Section 153. Cross references

(1) For definitions of "husband" and "wife", as used in section 152(b)(4), see section 7701(a)(17).

(2) For deductions of estates and trusts, if lieu of the exemptions under section 151, see section 642(b).

(3) For exemptions of nonresident aliens, see section 873(b)(3).

(4) For determination of marital status, see section 7703.

Section 161. Allowance of deductions

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (section 261 and following, relating to items not deductible).

211. Allowance of deductions

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (section 261 and the following, relating to items not deductible).

212. Expenses for production of income

In the case of an individual, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year --

(1) for the production or collection of income;

(2) for the management, conservation, or maintenance of property held for the production of income; or

(3) in connection with the determination, collection, or refund of any tax.

213. Medical, dental, etc., expenses

(a) Allowance of deduction. -- There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152), to the extent that such expenses exceed 7.5 percent of adjusted gross income.

(b) Limitation with respect to medicine and drugs. -- An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

(c) Special rule for decedents. --

(1) Treatment of expenses paid after death. -- For purposes of subsection (a), expenses for the medical care of the taxpayer which are paid out of his estate during the 1-year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred.
(2) Limitation. -- Paragraph (1) shall not apply if the amount paid is allowable under section 2053 as a deduction in computing the taxable estate of the decedent, but this paragraph shall no apply if (within the time and in the manner and form prescribed by the Secretary) there is filed --

(A) a statement that such amount has not been allowed as a deduction under section 2053, and

(B) a waiver of the right to have such amount allowed at any time as a deduction under section 2053.

(d) Definitions. -- for purposes of this section --

(1) The term "medical care" means amounts paid --

(A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body,

(B) for transportation primarily for and essential to medical care referred to in subparagraph (A), or

(C) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medial care referred to in subparagraphs (A) and (B).

(2) Amounts paid for certain lodging away from home treated as paid for medical care. -- Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if --

(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount taken into account under the preceding sentence shall not exceed $50 for each night for each individual.

(3) Prescribed drug. -- The term "prescribed drug" means a drug or biological which requires a prescription of a physician for its use by an individual.

(4) Physician. -- The term "physician" has the meaning given to such term by section 1861(r) of the Social Security Act(42 U.S.C. 1395x(r)).

(5) Special rule in the case of child of divorced parents, etc. -- Any child to whom section 152(e) applies shall be treated as a dependent of both parents for purposes of this

section.

(6) In the case of an insurance contract under which amounts are payable for other than medical care referred to in subparagraphs (A) and (B) of paragraph (1) --

(A) no amount shall be treated as paid for insurance to which paragraph (1) (C) applies unless the charge for such insurance is either separately stated in the contract, or furnished to the policyholder by the insurance company in a separate statement,

(B) the amount taken into account as the amount paid for such insurance shall not exceed such charge, and

(C) no amount shall be treated as paid for such insurance if the amount specified in the contract (or furnished to the policyholder by the insurance company in a separate statement) as the charge for such insurance is unreasonably large in relation to the total charges under the contract.

(7) Subject to the limitations of paragraph (6), premiums paid during the taxable year by a taxpayer before he attains the age of 65 for insurance covering medical care (within the meaning of subparagraphs (A) and (B) of paragraph (1)) for the taxpayer, his spouse, or a dependent after the taxpayer attains the age of 65 shall be treated as expenses paid during the taxable year for insurance which constitutes medical care if premiums for such insurance are payable (on a level payment basis) under the contract for a period of 10 years or more or until the year in which the taxpayer attains the age of 65 (but in no care for a period of less than 5 years).

(8) The determination of whether an individual is married at any time during the taxable year shall be made in accordance with the provisions of section 6013(d) (relating to determination of status as husband and wife).

(9) Cosmetic surgery. --

(A) In general. -- The term "medical care" does not include cosmetic surgery or other similar procedure, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

(B) cosmetic surgery defined. -- For purposes of this paragraph, the term "cosmetic surgery" means any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.

(e) Exclusion of amounts allowed for care of certain dependents. -- Any expense allowed as a credit under section 21 shall not be treated as an expense paid for medical care.

(f) Coordination with health insurance credit under section 32. -- The amount otherwise taken into account under

subsection (a) as expenses for medical care shall be reduced by the amount (if any) of the health insurance credit allowable to the taxpayer for the taxable year under section 32.

215. Alimony, etc., payments

(a) General rule. -- In the case of an individual, there shall be allowed as a deduction an mount equal to the alimony or separate maintenance payments paid during such individual's taxable year.

(b) Alimony or separate maintenance payments defined. -- for purposes of this section, the term "alimony or separate maintenance payment" means any alimony or separate maintenance payment (as defined in section 71(b)) which is includible in the gross income of the recipient under section 71.

(c) Requirement of identification number. -- The Secretary may prescribe regulations under which --

(1) any individual receiving alimony or separate maintenance payments is required to furnish such individual's taxpayer identification number to the individual making such payments, and

(2) the individual making such payments is required to include such taxpayer identification number on such individual's return for the taxable year in which such payments are made.

(d) coordination with section 682. -- No deduction shall be allowed under this section with respect to any payment if, by reason of section 682 (relating to income of alimony trusts), the amount thereof is not includible in such individual's gross income.

216.Deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder

(a) Allowance of deduction. -- In the case of a tenant-stockholder (as defined in subsection (b)(2)), there shall be allowed as a deduction amounts (not otherwise deductible) paid or accrued to a cooperative housing corporation within the taxable year, but only to the extent that such amounts represent the tenant-stockholder's proportionate share of --

(1) the real estate taxes allowable as a deduction to the corporation under section 164 which are paid or incurred by the corporation on the houses or apartment building and on the land on which such houses (or building) are situated, or

(2) the interest allowable as a deduction to the corporation under section 163 which is paid or incurred by the corporation on its indebtedness contracted --

(A) in the acquisition, construction, alteration, rehabilitation, or maintenance of the houses or apartment building, or

(B) in the acquisition of the land on which the houses (or apartment building) are situated.

(b) Definitions. -- for purposes of this section --

(1) cooperative housing corporation. -- The term "cooperative housing corporation" means a corporation--

(A) having one and only one class of stock outstanding,

(B) each of the stockholders of which is entitle, solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation, and

(C) no stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except on a complete or partial liquidation of the corporation, and

(D) 80 percent or more of the gross income of which for the taxable year in which the taxes and interest described in subsection (a) are paid or incurred is derived from tenant-stockholders.

(2) Tenant-stockholder. -- The term "tenant-stockholder" means a person who is a stockholder in a cooperative housing corporation, and whose stock is fully paid-up in an amount not less than an amount shown to the satisfaction of the Secretary as bearing a reasonable relationship to the portion of the value of the corporation's equity in the houses or apartment building and the land on which situated which is attributable to the house or apartment which such person is entitled to occupy.

(3) Tenant-stockholder's proportionate share. --

(A) In general.-- except as provided in subparagraph (B), the term "tenant-stockholder's proportionate share" means that proportion which the stock of the cooperative housing corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation (including any stock held by the corporation).

(B) Special rule where allocation of taxes or interest reflect cost to corporation of stockholder's unit. --

(i) In general. -- If, for any taxable year--

(I) each dwelling unit owned or leased by a cooperative housing corporation is separately allocated a share of such corporation's real estate taxes described in subsection (a)(1) or a share of such
corporation's interest described in subsection (a)(2), and

(II) such allocations reasonably reflect the cost to such corporation of such taxes, or of such interest, attributable to the tenant-stock-holder's dwelling unit (and such unit's share of the common areas),

then the term "tenant-stockholder's proportionate share" means the share determined in accordance with the allocations described in subclause (II).

(ii) Election by corporation required. -- Clause (i) shall apply with respect to any cooperative housing corporation only if such corporation elects its application. Such an election, once made, may be revoked only with the consent of the Secretary.

(4) Stock owned by governmental units. -- For purposes of this subsection, in determining whether a corporation is a cooperative housing corporation, stock owned and apartments leased by the United States or any of its possessions, a State or any political subdivision thereof, or any agency or instrumentality of the foregoing empowered to acquire shares in a cooperative housing corporation for the purpose of providing housing facilities, shall not be taken into account.

(5) Prior approval of occupancy. -- For purposes of this section, in the following cases there shall not be taken into account the fact that (by agreement with the cooperative housing corporation) the person or his nominee may not occupy the house or apartment without the prior approval of such corporation:

(A) In any case where a person acquires stock of cooperative housing corporation by operation of law.

(B) In any case where a person other than an individual acquires stock of a cooperative housing corporation.

(C) In any case where the original seller acquires any stock of the cooperative housing corporation from the corporation not later than 1 year after the date on which the apartments or houses (or leaseholds therein) are transferred by the original seller to the corporation.

(6) Original seller defined. -- For purposes of paragraph (5), the term "original seller" means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein).

(c) Treatment as property subject to depreciation. --

(1) In general. -- so much of the stock of a tenant-stockholder in a cooperative housing corporation as is allocable, under regulations prescribed by the Secretary, to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) shall, to the extent such proprietary lease or right of tenancy is used by such tenant-stockholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under section 167(a). The preceding sentence shall no be construed to limit or deny a deduction for depreciation under section 167(a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders.

(2) Deduction limited to adjusted basis in stock. --

(A) In general. -- The amount of any deduction for depreciation allowable under section 167(a) to a tenant-

stockholder with respect to any stock for any taxable year by reason of paragraph (1) shall not exceed the adjusted basis of such stock as of the close of the taxable year of the tenant-stockholder in which such deduction was incurred.

(B) Carryforward of disallowed amount. -- The amount of any deduction which is not allowed by reason of subparagraph (A) shall, subject to the provisions of subparagraph (A), be treated as a deduction allowable under section 167(a) in the succeeding taxable year.

(d) Disallowance of deduction for certain payments to the corporation. -- No deduction shall be allowed to a stockholder in a cooperative housing corporation for any amount paid or accrued to such corporation during any taxable year (in excess of the stockholder's proportionate share of the items described in subsections (a)(1) and (a)(2) to the extent that, under regulations prescribed by the Secretary, such amount is properly allocable to amounts paid or incurred at any time by the corporation which are chargeable to the corporation's capital account. The stockholder's adjusted basis in the stock in the corporation shall be increased by the amount of such disallowance.

(e) Distributions by cooperative housing corporations. -- Except as provided in regulations, no gain or loss shall be recognized on the distribution by a cooperative housing corporation of a dwelling unit to a stockholder in such corporation if such corporation if such distribution is in exchange for the stockholder's stock in such corporation and such exchange qualifies for nonrecognition of gain under section 1034(f).

217. Moving expenses

(a) Deduction allowed. -- There shall be allowed as a deduction moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work.

(b) Definition of moving expenses. --

(1) In general. -- For purposes of this section, the term "moving expenses" means only the reasonable expenses --

(A) of moving household goods and personal effects from the former residence to the new residence,

(B) of traveling (including meals and lodging) from the former residence to the new place of residence,

(C) of traveling (including meals and lodging), after obtaining employment, from the former residence to the general location of the new principal place of work and return, for the principal purpose of searching for a new residence,

(D) of meals and lodging while occupying temporary

quarters in the general location of the new principal place of work during any period of 30 consecutive days after obtaining employment, or

(E) constituting qualified residence sale, purchase, or lease expenses.

(2) Qualified residence sale, etc., expenses. -- For purposes of paragraph (1)(E), the term "qualified residence sale, purchase, or lease expenses" means only reasonable expenses incident to --

(A) the sale or exchange by the taxpayer or his spouse of the taxpayer's former residence (not including expenses for work performed on such residence in order to assist in its sale) which (but for this subsection and subsection (e)) would be taken into account in determining the amount realized on the sale or exchange,

(B) the purchase by the taxpayer or his spouse of a new residence in the general location of the new principal place of work which (but for this subsection and subsection (e)) would be taken into account in determining --

(i) the adjusted basis of the new residence, or

(ii) the cost of a loan (but not including any amounts which represent payments or prepayments of interest),

(C) the settlement of an unexpired lease held by the taxpayer or his spouse on property used by the taxpayer as his former residence, or

(D) the acquisition of a lease by the taxpayer or his spouse on property used by the taxpayer as his new residence in the general location of the new principal place of work (not including amounts which are payments or prepayments of rent).

(3) Limitations. --

(A) Dollar limits. -- The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1) shall not exceed $1,500. The aggregate amount allowable as a deduction under subsection (a) which is attributable to qualified residence sale, purchase, or lease expenses shall not exceed $3,000, reduced by the aggregate amount so allowable which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1).

(B) Husband and wife. -- If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only one commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substitution "$750" for "$1,500", and by substituting "$1,500" for "$3,000".

(C) Individuals other than taxpayer. -- In the case of any

individual other than the taxpayer, expenses referred to in subparagraphs (A) through (D) of paragraph (1) shall be taken into account only if such individual has both the former residence and the new residence as his principal place of abode and is a member of the taxpayer's household.

(c) conditions for allowance. -- No deduction shall be allowed under this section unless -- (1) the taxpayer's new principal place of work --

(A) is at lease 35 miles farther from his former residence than was his former principal place of work, or

(B) if he had no former principal place of work, is at lease 35 miles from his former residence, and

(2) either --

(A) during the 12-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee, in such general location, during at lease 39 weeks, or

(B) during the 24-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee or performs services as a self-employed individual on a full-time basis, in such general location, during at lease 78 weeks, of which not less than 39 weeks are during the 12-month period referred to in subparagraph (A).

For purposes of paragraph (1), the distance between two points shall be the shortest of the more commonly traveled routes between such two points.

(d) Rules for application of subsection (c)(2). --

(1) The condition of subsection (c)(2) shall not apply if the taxpayer is unable to satisfy such condition by reason of --

(A) death or disability, or

(B) involuntary separation (other than for willful misconduct) from the service of, or transfer for the benefit of, an employer after obtaining full-time employment in which the taxpayer could reasonably have been expected to satisfy such condition.

(2) If a taxpayer has not satisfied the condition of subsection (c)(2) before the time prescribed by law (including extensions thereof) for filing the return for the taxable year during which he paid or incurred moving expenses which would otherwise be deductible under this section, but may still satisfy such condition, then such expenses may (at the election of the taxpayer) be deducted for such taxable year notwithstanding subsection (c)(2).

(3) If --

(A) for any taxable year moving expenses have been deducted in accordance with the rule provided in paragraph (2), and

(B) the condition of subsection (c)(2) cannot be satisfied at the close of a subsequent taxable year,

then an amount equal to the expenses which were so deducted shall be included in gross income for the first such subsequent taxable year.

(3) Denial of double benefit. -- The amount realized on the sale of the residence described in subparagraph (A) of subsection (B)(2) shall not be decreased by the amount of any expenses described in such subparagraph which are allowed as a deduction under subsection (a), and the basis of a residence described in subparagraph (B) of subsection (b)(2) shall not be increased by the amount of any expenses described in such subparagraph which are allowed as a deduction under subsection (a). This subsection shall not apply to any expenses with respect to which an amount is included in gross income under subsection (d)(3). (f) Rules for self-employed individuals. --

(1) Definition. -- For purposes of this section, the term "self-employed individual" means an individual who performs personal services --

(A) as the owner of the entire interest in an unincorporated trade or business, or

(B) as a partner in a partnership carrying on a trade or business.

(2) Rule for application of subsections (b)(1)(C) and (D). --

For purposes of subparagraphs (C) and (D) of subsection (b)(1), an individual who commences work at a new principal place of work as a self-employed individual shall be treated as having obtained employment when he has made substantial arrangements to commence such work.

(g) Rules for members of the Armed Forces of the United States. -- In the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station --

(1) the limitations under subsection (c) shall not apply;

(2) any moving and storage expenses which are furnished in kind (or for which reimbursement or an allowance is provided, but only to the extent of the expenses paid or incurred) to such member, his spouse, or his dependents, shall not be includible in gross income, and no reporting with respect to such expenses shall be require by the Secretary of Defense or the Secretary of Transportation, as the case may be; and

(3) if moving and storage expenses are furnished in kind (or if reimbursement or an allowance for such expenses is provided) to such member's spouse and his dependents with regard to moving to a location other than the one to which such member moves (or from a location other than the one from which such member moves), this section shall apply with respect to the

moving expenses of his spouse and dependents --

(A) as if his spouse commenced work as an employee at a new principal place of work at such location;

(B) for purposes of subsection (b)(3), as if such place of work was within the same general location as the member's new principal place of work, and

(C) without regard to the limitations under subsection (c).

(h) special rules for foreign moves. --

(1) Increase in limitations. -- In the case of a foreign move --

(A) subsection (b)(1)(D) shall be applied by substituting "90 consecutive days" for "30 consecutive days",

(B) subsection (b)(3)(A) shall be applied by substituting "$4,500" for" $1,500" and by substituting "$6,000" for "$3,000", and

(C) subsection (b)(3)(B) shall be applied as if the last sentence of such subsection read as follows: "In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting
'$2,250' for '$4,500', and by substituting '$3,000' for '$6,000'."

(2) Allowance of certain storage fees. -- In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (b)(1)(A) include the reasonable expenses --

(A) of moving household goods and personal effects to and from storage, and

(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

(3) foreign move. -- For purposes of this subsection, the term "foreign move" means the commencement of work by the taxpayer at a new principal place of work located outside the United states.

(4) United States defined. -- for purposes of this subsection and subsection (i), the term "United States" includes the possessions of the United States.

(i) Allowance of deductions in case of retirees or decedents who were working abroad. --

(1) In general. -- In the case of any qualified retiree moving expenses or qualified survivor moving expenses --

(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

(B) the limitation of subsection (c)(2) shall not apply.

(2) Qualified retiree moving expenses. -- For purposes of paragraph (1), the term "qualified retiree moving expenses" means any moving expenses --

(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense.

(j) Regulations. -- The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

219. Retirement savings

(a) Allowance of deduction. -- In the case of an individual, there shall be allowed as a deduction an amount equal to the qualified retirement contributions of the individual for the taxable year.

(b) Maximum amount of deduction. --

(1) In general. -- the amount allowable as a deduction under subsection (a) to any individual for any taxable year shall not exceed the lesser of --

(A) $2,000, or

(B) an amount equal to the compensation includible in the individual's gross income for such taxable year.

(2) Special rule for employer contributions under simplified employee pensions. -- This section shall not apply with respect to an employer contribution to a simplified employee pension.

(3) Plans under section 501(c)(18). -- Notwithstanding paragraph (1), the amount allowable as a deduction under subsection (a) with respect to any contributions on behalf of an employee to a plan described in section 501(c)(18) shall not exceed the lesser of --

(A) $7,000, or

(B) an amount equal to 25 percent of the compensation (as defined in section 415 (c)(3)) includible in the individual's gross income for such taxable year.

(c) Special rule for certain married individuals. --

(1) In general. -- In the case of any individual with respect to whom a deduction is otherwise allowable under subsection (a) --

(A) who files a joint return under section 6013 for a taxable year, and (B) whose spouse --

(i) has no compensation (determined without regard to

section 911) for the taxable year, or

(ii) elects to be treated for purposes of subsection (b)(1)(B) as having no compensation for the taxable year,

there shall be allowed as a deduction any amount paid in cash for the taxable year by or on behalf of the individual to an individual retirement plan established for the benefit of his spouse.

(2) Limitation. -- The amount allowable as a deduction under paragraph (1) shall not exceed the excess of --

(A) the lesser of --

(i) $2,250, or

(ii) an amount equal to the compensation includible in the individual's gross income for the taxable year, over

(B) the amount allowable as a deduction under subsection (a) for the taxable year.

In no event shall the amount allowable as a deduction under paragraph (1) exceed $2,000.

(d) Other limitations and restrictions. --

(1) Beneficiary must be under age 70 1/2. -- No deduction shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70 1/2 before the close of such individual's taxable year for which the contribution was made.

(2) Recontributed amounts. -- No deduction shall be allowed under this section with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), or 408(d)(3).

(3) Amounts contributed under endowment contract. -- In the case of an endowment contract described in section 408(b), no deduction shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

(4) Denial of deduction for amount contributed to inherited annuities or accounts. -- No deduction shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii).

(e) Qualified retirement contribution. -- For purposes of this section, the term "qualified retirement contribution" means --

(1) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

(2) any amount contributed on behalf of any individual to a plan described in section 501(c)(18).

(f) Other definitions and special rules. --

(1) Compensation. -- For purposes of this section, the term "compensation" includes earned income (as defined in section 401(c)(2)). The term "compensation" dos not include any amount received as a pension or annuity and does not include any amount received as deferred compensation. The term "compensation" shall included any amount includible in the individual's gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2). For purposes of this paragraph, section 401(c)(2) shall be applied as if the term trade or business for purposes of section 1402 included service described in subsection (c)(6).

(2) Married individuals. -- The maximum deduction under subsections (b) and (c) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

(3) Time when contributions deemed made. -- For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contributions made on account of such taxable year and is made not later than time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(4) Reports. -- The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions.

(5) Employer payments. -- For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1))
includible in his gross income in the taxable year for which the amount was contributed, whether or not a deduction for such payment is allowable under this section to the employee.

(6) Excess contributions treated as contribution made during subsequent year for which there is an unused limitation. --

(A) In general. -- If for the taxable year the maximum amount allowable as a deduction under this section for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of --

(i) the amount of such excess, or

(ii) the amount of the excess contributions for such

taxable year (determined under section 4973(b)(2) without regard to subparagraph (c) thereof).

(B) Amount contributed. -- For purposes of this paragraph, the amount contributed --

(i) shall be determined without regard to this paragraph, and

(ii) shall not include any rollover contribution.

(C) Special rule where excess deduction was allowed for closed year. -- Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowable as a deduction under this section for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

(7) Election not to deduct contributions. --

For election not to deduct contributions to individual retirement plans, see section 408(o)(2)(B)(ii).

(g) Limitation on deduction for active participants in certain pension plans. --

(1) In general. -- If (for any part of any plan year ending with or within a taxable year) an individual or the individual's spouse is an active participant, each of the dollar limitations contained in subsections (b)(1)(A) and (c)(2) for such taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

(2) Amount of reduction. --

(A) In general. -- The amount determined under this paragraph with respect to any dollar limitation shall be the amount which bears the same ratio to such limitation as --

(i) the excess of --

(I) the taxpayer's adjusted gross income for such taxable year, over

(II) the applicable dollar amount, bears to

(ii) $10,000.

(B) No reduction below $200 until complete phase-out. -- No dollar limitation shall be reduced below $200 under paragraph (1) unless (without regard to this subparagraph) such limitation is reduced to zero.

(C) rounding. -- Any amount determined under this paragraph which is not a multiple of $10 shall be rounded to the next lowest $10.

(3) Adjusted gross income; applicable dollar amount. -- For purposes of this subsection --

(A) Adjusted gross income. -- Adjusted gross income of any taxpayer shall be determined --

(i) after application of sections 86 and 469, and

(ii) without regard to sections 135 and 911 or the deduction allowable under this section.

(B) Applicable dollar amount. -- The term "applicable dollar amount" means --

(i) in the case of a taxpayer filing a joint return $40,000, (ii) in the case of any other taxpayer (other than a married individual filing a separate return), $25,000, and

(iii) in the case of a married individual filing a separate return, zero.

(4) Special rule for married individuals filing separately and living apart. -- A husband and wife who --

(A) file separate returns for any taxable year, and

(B) live apart at all times during such taxable year, shall not be treated as married individuals for purposes of this subsection.

(5) Active participant. -- For purposes of this subsection, the term "active participant" means, with respect to any plan year, an individual --

(A) who is an active participant in --

(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

(ii) an annuity plan described in section 403(a),

(iii) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing,

(iv) an annuity contract described in section 403(b), or

(v) a simplified employee pension (within the meaning of section 501(c)(18).

The determination of whether an individual is an active participant shall be made without regard to whether or not such individual's rights under a plan, trust, or contract are nonforfeitable. An eligible deferred compensation plan (within the meaning of section 457(b)) shall not be treated as a plan described in subparagraph (A)(iii).

(6) Certain individuals not treated as active participants. -- For purposes of this subsection, any individual described in any of the following subparagraphs shall not be treated as an active participant for any taxable year solely because of any participation so described:

(A) Members of reserve components. -- Participation in a plan described in subparagraph (A)(iii) of paragraph (5) by reason of service as a member of a reserve component of the Armed Forces (as defined in section 261(a) of title 10), unless such individual has served in excess of 90 days on active duty (other than active duty for training) during the year.

(B) Volunteer firefighters. -- A volunteer firefighter --

(i) who is a participant in a plan described in subparagraph
(A)(iii) of paragraph (5) based on his activity as a volunteer firefighter, and

(ii) whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of $1,800 (when expressed as a single life annuity commencing at age 65).

241. Allowance of special deductions

In addition to the deductions provided in part VI (sec. 161 and following), there shall be allowed as deductions in computing taxable income the items specified in this part.

243. Dividends received by corporations (a) General rule. -- In the case of a corporation, there shall be allowed as a deduction an amount equal to the following percentages of the amount received as dividends from a domestic corporation which is subject to taxation under this chapter:

(1) 70 percent, in the case of dividends and other than dividends described in paragraph (2) or (3);

(2) 100 percent, in the case of dividends received by a small business investment company operating under the Small Business Investment Act of 1958 (15 U.S.C. 661 and following); and

(3) 100 percent, in the case of qualifying dividends (as defined in subsection (b)(1)).

(b) Qualifying dividends. --

(1) In general. -- for purposes of this section, the term "qualifying dividend" means dividend received by a corporation --

(A) if at the close of the day on which such dividend is received, such corporation is a member of the same affiliated group as the corporation distributing such dividend, and

(B) if --

(i) such dividend is distributed out of the earnings and profits of a taxable year of the distributing corporation which ends after december 31, 1963, for which an election under section 1562 was not in effect, and on each day of which the distributing corporation and the corporation receiving the dividend were members of such affiliated group, or

(ii) such dividend is paid by a corporation with respect to which an election under section 936 is in effect for the taxable year in which such dividend is paid.

(2) Affiliated group. -- For purposes of this subsection, the term "affiliated group" has the meaning given such term by section 1504(a), except that for such purposes sections 1504(b)(2), 1504 (b)(4), and 1504 (c) shall not apply.

(3) special rule for groups which include life insurance companies. --

(A) In general. -- In the case an affiliated group which includes 1 or more insurance companies under section 801, no dividend by any member of such group shall be treated as a

qualifying dividend unless an election under this paragraph is in effect for the taxable year in which the dividend is received. The preceding sentence shall not apply in the case of a dividend described in paragraph (1)(B)(ii).

(B) Effect of election. -- If an election under this paragraph is in effect with respect of any affiliated group --

(i) part II of subchapter B of chapter 6 (relating to certain controlled corporations) shall be applied with respect to the members of such group without regard to sections 1563(a)(4) and 1563(b)(2)(D), and

(ii) for purposes of this subsection, a distribution by any member of such group which is subject to tax under section 801 shall not be treated as a qualifying dividend if such distribution is out of earnings and profits for a taxable year for which an election under this paragraph is not effective and for which such distributing corporation was not a component member of a controlled group of corporations within the meaning of section 1563 solely by reason of section 1563(b)(2)(D). (C) Election. -- An election under this paragraph shall be made by the common parent of the affiliated group and at such time and in such manner as the Secretary shall by regulations prescribe. Any such election shall be binding on all members of such group and may be revoked only with the consent of the Secretary.

(c) Retention of 80-percent dividend received from a 20-percent owned corporation --

(A) subsection (a)(1) of this section, and

(B) subsection (a)(3) and (b)(2) of section 244,

shall be applied by substituting "80 percent" for "70 percent".

(2) 20-Percent owned corporation. -- For purposes of subsection (a) --

(1) Any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.) shall not be treated as a dividend.

(2) A dividend received from a regulated investment company shall be subject to the limitations prescribed in section 854.

(3) Any dividend received from a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following) shall not be treated as a dividend.

(4) any dividend received which is described in section 244 (relating to dividends received on preferred stock of a public utility) shall not be treated as a dividend.

(e) Certain dividends from foreign corporations. -- For purposes of subsection (a) and for purposes of section 245, any dividend from a foreign corporation from earnings and profits accumulated by a domestic corporation during a period with

respect to which such domestic corporation was subject to taxation under this chapter (or corresponding provisions of prior law) shall be treated as a dividend from a domestic corporation which is subject to taxation under this chapter.