

## Code Section 59 - Other definitions and special rules.

### (a) Alternative minimum tax foreign tax credit.

For purposes of this part—

#### (1) In general.

The alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27(a) for such taxable year if—

- (A) the pre-credit tentative minimum tax were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1986,
- (B) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and
- (C) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were made on the basis of the applicable rate specified in subparagraph (A)(i) or (B)(i) of section 55(b)(1) (whichever applies) in lieu of the highest rate of tax specified in section 1 or 11 (whichever applies).

**NOTE:** Paragraphs (a)(2)-(4), following, are effective for tax years beginning before 1/1/05. Paragraphs (a)(2) and (3) have been amended and (a)(4) has been eliminated for tax years beginning after 12/31/04. (See below).

#### (2) Limitation to 90 percent of tax.

**(A) In General.** The alternative minimum tax foreign tax credit for any taxable year shall not exceed the excess (if any) of—

- (i) the pre-credit tentative minimum tax for the taxable year, over
- (ii) 10 percent of the amount which would be the pre-credit tentative minimum tax without regard to the alternative tax net operating loss deduction and section 57(a)(2)(E) .

**(B) Carryback and carryforward.** If the alternative minimum tax foreign tax credit exceeds the amount determined under subparagraph (A), such excess shall, for purposes of this part, be treated as an amount to which section 904(c) applies.

#### (3) Pre-credit tentative minimum tax.

For purposes of this subsection, the term "pre-credit tentative minimum tax" means—

- (A) in the case of a taxpayer other than a corporation, the amount determined under the first sentence of section 55(b)(1)(A)(i), or
- (B) in the case of a corporation, the amount determined under section 55(b)(1)(B)(i) .

#### (4) Election to use simplified section 904 limitation.

**(A) In general.** In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

- (i) subparagraph (B) of paragraph (1) shall not apply, and
- (ii) the limitation of section 904 shall be based on the proportion which—
  - (I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to
  - (II) the taxpayer's entire alternative minimum taxable income for the taxable year.

#### (B) Election.

**(i) In general.** An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1997, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

**(ii) Election revocable only with consent.** An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

**NOTE:** Following are amended Paragraphs (a)(2) and (3) effective for taxable years beginning after 12/31/2004.

**(2) Pre-credit tentative minimum tax.**

For purposes of this subsection , the term "pre-credit tentative minimum tax" means—

(A) in the case of a taxpayer other than a corporation, the amount determined under the first sentence of section 55(b)(1)(A)(i), or

(B) in the case of a corporation, the amount determined under section 55(b)(1)(B)(i) .

**(3) Election to use simplified section 904 limitation.**

**(A) In general.** In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

(i) subparagraph (B) of paragraph (1) shall not apply, and

(ii) the limitation of section 904 shall be based on the proportion which—

(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

**(B) Election.**

**(i) In general.** An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1997, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

**(ii) Election revocable only with consent.** An election under this paragraph , once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

**(b) Minimum tax not to apply to income eligible for credits under section 30A or 936.**

In the case of any corporation for which a credit is allowable for the taxable year under section 30A or 936, alternative minimum taxable income shall not include any income with respect to which a credit is determined under section 30A or 936 .

**(c) Treatment of estates and trusts.**

In the case of any estate or trust, the alternative minimum taxable income of such estate or trust and any beneficiary thereof shall be determined by applying part I of subchapter J with the adjustments provided in this part.

**(d) Apportionment of differently treated items in case of certain entities.**

**(1) In general.**

The differently treated items for the taxable year shall be apportioned (in accordance with regulations prescribed by the Secretary)—

**(A) Regulated investment companies and real estate investment trusts.** In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, between such company or trust and shareholders and holders of beneficial interest in such company or trust.

**(B) Common trust funds.** In the case of a common trust fund (as defined in section 584(a) ), pro rata among the participants of such fund.

**(2) Differently treated items.**

For purposes of this section, the term "differently treated item" means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.

**(e) Optional 10-year writeoff of certain tax preferences.**

**(1) In general.**

For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in

section 173 ) beginning with the taxable year in which such expenditure was made (or, in the case of a qualified expenditure described in paragraph (2)(C), over the 60-month period beginning with the month in which such expenditure was paid or incurred).

**(2) Qualified expenditure.**

For purposes of this subsection , the term "qualified expenditure" means any amount which, but for an election under this subsection , would have been allowable as a deduction (determined without regard to section 291 ) for the taxable year in which paid or incurred under—

- (A) section 173 (relating to circulation expenditures),
- (B) section 174(a) (relating to research and experimental expenditures),
- (C) section 263(c) (relating to intangible drilling and development expenditures),
- (D) section 616(a) (relating to development expenditures), or
- (E) section 617(a) (relating to mining exploration expenditures).

**(3) Other sections not applicable.**

Except as provided in this subsection , no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

**(4) Election.**

**(A) In general.** An election may be made under paragraph (1) with respect to any portion of any qualified expenditure.

**(B) Revocable only with consent.** Any election under this subsection may be revoked only with the consent of the Secretary.

**(C) Partners and shareholders of S corporations.** In the case of a partnership, any election under paragraph (1) shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.

**(5) Dispositions.**

**(A) Application of section 1254.** In the case of any disposition of property to which section 1254 applies (determined without regard to this section ), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c), 616(a) , or 617(a) , whichever is appropriate.

**(B) Application of Section 617(d).** In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection ), any deduction under paragraph (1) with respect to amounts which are allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

**(6) Amounts to which election apply not treated as tax preference.**

Any portion of any qualified expenditure to which an election under paragraph (1) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.

**(f) Coordination with section 291.**

Except as otherwise provided in this part, section 291 (relating to cutback of corporate preferences) shall apply before the application of this part.

**(g) Tax benefit rule.**

The Secretary may prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for the taxable year for which the item is taken into account or for any other taxable year.

**(h) Coordination with certain limitations.**

The limitations of sections 704(d), 465, and 1366(d) (and such other provisions as may be specified in regulations) shall be applied for purposes of computing the alternative minimum taxable income of the taxpayer for the taxable year with the adjustments of sections 56, 57, and 58.

**(i) Special rule for amounts treated as tax preference.**

For purposes of this subtitle (other than this part), any amount shall not fail to be treated as wholly exempt from tax imposed by this subtitle solely by reason of being included in alternative minimum taxable income.

**(j) Treatment of unearned income of minor children.**

**(1) In general.**

In the case of a child to whom section 1(g) applies, the exemption amount for purposes of section 55 shall not exceed the sum of—

(A) such child's earned income (as defined in section 911(d)(2)) for the taxable year, plus

(B) \$5,000.

**(2) Inflation adjustment.**

In the case of any taxable year beginning in a calendar year after 1998, the dollar amount in paragraph (1)(B) shall be increased by an amount equal to the product of—

(A) such dollar amount, and

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "1997" for "1992" in subparagraph (B) thereof .

If any increase determined under the preceding sentence is not a multiple of \$50, such increase shall be rounded to the nearest multiple of \$50.