

## Code Section 56 - Adjustments in Computing Alternative Minimum Taxable Income.

### (a) Adjustments applicable to all taxpayers.

In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

#### (1) Depreciation.

##### (A) In general.

**(i) Property other than certain personal property.** Except as provided in clause (ii), the depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1986, shall be determined under the alternative system of section 168(g). In the case of property placed in service after December 31, 1998, the preceding sentence shall not apply but clause (ii) shall continue to apply.

**(ii) 150-percent declining balance method for certain property.** The method of depreciation used shall be—

(I) the 150 percent declining balance method,

(II) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance.

The preceding sentence shall not apply to any section 1250 property (as defined in section 1250(c)) (and the straight line method shall be used for such section 1250 property) or to any other property if the depreciation deduction determined under section 168 with respect to such other property for purposes of the regular tax is determined by using the straight line method.

**(B) Exception for certain property.** This paragraph shall not apply to property described in paragraph (1), (2), (3), or (4) of section 168(f).

##### (C) Coordination with transitional rules.

**(i) In general.** This paragraph shall not apply to property placed in service after December 31, 1986, to which the amendments made by section 201 of the Tax Reform Act of 1986 do not apply by reason of section 203, 204, or 251(d) of such Act.

**(ii) Treatment of certain property placed in service before 1987.** This paragraph shall apply to any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply by reason of an election under section 203(a)(1)(B) of such Act without regard to the requirement of subparagraph (A) that the property be placed in service after December 31, 1986.

**(D) Normalization rules.** With respect to public utility property described in section 168(i)(10), the Secretary shall prescribe the requirements of a normalization method of accounting for this section.

#### (2) Mining exploration and development costs.

**(A) In general.** With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) or 617(a) (determined without regard to section 291(b)) in computing the regular tax for costs paid or incurred after December 31, 1986, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

**(B) Loss allowed.** If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

#### (3) Treatment of certain long-term contracts.

In the case of any long-term contract entered into by the taxpayer on or after March 1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting (as modified by section 460(b)). For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(1) by using the simplified procedures for allocation of costs prescribed under section 460(b)(3). The first sentence of this paragraph shall not apply to any home construction contract (as defined in section 460(e)(6)).

**(4) Alternative tax net operating loss deduction.**

The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

**(5) Pollution control facilities.**

In the case of any certified pollution control facility placed in service after December 31, 1986, the deduction allowable under section 169 (without regard to section 291) shall be determined under the alternative system of section 168(g). In the case of such a facility placed in service after December 31, 1998, such deduction shall be determined under section 168 using the straight line method.

**(6) Adjusted basis.**

The adjusted basis of any property to which paragraph (1) or (5) applies (or with respect to which there are any expenditures to which paragraph (2) or subsection (b)(2) applies) shall be determined on the basis of the treatment prescribed in paragraph (1), (2), or (5), or subsection (b)(2), whichever applies.

**(7) Section 87 not applicable.**

Section 87 (relating to alcohol fuel credit) shall not apply.

**(b) Adjustments applicable to individuals.**

In determining the amount of the alternative minimum taxable income of any taxpayer (other than a corporation), the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

**(1) Limitation on deductions.**

**(A) In general.** No deduction shall be allowed—

- (i) for any miscellaneous itemized deduction (as defined in section 67(b)), or
- (ii) for any taxes described in paragraph (1), (2), or (3) of section 164(a).

Clause (ii) shall not apply to any amount allowable in computing adjusted gross income.

**(B) Medical expenses.** In determining the amount allowable as a deduction under section 213, subsection (a) of section 213 shall be applied by substituting "10 percent" for "7.5 percent".

**(C) Interest.** In determining the amount allowable as a deduction for interest, subsections (d) and (h) of section 163 shall apply, except that—

- (i) in lieu of the exception under section 163(h)(2)(D), the term "personal interest" shall not include any qualified housing interest (as defined in subsection (e)),
- (ii) sections 163(d)(6) and 163(h)(5) (relating to phase-ins) shall not apply,
- (iii) interest on any specified private activity bond (and any amount treated as interest on a specified private activity bond under section 57(a)(5)(B)), and any deduction referred to in section 57(a)(5)(A), shall be treated as includible in gross income (or as deductible) for purposes of applying section 163(d),
- (iv) in lieu of the exception under section 163(d)(3)(B)(i), the term "investment interest" shall not include any qualified housing interest (as defined in subsection (e)), and
- (v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d).

**(D) Treatment of certain recoveries.** No recovery of any tax to which subparagraph (A)(ii) applied shall be included in gross income for purposes of determining alternative minimum taxable income.

**(E) Standard deduction and deduction for personal exemptions not allowed.** The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under

section 642(b) shall not be allowed.

**(F) Section 68 not applicable.** Section 68 shall not apply.

**(2) Circulation and research and experimental expenditures.**

**(A) In general.** The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1986, shall be capitalized and—

(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

**(B) Loss allowed.** If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

**(C) Special rule for personal holding companies.** In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542).

**(D) Exception for certain research and experimental expenditures.** If the taxpayer materially participates (within the meaning of section 469(h)) in an activity, this paragraph shall not apply to any amount allowable as a deduction under section 174(a) for expenditures paid or incurred in connection with such activity.

**(3) Treatment of incentive stock options.**

Section 421 shall not apply to the transfer of stock acquired pursuant to the exercise of an incentive stock option (as defined in section 422). Section 422(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within the same taxable year and such section shall not apply in any other case. The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by this paragraph.

**(c) Adjustments applicable to corporations.**

In determining the amount of the alternative minimum taxable income of a corporation, the following treatment shall apply:

**(1) Adjustment for adjusted current earnings.**

Alternative minimum taxable income shall be adjusted as provided in subsection (g).

**(2) Merchant marine capital construction funds.**

In the case of a capital construction fund established under section 607 of the Merchant Marine Act, 1936 ( 46 U.S.C. 1177)—

(A) subparagraphs (A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such section 60 ) shall not apply to—

(i) any amount deposited in such fund after December 31, 1986, or

(ii) any earnings (including gains and losses) after December 31, 1986, on amounts in such fund, and

(B) no reduction in basis shall be made under section 7518(f) (or the corresponding provisions of such section 607) with respect to the withdrawal from the fund of any amount to which subparagraph (A) applies.

For purposes of this paragraph, any withdrawal of deposits or earnings from the fund shall be treated as allocable first to deposits made before (and earnings received or accrued before) January 1, 1987.

**(3) Special deduction for certain organizations not allowed.**

The deduction determined under section 833(b) shall not be allowed.

**(d) Alternative tax net operating loss deduction defined.**

**(1) In general.**

For purposes of subsection (a)(4), the term "alternative tax net operating loss deduction" means the net operating loss deduction allowable for the taxable year under section 172, except that—

- (A) the amount of such deduction shall not exceed the sum of—
  - (i) the lesser of—
    - (I) the amount of such deduction attributable to net operating losses (other than the deduction described in clause (ii)(I)), or
    - (II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus
  - (ii) the lesser of—
    - (I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001 or 2002 and carryovers of net operating losses to taxable years ending during 2001 and 2002, or
    - (II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and
- (B) in determining the amount of such deduction—
  - (i) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and
  - (ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).

**(2) Adjustments to net operating loss computation.**

**(A) Post-1986 loss years.** In the case of a loss year beginning after December 31, 1986, the net operating loss for such year under section 172(c) shall—

- (i) be determined with the adjustments provided in this section and section 58, and
- (ii) be reduced by the items of tax preference determined under section 57 for such year.

An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c).

**(B) Pre-1987 years.** In the case of loss years beginning before January 1, 1987, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1986, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1986.

**(e) Qualified housing interest.**

For purposes of this part—

**(1) In general.**

The term "qualified housing interest" means interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially improving any property which—

- (A) is the principal residence (within the meaning of section 121) of the taxpayer at the time such interest accrues, or
- (B) is a qualified dwelling which is a qualified residence (within the meaning of section 163(h)(4)).

Such term also includes interest on any indebtedness resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence; but only to the extent that the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness immediately before the refinancing.

**(2) Qualified dwelling.**

The term "qualified dwelling" means any—

- (A) house,
- (B) apartment,
- (C) condominium, or
- (D) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)), including all structures or other property appurtenant thereto.

**(3) Special rule for indebtedness incurred before July 1, 1982.**

The term "qualified housing interest" includes interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued on indebtedness which—

- (A) was incurred by the taxpayer before July 1, 1982, and
- (B) is secured by property which, at the time such indebtedness was incurred, was—
  - (i) the principal residence (within the meaning of section 121) of the taxpayer, or
  - (ii) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

**(f) Repealed.**

**(g) Adjustments based on adjusted current earnings.**

**(1) In general.**

The alternative minimum taxable income of any corporation for any taxable year shall be increased by 75 percent of the excess (if any) of—

- (A) the adjusted current earnings of the corporation, over
- (B) the alternative minimum taxable income (determined without regard to this subsection and the alternative tax net operating loss deduction).

**(2) Allowance of negative adjustments.**

**(A) In general.** The alternative minimum taxable income for any corporation of any taxable year, shall be reduced by 75 percent of the excess (if any) of—

- (i) the amount referred to in subparagraph (B) of paragraph (1), over
- (ii) the amount referred to in subparagraph (A) of paragraph (1).

**(B) Limitation.** The reduction under subparagraph (A) for any taxable year shall not exceed the excess (if any) of—

- (i) the aggregate increases in alternative minimum taxable income under paragraph (1) for prior taxable years, over
- (ii) the aggregate reductions under subparagraph (A) of this paragraph for prior taxable years.

**(3) Adjusted current earnings.**

For purposes of this subsection, the term "adjusted current earnings" means the alternative minimum taxable income for the taxable year—

- (A) determined with the adjustments provided in paragraph (4), and
- (B) determined without regard to this subsection and the alternative tax net operating loss deduction.

**(4) Adjustments.**

In determining adjusted current earnings, the following adjustments shall apply:

**(A) Depreciation.**

- (i) **Property placed in service after 1989.** The depreciation deduction with respect to any property

placed in service in a taxable year beginning after 1989 shall be determined under the alternative system of section 168(g). The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A) .

**(ii) Property to which new ACRS system applies.** In the case of any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined—

(I) by taking into account the adjusted basis of such property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990, and

(II) by using the straight-line method over the remainder of the recovery period applicable to such property under the alternative system of section 168(g) .

**(iii) Property to which original ACRS system applies.** In the case of any property to which section 168 (as in effect on the day before the date of the enactment [10/22/86] of the Tax Reform Act of 1986 and without regard to subsection (d)(1)(A)(ii) thereof) applies and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined—

(I) by taking into account the adjusted basis of such property (as determined for purposes of computing the regular tax) as of the close of the last taxable year beginning before January 1, 1990, and

(II) by using the straight line method over the remainder of the recovery period which would apply to such property under the alternative system of section 168(g).

**(iv) Property placed in service before 1981.** In the case of any property not described in clause (i), (ii), or (iii), the amount allowable as depreciation or amortization with respect to such property shall be determined in the same manner as for purposes of computing taxable income.

**(v) Special rule for certain property.** In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g).

**(B) Inclusion of items included for purposes of computing earnings and profits.**

**NOTE:** Subsection (g)(4)(B)(i), following, is effective for transactions before 01/01/2005. The clause has been amended for transactions occurring after 12/31/04 (see below).

**(i) In general.** In the case of any amount which is excluded from gross income for purposes of computing alternative minimum taxable income but is taken into account in determining the amount of earnings and profits—

(I) such amount shall be included in income in the same manner as if such amount were includible in gross income for purposes of computing alternative minimum taxable income, and

(II) the amount of such income shall be reduced by any deduction which would have been allowable in computing alternative minimum taxable income if such amount were includible in gross income.

The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law) or under section 114 or 139A or 1357. In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b) .

**NOTE:** Following is amended Subsection (g)(4)(B)(i), effective for transactions after 12/31/2004.

**(i) In general.** In the case of any amount which is excluded from gross income for purposes of computing alternative minimum taxable income but is taken into account in determining the amount of earnings and profits—

(I) such amount shall be included in income in the same manner as if such amount were includible in gross income for purposes of computing alternative minimum taxable income, and

(II) the amount of such income shall be reduced by any deduction which would have been allowable in computing alternative minimum taxable income if such amount were includible in gross income.

The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law) or under section 139A or 1357. In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).

**(ii) Inclusion of buildup in life insurance contracts.** In the case of any life insurance contract—

(I) the income on such contract (as determined under section 7702(g)) for any taxable year shall be treated as includible in gross income for such year, and

(II) there shall be allowed as a deduction that portion of any premium which is attributable to insurance coverage.

**(C) Disallowance of items not deductible in computing earnings and profits.**

**(i) In general.** A deduction shall not be allowed for any item if such item would not be deductible for any taxable year for purposes of computing earnings and profits.

**(ii) Special rule for certain dividends.**

**(I) In general.** Clause (i) shall not apply to any deduction allowable under section 243 or 245 for any dividend which is a 100-percent dividend or which is received from a 20-percent owned corporation (as defined in section 243(c)(2) ), but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 30A, 936 (including subsections (a)(4), (i), and (j) thereof ) and 921).

**(II) 100-percent dividend.** For purposes of subclause (I) , the term "100 percent dividend" means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent.

**(iii) Treatment of taxes on dividends from 936 corporations.**

**(I) In general.** For purposes of determining the alternative minimum foreign tax credit, 75 percent of any withholding or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

**(II) Limitation.** If the aggregate amount of the dividends referred to in subclause (I) for any taxable year exceeds the excess referred to in paragraph (1) , the amount treated as tax paid to a foreign country under subclause (I) shall not exceed the amount which would be so treated without regard to this subclause multiplied by a fraction the numerator of which is the excess referred to in paragraph (1) and the denominator of which is the aggregate amount of such dividends.

**(III) Treatment of taxes imposed on 936 corporation.** For purposes of this clause , taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated).

**(IV) Separate application of foreign tax credit limitations.** In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

**(V) Coordination with limitation on 936 credit.** Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I) .

**(VI) Application to section 30A corporations.** References in this clause to section 936 shall be treated as including references to section 30A.

**(iv) Special rule for certain dividends received by certain cooperatives.** In the case of a cooperative described in section 927(a)(4), clause (i) shall not apply to any amount allowable as a deduction under section 245(c).

**NOTE:** Clause (g)(4)(C)(v), is added effective for tax years beginning after 12/31/2004.

**(v) Deduction for domestic production.** Clause (i) shall not apply to any amount allowable as a deduction under section 199.

**(vi) Special rule for certain distributions from controlled foreign corporations.** Clause (i) shall not apply to any deduction allowable under section 965.

**(D) Certain other earnings and profits adjustments.**

**(i) Intangible drilling costs.** The adjustments provided in section 312(n)(2)(A) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1989. In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.

**(ii) Certain amortization provisions not to apply.** Sections 173 and 248 shall not apply to expenditures paid or incurred in taxable years beginning after December 31, 1989.

**(iii) LIFO inventory adjustments.** The adjustments provided in section 312(n)(4) shall apply, but only with respect to taxable years beginning after December 31, 1989.

**(iv) Installment sales.** In the case of any installment sale in a taxable year beginning after December 31, 1989, adjusted current earnings shall be computed as if the corporation did not use the installment method. The preceding sentence shall not apply to the applicable percentage (as determined under section 453A) of the gain from any installment sale with respect to which section 453A(a)(1) applies.

**(E) Disallowance of loss on exchange of debt pools.** No loss shall be recognized on the exchange of any pool of debt obligations for another pool of debt obligations having substantially the same effective interest rates and maturities.

**(F) Depletion.**

**(i) In general.** The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

**(ii) Exception for independent oil and gas producers and royalty owners.** In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c).

**(G) Treatment of certain ownership changes.** If—

(i) there is an ownership change (within the meaning of section 382 ) in a taxable year beginning after 1989 with respect to any corporation, and

(ii) there is a net unrealized built-in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the ownership change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of such corporation (determined under section 382(h)) immediately before the ownership change.

**(H) Adjusted basis.** The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph.

**(J) Treatment of charitable contributions.** Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings.

**(5) Other definitions.**

For purposes of paragraph (4) —

**(A) Earnings and profits.** The term "earnings and profits" means earnings and profits computed for purposes of subchapter C.

**(B) Treatment of alternative minimum taxable income.** The treatment of any item for purposes of computing alternative minimum taxable income shall be determined without regard to this subsection .

**NOTE:** Following is Paragraph (g)(6), effective for years beginning before 01/01/05. The paragraph has been amended, effective for years beginning after 12/31/2004. See below for the amended paragraph.

**(6) Exception for certain corporations.**

This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, REMIC, or FASIT.

**NOTE:** Following is amended Paragraph (g)(6), effective after 12/31/2004.

**(6) Exception for certain corporations.**

This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, or REMIC.