 56(a)(5) (relating to pollution control facilities) shall apply only to property placed in service on or after the change date.

(B) Section 56(a)(2) (relating to mining exploration and development costs) shall apply only to costs paid or incurred on or after the change date.

(C) Section 56(a)(3) (relating to treatment of long-term contracts) shall apply only to contracts entered into on or after the change date.

(D) Section 56(a)(4) (relating to alternative net operating loss deduction) shall apply in the same manner as if, in section 56(d)(2), the change date were substituted for "January 1, 1987" and the day before the change date were substituted for "December 31, 1986" each place it appears.

(E) Section 56(g)(2)(B) (relating to limitation on allowance of negative adjustments based on adjusted current earnings) shall apply only to prior taxable years beginning on or after the change date.

(F) Section 56(g)(4)(A) (relating to adjustment for depreciation to adjusted current earnings) shall not apply.

(G) Subparagraphs (D) and (F) of section 56(g)(4) (relating to other earnings and profits adjustments and depletion) shall apply in the same manner as if the day before the change date were substituted for "December 31, 1989" each place it appears therein.

**(3) Exception.**

The modifications in paragraph (2) shall not apply to—

(A) any item acquired by the corporation in a transaction to which section 381 applies, and

(B) any property the basis of which in the hands of the corporation is determined by reference to the basis of the property in the hands of the transferor, if such item or property was subject to any provision referred to in paragraph (2) while held by the transferor.

**(4) Change date.**

For purposes of paragraph (2), the change date is the first day of the first taxable year for which the taxpayer ceases to be described in paragraph (1).

**(5) Limitation on use of credit for prior year minimum tax liability.**

In the case of a taxpayer whose tentative minimum tax for any taxable year is zero by reason of paragraph (1), section 53(c) shall be applied for such year by reducing the amount otherwise taken into account under section 53(c)(1) by 25 percent of so much of such amount as exceeds \$25,000. Rules similar to the rules of section 38(c)(3)(B) shall apply for purposes of the preceding sentence.