OBBBA Changes by SEC. 112018, Limitation on Individual Deductions For Certain State and Local Taxes, Etc.

Based on OBBBA (H.R. 1) Passed in House on 5/22/25

Effective Date: Except as otherwise provided, the amendments are effective for tax years beginning after 12/31/25. The changes to Section 164(b)(6) & (7) (temporary increase for 2025) apply to tax years beginning after 12/31/24. After 2025, paragraphs (6) & (7) of Section 164(b) are to be removed.

§164 Taxes

(a) General rule. Except as otherwise provided in this section, the following taxes shall be allowed as a deduction for the taxable year within which paid or accrued:

(1) State and local, and foreign, real property taxes.

(2) State and local personal property taxes.

(3) State and local, and foreign, income, war profits, and excess profits taxes.

(4) The GST tax imposed on income distributions.

(5) Repealed.

(6) Repealed.

In addition, there shall be allowed as a deduction State and local, and foreign, taxes not described in the preceding sentence which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in section 212 (relating to expenses for production of income). Notwithstanding the preceding sentence, any tax (not described in the first sentence of this subsection) which is paid or accrued by the taxpayer in connection with an acquisition or disposition of property shall be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition.

(b) Definitions and special rules. For purposes of this section -

(1) Personal property taxes. The term "personal property tax" means an ad valorem tax which is imposed on an annual basis in respect of personal property.

(2) State or local taxes. A State or local tax includes only a tax imposed by a State, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.

(3) Foreign taxes. A foreign tax includes only a tax imposed by the authority of a foreign country.

(4) Special rules for GST tax.

(A) In general. The GST tax imposed on income distributions is-

(i) the tax imposed by section 2601, and

(ii) any State tax described in section 2604 (as in effect before its repeal),

but only to the extent such tax is imposed on a transfer which is included in the gross income of the distributee and to which section 666 does not apply.

(B) Special rule for tax paid before due date. Any tax referred to in subparagraph (A) imposed with respect to a transfer occurring during the taxable year of the distributee (or, in the case of a taxable termination, the trust) which is paid not later than the time prescribed by law (including extensions) for filing the return with respect to such transfer shall be treated as having been paid on the last day of the taxable year in which the transfer was made.

(5) General sales taxes. For purposes of subsection (a) -

(A) Election to deduct State and local sales taxes in lieu of State and local income taxes. At the election of the taxpayer for the taxable year, subsection (a) shall be applied-

(i) without regard to the reference to State and local income taxes, and

(ii) as if State and local general sales taxes were referred to in a paragraph thereof.

(B) Definition of general sales tax. The term "general sales tax" means a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items.

(C) Special rules for food, etc. In the case of items of food, clothing, medical supplies, and motor vehicles-

(i) the fact that the tax does not apply with respect to some or all of such items shall not be taken into account in determining whether the tax applies with respect to a broad range of classes of items, and

(ii) the fact that the rate of tax applicable with respect to some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

(D) Items taxed at different rates. Except in the case of a lower rate of tax applicable with respect to an item described in subparagraph (C), no deduction shall be allowed under this paragraph for any general sales tax imposed with respect to an item at a rate other than the general rate of tax.

(E) Compensating use taxes. A compensating use tax with respect to an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term "compensating use tax" means, with respect to any item, a tax which-

(i) is imposed on the use, storage, or consumption of such item, and

(ii) is complementary to a general sales tax, but only if a deduction is allowable under this paragraph with respect to items sold at retail in the taxing jurisdiction which are similar to such item.

(F) Special rule for motor vehicles. In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

(G) Separately stated general sales taxes. If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (other than in connection with the consumer's trade or business) to the seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

(H) Amount of deduction may be determined under tables.

(i) In general. At the election of the taxpayer for the taxable year, the amount of the deduction allowed under this paragraph for such year shall be—

(I) the amount determined under this paragraph (without regard to this subparagraph) with respect to motor vehicles, boats, and other items specified by the Secretary, and

(II) the amount determined under tables prescribed by the Secretary with respect to items to which subclause (I) does not apply.

(ii) Requirements for tables. The tables prescribed under clause (i) -

(I) shall reflect the provisions of this paragraph,

(II) shall be based on the average consumption by taxpayers on a State-by-State basis (as determined by the Secretary) of items to which clause (i)(I) does not apply, taking into account filing status, number of dependents, adjusted gross income, and rates of State and local general sales taxation, and

(III) need only be determined with respect to adjusted gross incomes up to the applicable amount (as determined under section 68(b)).

(I) Repealed.

(6) Limitation on individual deductions for taxable years 2018 through 2025. In the case of an individual and a taxable year beginning after December 31, 2017, and before January 1, 2026-

(A) foreign real property taxes shall not be taken into account under subsection (a)(1), and

(B) the aggregate amount of taxes taken into account under paragraphs (1), (2), and (3) of subsection (a) and paragraph (5) of this subsection for any taxable year shall not exceed ~~$10,000 ($5,000 in the case of a married individual filing a separate return)~~applicable limitation amount.

The preceding sentence shall not apply to any foreign taxes described in subsection (a)(3) or to any taxes described in paragraph (1) and (2) of subsection (a) which are paid or accrued in carrying on a trade or business or an activity described in section 212. For purposes of subparagraph (B), an amount paid in a taxable year beginning before January 1, 2018, with respect to a State or local income tax imposed for a taxable year beginning after December 31, 2017, shall be treated as paid on the last day of the taxable year for which such tax is so imposed.

(7) Applicable Limitation Amount—

(A) In General—For purposes of paragraph (6), the term 'applicable limitation amount' means—

(i) $20,000, in the case of a married individual filing a separate return, and

(ii) $40,000, in the case of any other taxpayer.

(B) Phasedown Based on Modified Adjusted Gross Income—

(i) In General—Except as provided in clause (ii), the $20,000 amount in subparagraph (A)(i) and the $40,000 amount in subparagraph (A)(ii) shall each be reduced by 30 percent of the excess (if any) of the taxpayer's modified adjusted gross income over—

(I) $250,000, in the case of a married individual filing a separate return, and

(II) $500,000, in the case of any other taxpayer.

(ii) Limitation on Reduction—The reduction under clause (i) shall not result in—

(I) the dollar amount in effect under subparagraph (A)(i) being less than $5,000, or

(II) the dollar amount in effect under subparagraph (A)(ii) being less than $10,000.

(C) Modified Adjusted Gross Income—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

[NOTE: After 2025, Section 164(b) is amended by striking paragraphs (6) and (7).]

(c) Deduction denied in case of certain taxes. No deduction shall be allowed for the following taxes:

(1) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed; but this paragraph shall not prevent the deduction of so much of such taxes as is properly allocable to maintenance or interest charges.

(2) Taxes on real property, to the extent that subsection (d) requires such taxes to be treated as imposed on another taxpayer.

(d) Apportionment of taxes on real property between seller and purchaser.

(1) General rule. For purposes of subsection (a), if real property is sold during any real property tax year, then-

(A) so much of the real property tax as is properly allocable to that part of such year which ends on the day before the date of the sale shall be treated as a tax imposed on the seller, and

(B) so much of such tax as is properly allocable to that part of such year which begins on the date of the sale shall be treated as a tax imposed on the purchaser.

(2) Special rules.

(A) in the case of any sale of real property, if-

(i) a taxpayer may not, by reason of his method of accounting, deduct any amount for taxes unless paid, and

(ii) the other party to the sale is (under the law imposing the real property tax) liable for the real property tax for the real property tax year,

then for purposes of subsection (a) the taxpayer shall be treated as having paid, on the date of the sale, so much of such tax as, under paragraph (1) of this subsection, is treated as imposed on the taxpayer. For purposes of the preceding sentence, if neither party is liable for the tax, then the party holding the property at the time the tax becomes a lien on the property shall be considered liable for the real property tax for the real property tax year.

(B) In the case of any sale of real property, if the taxpayer's taxable income for the taxable year during which the sale occurs is computed under an accrual method of accounting, and if no election under section 461(c) (relating to the accrual of real property taxes) applies, then, for purposes of subsection (a), that portion of such tax which-

(i) is treated, under paragraph (1) of this subsection, as imposed on the taxpayer, and

(ii) may not, by reason of the taxpayer's method of accounting, be deducted by the taxpayer for any taxable year,

shall be treated as having accrued on the date of the sale.

(e) Taxes of shareholder paid by corporation. Where a corporation pays a tax imposed on a shareholder on his interest as a shareholder, and where the shareholder does not reimburse the corporation, then-

(1) the deduction allowed by subsection (a) shall be allowed to the corporation; and

(2) no deduction shall be allowed the shareholder for such tax.

(f) Deduction for one-half of self-employment taxes.

(1) In general. In the case of an individual, in addition to the taxes described in subsection (a) , there shall be allowed as a deduction for the taxable year an amount equal to one-half of the taxes imposed by section 1401 (other than the taxes imposed by section 1401(b)(2)) for such taxable year.

(2) Deduction treated as attributable to trade or business. For purposes of this chapter, the deduction allowed by paragraph (1) shall be treated as attributable to a trade or business carried on by the taxpayer which does not consist of the performance of services by the taxpayer as an employee.

(g) Cross references.

(1) For provisions disallowing any deduction for certain taxes, see section 275.

(2) For treatment of taxes imposed by Indian tribal governments (or their subdivisions), see section 7871.

§ 275 Certain Taxes

(a) General rule. No deduction shall be allowed for the following taxes:

(1) Federal income taxes, including—

(A) the tax imposed by section 3101 (relating to the tax on employees under the Federal Insurance Contributions Act);

(B) the taxes imposed by sections 3201 and 3211 (relating to the taxes on railroad employees and railroad employee representatives); and

(C) the tax withheld at source on wages under section 3402.

(2) Federal war profits and excess profits taxes.

(3) Estate, inheritance, legacy, succession, and gift taxes.

(4) Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States if the taxpayer chooses to take to any extent the benefits of section 901.

(5) Taxes on real property, to the extent that section 164(d) requires such taxes to be treated as imposed on another taxpayer.

(6) Taxes imposed by chapters 37, 41, 42, 43, 44, 45, 46, 50A and 54.

Paragraph (1) shall not apply to any taxes to the extent such taxes are allowable as a deduction under section 164(f) .

(b) Limitation on Individual Deductions for Certain State and Local Taxes, Etc.—

(1) Limitation—

(A) In General—In the case of an individual, no deduction shall be allowed for—

(i) any disallowed foreign real property taxes, and

(ii) any specified taxes to the extent that such taxes for such taxable year in the aggregate exceed—

(I) Half the dollar amount in effect under subclause (II), in the case of a married individual filing a separate return, and

(II) $40,400, in the case of any other taxpayer.

(B) Phasedown Based on Modified Adjusted Gross Income—

(i) In General—Except as provided in clause (ii), the limitation otherwise in effect under subparagraph (A)(ii) shall be reduced by 30 percent of the excess (if any) of the taxpayer's modified adjusted gross income over

(I) half the dollar amount in effect under subclause (II), in the case of a married individual filing a separate return, and

(II) $505,000, in the case of any other taxpayer.

(ii) LIMITATION ON REDUCTION—The reduction under clause (i) shall not result in—

(I) the limitation in effect under subparagraph (A)(ii)(I) being less than $5,000, or

(II) the limitation in effect under subparagraph (A)(ii)(I) being less than $10,000.

(C) Modified Adjusted Gross Income—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

(D) Adjustment of Certain Dollar Amounts—

(i) In General— In the case of any taxable year beginning after December 31, 2026, and before January 1, 2034, the dollar amount in effect under subparagraph (A)(ii)(II), and the dollar amount in effect under subparagraph (B)(i)(II), shall each be equal to 101 percent of such dollar amount as in effect for taxable years beginning in the preceding taxable year.

(ii) Maintenance of Increase Thereafter—In the case of any taxable year beginning after December 31, 2033, the dollar amounts referred to in clause (i) shall be equal to such dollar amounts as in effect for taxable years beginning in 2033.

(2) Disallowed Foreign Real Property Tax—For purposes of this subsection, the term 'disallowed foreign real property tax' means any tax which—

(A) is a foreign real property tax described in section 164(a)(1) or 216(a)(1), and

(B) is not an excepted tax.

(3) Specified Tax—For purposes of this subsection, the term 'specified tax' means—

(A) any tax which—

(i) is described in paragraph (1), (2), or (3) or section 164(a) or section 216(a)(1), or is taken into account under section 164(b)(5), and

(ii) is not an excepted tax or a disallowed foreign real property tax, and

(B) any substitute payment.

(4) Excepted Tax—For purposes of this subsection—

(A) In General—The term 'excepted tax' means—

(i) any foreign tax described in section 164(a)(3),

(ii) any tax described in section 164(a)(3) which is paid or accrued by a qualifying entity with respect to carrying on a qualified trade or business (as defined in section 199A(d), without regard to section 199A(b)(3)), and

(iii) any tax described in paragraph (1) or (2) of section 164(a), or section 216(a)(1), which is paid or accrued in carrying on a trade or business or an activity described in

section 212.

(B) Qualifying Entity—For purposes of subparagraph (A), the term 'qualifying entity' means any partnership or S corporation with gross receipts for the taxable year (within the meaning of section 448(c)) if at least 75 percent of such gross receipts are derived in a qualified trade or business (as defined in section 199A(d), without regard to section 199A(b)(3)). For purposes of the preceding sentence, the gross receipts of all trades or businesses which are under common control (within the meaning of section 52(b)) with any trade or business of the partnership or S corporation shall be taken into account as gross receipts of the entity.

(5) Substitute Payment—For purposes of this subsection—

(A) In General—The term 'substitute payment' means any amount (other than a tax described in paragraph (3)(A) or (4)(A)(ii)) paid, incurred, or accrued to any entity referred to in section 164(b)(2) if, under the laws of one or more entities referred to in section 164(b)(2), one or more persons would (if the assumptions described in subparagraphs (B) and (C) applied) be entitled to specified tax benefits the aggregate dollar value of which equals or exceeds 20 percent of such amount.

(B) Assumption Regarding Dollar Value of Tax Benefits—The assumption described in this subparagraph is that the dollar value of a specified tax benefit is—

(i) in the case of a credit or refund, the amount of such credit or refund,

(ii) in the case of a deduction or exclusion, 15 percent of the amount of such deduction or exclusion, and

(iii) in any other case, an amount determined in such manner as the Secretary may provide consistent with the principles of clauses (i) and (ii).

(C) Assumption Regarding Status of Partners or Shareholders—The assumption described in this subparagraph is, in the case of any amount referred to in subparagraph (A) which is paid, incurred, or accrued by a partnership or S corporation, that all of the partners or shareholders of such partnership or S corporation, respectively, are individuals who are residents of the jurisdiction of the entity or entities providing the specified tax benefits (and possess such other characteristics as the laws of such entities may require for entitlement to such benefits).

(D) Specified Tax Benefit—For purposes of subparagraph (A), the term 'specified tax benefit' means any benefit which—

(i) is determined with respect to the amount referred to in subparagraph (A), and

(ii) is allowed against, or determined by reference to, a tax described in paragraph (3)(A) or section 164(b)(5).

(E) Exception For Non-Deductible Payments—To the extent that a deduction for an amount described in subparagraph (A) is not allowed under this chapter (determined

without regard to this subsection, section 170(b)(1), section 703(a), section 704(d), and section 1363(b)), the term 'substitute payment' shall not include such amount.

(F) Exception For Certain Withholding Taxes—To the extent provided in regulations issued by the Secretary, the term 'substitute payment' shall not include an amount withheld on behalf of another person if all of such amount is included in the gross income of such person (determined under this chapter).

(6) Regulations—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance—

(A) to treat as a tax described in paragraph (3) of section 164(a) any tax that is, in substance, based on general tax principles, described in such paragraph,

(B) to treat as a substitute payment any amount that, in substance, substitutes for a specified tax,

(C) to provide for the proper allocation, for purposes of paragraph (4)(A)(ii), of taxes described in section 164(a)(3) between trades or business described in section 199A(d)(1) and trades or business not so described, and

(D) to otherwise prevent the avoidance of the purposes of this subsection.

(c) Limitations on Capitalization of Specified Taxes—Notwithstanding any other provision of this chapter, in the case of an individual, specified taxes (as defined in subsection (b)) shall not be treated as chargeable to capital account.

(~~b~~d) Cross reference. For disallowance of certain other taxes, see section 164(c) .

§702, Income and Credits of Partner

(a) General rule In determining his income tax, each partner shall take into account separately his distributive share of the partnership's—

(1) gains and losses from sales or exchanges of capital assets held for not more than 1 year,

(2) gains and losses from sales or exchanges of capital assets held for more than 1 year,

(3) gains and losses from sales or exchanges of property described in section 1231 (relating to certain property used in a trade or business and involuntary conversions),

(4) charitable contributions (as defined in section 170(c)),

(5) dividends with respect to which section 1(h)(11) or part VIII of subchapter B applies,

(6)

(A) taxes, described in section 901, paid or accrued to foreign countries, ~~and~~

(B) taxes, described in section 901, paid or accrued to possessions of the United States,

(C) specified taxes (within the meaning of section 275(b)), other than taxes described in subparagraph (B), and

(D) taxes described in section 275(b)(2),

(7) other items of income, gain, loss, deduction, or credit, to the extent provided by regulations prescribed by the Secretary, and

(8) taxable income or loss, exclusive of items requiring separate computation under other paragraphs of this subsection.

(b) Character of items constituting distributive share, The character of any item of income, gain, loss, deduction, or credit included in a partner's distributive share under paragraphs (1) through (7) of subsection (a) shall be determined as if such item were realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

(c) Gross income of a partner. In any case where it is necessary to determine the gross income of a partner for purposes of this title, such amount shall include his distributive share of the gross income of the partnership.

(d) Treatment of Substitute Payments— Any substitute payment (as defined in section 275(b)(5)) shall be taken into account under subsection (a)(6)(C) and not under any other paragraph of subsection (a).

(~~d~~e) Cross reference. For rules relating to procedures for determining the tax treatment of partnership items see subchapter C of chapter 63 (section 6221 and following).

§703, Partnership Computations

(a) Income and deductions. The taxable income of a partnership shall be computed in the same manner as in the case of an individual except that—

(1) the items described in section 702(a) shall be separately stated, and

(2) the following deductions shall not be allowed to the partnership:

(A) the deductions for personal exemptions provided in section 151,

(B) any deduction under this chapter with respect to taxes or payments described in section 702(a)(6),~~the deduction for taxes provided in section 164(a) with respect to taxes, described in section 901, paid or accrued to foreign countries and to possessions of the United States,~~

(C) the deduction for charitable contributions provided in section 170,

(D) the net operating loss deduction provided in section 172,

(E) the additional itemized deductions for individuals provided in part VII of subchapter B (sec. 211 and following), and

(F) the deduction for depletion under section 611 with respect to oil and gas wells.

(b) Elections of the partnership Any election affecting the computation of taxable income derived from a partnership shall be made by the partnership, except that any election under—

(1) subsection (b)(5) or (c)(3) of section 108 (relating to income from discharge of indebtedness),

(2) section 617 (relating to deduction and recapture of certain mining exploration expenditures), or

(3) section 901 (relating to taxes of foreign countries and possessions of the United States),

shall be made by each partner separately.

NOTE: OBBBA at 5/22/25 includes the following that doesn't appear to be a Code change (page 975 of 1082 page version):

(4) S CORPORATIONS—For corresponding provisions related to S corporations which apply by reason of the amendments made by paragraphs (1) through (3), see sections 1366(a)(1) and 1363(b)(2) of the Internal Revenue Code of 1986.

§704, Partner's Distributive Share

(a) Effect of partnership agreement. A partner's distributive share of income, gain, loss, deduction, or credit shall, except as otherwise provided in this chapter, be determined by the partnership agreement.

(b) Determination of distributive share. A partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances), if—

(1) the partnership agreement does not provide as to the partner's distributive share of income, gain, loss, deduction, or credit (or item thereof), or

(2) the allocation to a partner under the agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect.

(c) Contributed property

(1) In general. Under regulations prescribed by the Secretary—

(A) income, gain, loss, and deduction with respect to property contributed to the partnership by a partner shall be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution,

(B) if any property so contributed is distributed (directly or indirectly) by the partnership (other than to the contributing partner) within 7 years of being contributed—

(i) the contributing partner shall be treated as recognizing gain or loss (as the case may be) from the sale of such property in an amount equal to the gain or loss which would have been allocated to such partner under subparagraph (A) by reason of the variation described in subparagraph (A) if the property had been sold at its fair market value at the time of the distribution,

(ii) the character of such gain or loss shall be determined by reference to the character of the gain or loss which would have resulted if such property had been sold by the partnership to the distributee, and

(iii) appropriate adjustments shall be made to the adjusted basis of the contributing partner's interest in the partnership and to the adjusted basis of the property distributed to reflect any gain or loss recognized under this subparagraph, and

(C) if any property so contributed has a built-in loss—

(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value at the time of contribution.

For purposes of subparagraph (C), the term "built-in loss" means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value at the time of contribution.

(2) Special rule for distributions where gain or loss would not be recognized outside partnerships. Under regulations prescribed by the Secretary, if—

(A) property contributed by a partner (hereinafter referred to as the "contributing partner") is distributed by the partnership to another partner, and

(B) other property of a like kind (within the meaning of section 1031) is distributed by the partnership to the contributing partner not later than the earlier of—

(i) the 180th day after the date of the distribution described in subparagraph (A), or

(ii) the due date (determined with regard to extensions) for the contributing partner's return of the tax imposed by this chapter for the taxable year in which the distribution described in subparagraph (A) occurs,

then to the extent of the value of the property described in subparagraph (B), paragraph (1)(B) shall be applied as if the contributing partner had contributed to the partnership the property described in subparagraph (B).

(3) Other rules. Under regulations prescribed by the Secretary, rules similar to the rules of paragraph (1) shall apply to contributions by a partner (using the cash receipts and disbursements method of accounting) of accounts payable and other accrued but unpaid items. Any reference in paragraph (1) or (2) to the contributing partner shall be treated as including a reference to any successor of such partner.

(d) Limitation on allowance of losses

(1) In general. A partner's distributive share of partnership loss (including capital loss) shall be allowed only to the extent of the adjusted basis of such partner's interest in the partnership at the end of the partnership year in which such loss occurred.

(2) Carryover. Any excess of such loss over such basis shall be allowed as a deduction at the end of the partnership year in which such excess is repaid to the partnership.

(3) Special rules

~~(A) In general. In determining the amount of any loss under paragraph (1), there shall be taken into account the partner's distributive share of amounts described in paragraphs (4) and (6) of section 702(a).~~

(A) In General—In determining the amount of any loss under paragraph (1), there shall be taken into account—

(i) the partner's distributive share of amounts described in paragraphs (4) and (6)(A) of section 702(a),

(ii) if the taxpayer chooses to take to any extent the benefits of section 901, the partner's distributive share of amounts described in section 702(a)(6)(B), and

(iii) the amount by which the deductions allowed under this chapter (determined without regard to this subsection) to the partner would decrease if the partner's distributive share of amounts described in section 702(a)(6)(C) were not taken into account.

(B) Treatment of Possession Taxes. In Event Partner Does Not Elect The Foreign Tax Credit—In the case of a taxpayer not described in subparagraph (A)(ii), subparagraph (A)(iii) shall be applied by substituting 'subparagraphs (B) and (C) of section 702(a)(6)' for 'section 702(a)(6)(C)'.

(~~B~~C) Exception. In the case of a charitable contribution of property whose fair market value exceeds its adjusted basis, subparagraph (A) shall not apply to the extent of the partner's distributive share of such excess.

(e) Partnership interests created by gift

(1) Distributive share of donee includible in gross income. In the case of any partnership interest created by gift, the distributive share of the donee under the partnership agreement shall be includible in his gross income, except to the extent that such share is determined without allowance of reasonable compensation for services rendered to the partnership by the donor, and except to the extent that the portion of such share attributable to donated capital is proportionately greater than the share of the donor attributable to the donor's capital. The distributive share of a partner in the earnings of the partnership shall not be diminished because of absence due to military service.

(2) Purchase of interest by member of family. For purposes of this subsection, an interest purchased by one member of a family from another shall be considered to be created by gift from the seller, and the fair market value of the purchased interest shall be considered to be donated capital. The "family" of any individual shall include only his spouse, ancestors, and lineal descendants, and any trusts for the primary benefit of such persons.

(f) Cross reference. For rules in the case of the sale, exchange, liquidation, or reduction of a partner's interest, see section 706(c)(2).

§56, Adjustments in Computing Alternative Minimum Taxable Income

…

§56(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) or clause (ii) of section 164(b)(5)(A) or for any substitute payment (as defined in section 275(b)(5)).

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

…

§6659, STATE AND LOCAL TAX ALLOCATION MISMATCH

(a) IN GENERAL—In the case of any covered individual, there shall be added to the tax imposed under section 1 for the taxable year an amount equal to the product of—

(1) the highest rate of tax in effect under such section for such taxable year, multiplied by

(2) the sum of the State and local tax allocation mismatches for such taxable year with respect to each partnership specified tax payment with respect to which such individual is a covered individual.

(b) COVERED INDIVIDUAL—For purposes of this section, the term 'covered individual' means, with respect to any partnership specified tax payment, any individual (or estate or trust) who—

(1) is entitled (directly or indirectly) to one or more specified tax benefits with respect to such payment, and

(2) takes into account (directly or indirectly) any item of income, gain, deduction, loss, or credit of the partnership which made such payment.

(c) STATE AND LOCAL TAX ALLOCATION MISMATCH—For purposes of this section—

(1) IN GENERAL—The term 'State and local tax allocation mismatch' means, with respect to any partnership specified tax payment, the excess (if any) of—

(A) the aggregate dollar value of the specified tax benefits of the covered individual with respect to such payment, over

(B) the amount of such payment taken into account by such individual under section 702(a) (without regard to sections 275(b) and 704(d)).

(2) TAXABLE YEAR OF INDIVIDUAL IN WHICH MISMATCH TAKEN INTO ACCOUNT—In the case of any partnership specified tax payment paid, incurred, or accrued in any taxable year of the partnership, the State and local tax allocation mismatch determined under paragraph (1) with respect to such payment shall be taken into account under subsection (a) by the covered individual for the taxable year of such individual in which such individual takes into account the items referred to in subsection (b)(2) which are determined with respect to such partnership taxable year.

(d) DETERMINATION OF DOLLAR VALUE OF SPECIFIED TAX BENEFITS—

(1) IN GENERAL—Except in the case of a covered individual who elects the application of paragraph (3) for any taxable year, the dollar value of any specified tax benefit shall be the sum of—

(A) the aggregate increase in tax liability (and reduction in credit or refund) for taxes described in section 275(b)(3)(A) for the taxable year and all prior taxable years that would result if such specified tax benefit were not taken into account with respect to such taxes, plus

(B) the deemed value of any carryforward of such specified tax benefit (including any tax attribute derived from such benefit) to any subsequent taxable year.

(2) DEEMED VALUE OF CARRYFORWARDS—For purposes of paragraph (1), the deemed value of any carryforward is—

(A) in the case of a credit or refund, the amount of such credit or refund,

(B) in the case of a deduction or exclusion, the product of—

(i) the highest rate of tax which may be imposed on individuals under the tax referred to in subsection (e)(3)(B) with respect to the specified tax benefit, multiplied by

(ii) the amount of such deduction or exclusion, and

(C) in any other case, an amount determined in such manner as the Secretary may provide consistent with the principles of subparagraphs (A) and (B).

(3) ELECTION OF SIMPLIFIED METHOD—In the case of a covered individual who elects the application of this paragraph for any taxable year, the dollar value of any specified tax benefit shall be determined under the assumptions described in section 275(b)(5)(B).

(e) OTHER DEFINITIONS AND SPECIAL RULES—For purposes of this section—

(1) PARTNERSHIP SPECIFIED TAX PAYMENT—The term 'partnership specified tax payment' means any specified tax paid, incurred, or accrued by a partnership.

(2) SPECIFIED TAX—The term 'specified tax' has the meaning given such term by section 275(b)(3).

(3) SPECIFIED TAX BENEFIT—The term 'specified tax benefit' means any benefit which—

(A) is determined with respect to a partnership specified tax payment, and

(B) is allowed against, or determined by reference to, a tax described in section 275(b)(3)(A).

(f) REGULATIONS—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance preventing avoidance of the addition to tax prescribed by this section through partnership allocations that achieve similar tax reductions as a State and local tax allocation mismatch.

§6031, Return of Partnership Income [text]

(g) SPECIFIED SERVICE TRADE OR BUSINESS INCOME—Returns required under subsection (a), and copies required to be furnished under subsection (b), shall include a statement of whether or not the partnership had any gross receipts (within the meaning of section 448(c)) from a trade or business described in subsection 199A(d)(2).

§6037, Return of S Corporation [text]

(d) SPECIFIED SERVICE TRADE OR BUSINESS INCOME—Returns required under subsection (a), and copies required to be furnished under subsection (b), shall include a statement of whether or not the S corporation had any gross receipts (within the meaning of section 448(c)) from a trade or business described in subsection 199A(d)(2).