

decline in yields generally on non-convertible obligations which are as nearly comparable as possible.

(ii) In determining the amount under subdivision (i) of this subparagraph, appropriate consideration shall be given to all factors affecting the selling price or yields of comparable nonconvertible obligations. Such factors include general changes in prevailing yields of comparable obligations between the dates the convertible obligation was issued and repurchased and the amount (if any) by which the selling price of the nonconvertible obligation was affected by reason of any change in the issuing corporation's credit rating or the credit rating of the obligation during such period (determined on the basis of widely published ratings of recognized credit rating services or on the basis of other relevant facts and circumstances which reflect the relative credit ratings of the corporation or the comparable obligation).

(iii) The relationship between selling price and yields in subdivision (i) of this subparagraph shall ordinarily be determined by means of standard bond tables.

(f) *Effective date*—(1) *In general.* Under section 414(c) of the Tax Reform Act of 1969, the provisions of section 249 and this section shall apply to any repurchase of a convertible obligation occurring after April 22, 1969, other than a convertible obligation repurchased pursuant to a binding obligation incurred on or before April 22, 1969, to repurchase such convertible obligation at a specified call premium. A binding obligation on or before such date may arise if, for example, the issuer irrevocably obligates itself, on or before such date, to repurchase the convertible obligation at a specified price after such date, or if, for example, the issuer, without regard to the terms of the convertible obligation, negotiates a contract which, on or before such date, irrevocably obligates the issuer to repurchase the convertible obligation at a specified price after such date. A binding obligation on or before such date does not include a privilege in the convertible obligation permitting the issuer to call such convertible obligation after such date, which privilege

was not exercised on or before such date.

(2) *Effect on transactions not subject to this section.* No inferences shall be drawn from the provisions of section 249 and this section as to the proper treatment of transactions not subject to such provisions because of the effective date limitations thereof. For provisions relating to repurchases of convertible bonds or other evidences of indebtedness to which section 249 and this section do not apply, see §§ 1.163-3(c) and 1.163-4(c).

(g) *Example.* The provisions of this section may be illustrated by the following example:

*Example.* On May 15, 1968, corporation A issues a callable 20-year convertible bond at face for \$1,000 bearing interest at 10 percent per annum. The bond is convertible at any time into 2 shares of the common stock of corporation A. Under the terms of the bond, the applicable call price prior to May 15, 1975, is \$1,100. On June 1, 1974, corporation A calls the bond for \$1,100. Since the repurchase premium, \$100 (i.e., \$1,100 minus \$1,000), was specified in dollars in the obligation and does not exceed 1 year's interest at the rate fixed in the obligation, the \$100 is considered under paragraph (d) (2) of this section to be a normal call premium on a comparable non-convertible obligation. Accordingly, A may deduct the \$100 under § 1.163-3(c).

[T.D. 7259, 38 FR 4254, Feb. 12, 1973, as amended by T.D. 8746, 62 FR 68182, Dec. 31, 1997]

#### ITEMS NOT DEDUCTIBLE

##### § 1.261-1 General rule for disallowance of deductions.

In computing taxable income, no deduction shall be allowed, except as otherwise expressly provided in Chapter 1 of the Code, in respect of any of the items specified in Part IX (section 262 and following), Subchapter B, Chapter 1 of the Code, and the regulations thereunder.

##### § 1.262-1 Personal, living, and family expenses.

(a) *In general.* In computing taxable income, no deduction shall be allowed, except as otherwise expressly provided in chapter 1 of the Code, for personal, living, and family expenses.

(b) *Examples of personal, living, and family expenses.* Personal, living, and family expenses are illustrated in the following examples:

(1) Premiums paid for life insurance by the insured are not deductible. See also section 264 and the regulations thereunder.

(2) The cost of insuring a dwelling owned and occupied by the taxpayer as a personal residence is not deductible.

(3) Expenses of maintaining a household, including amounts paid for rent, water, utilities, domestic service, and the like, are not deductible. A taxpayer who rents a property for residential purposes, but incidentally conducts business there (his place of business being elsewhere) shall not deduct any part of the rent. If, however, he uses part of the house as his place of business, such portion of the rent and other similar expenses as is properly attributable to such place of business is deductible as a business expense.

(4) Losses sustained by the taxpayer upon the sale or other disposition of property held for personal, living, and family purposes are not deductible. But see section 165 and the regulations thereunder for deduction of losses sustained to such property by reason of casualty, etc.

(5) Expenses incurred in traveling away from home (which include transportation expenses, meals, and lodging) and any other transportation expenses are not deductible unless they qualify as expenses deductible under section 162, § 1.162-2, and paragraph (d) of § 1.162-5 (relating to trade or business expenses), section 170 and paragraph (a)(2) of § 1.170-2 or paragraph (g) of § 1.170A-1 (relating to charitable contributions), section 212 and § 1.212-1 (relating to expenses for production of income), section 213(e) and paragraph (e) of § 1.213-1 (relating to medical expenses) or section 217(a) and paragraph (a) of § 1.217-1 (relating to moving expenses). The taxpayer's costs of commuting to his place of business or employment are personal expenses and do not qualify as deductible expenses. The costs of the taxpayer's lodging not incurred in traveling away from home are personal expenses and are not deductible unless they qualify as deductible expenses under section 217. Except as permitted under section 162, 212, or 217, the costs of the taxpayer's meals not incurred in traveling away from home are personal expenses.

(6) Amounts paid as damages for breach of promise to marry, and attorney's fees and other costs of suit to recover such damages, are not deductible.

(7) Generally, attorney's fees and other costs paid in connection with a divorce, separation, or decree for support are not deductible by either the husband or the wife. However, the part of an attorney's fee and the part of the other costs paid in connection with a divorce, legal separation, written separation agreement, or a decree for support, which are properly attributable to the production or collection of amounts includible in gross income under section 71 are deductible by the wife under section 212.

(8) The cost of equipment of a member of the armed services is deductible only to the extent that it exceeds nontaxable allowances received for such equipment and to the extent that such equipment is especially required by his profession and does not merely take the place of articles required in civilian life. For example, the cost of a sword is an allowable deduction in computing taxable income, but the cost of a uniform is not. However, amounts expended by a reservist for the purchase and maintenance of uniforms which may be worn only when on active duty for training for temporary periods, when attending service school courses, or when attending training assemblies are deductible except to the extent that nontaxable allowances are received for such amounts.

(9) Expenditures made by a taxpayer in obtaining an education or in furthering his education are not deductible unless they qualify under section 162 and § 1.162-5 (relating to trade or business expenses).

(c) *Cross references.* Certain items of a personal, living, or family nature are deductible to the extent expressly provided under the following sections, and the regulations under those sections:

- (1) Section 163 (interest).
- (2) Section 164 (taxes).
- (3) Section 165 (losses).
- (4) Section 166 (bad debts).
- (5) Section 170 (charitable, etc., contributions and gifts).
- (6) Section 213 (medical, dental, etc., expenses).

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(7) Section 214 (expenses for care of certain dependents).

(8) Section 215 (alimony, etc., payments).

(9) Section 216 (amounts representing taxes and interest paid to cooperative housing corporation).

(10) Section 217 (moving expenses).

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6796, 30 FR 1041, Feb. 2, 1965; T.D. 6918, 32 FR 6681, May 2, 1967; T.D. 7207, 37 FR 20795, Oct. 4, 1972]

**§ 1.263(a)-1 Capital expenditures; In general.**

(a) Except as otherwise provided in chapter 1 of the Code, no deduction shall be allowed for:

(1) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, or

(2) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made in the form of a deduction for depreciation, amortization, or depletion.

(b) In general, the amounts referred to in paragraph (a) of this section include amounts paid or incurred (1) to add to the value, or substantially prolong the useful life, of property owned by the taxpayer, such as plant or equipment, or (2) to adapt property to a new or different use. Amounts paid or incurred for incidental repairs and maintenance of property are not capital expenditures within the meaning of subparagraphs (1) and (2) of this paragraph. See section 162 and §1.162-4. See section 263A and the regulations thereunder for cost capitalization rules which apply to amounts referred to in paragraph (a) of this section with respect to the production of real and tangible personal property (as defined in §1.263A-1T (a)(5)(iii)), including films, sound recordings, video tapes, books, or similar properties. An amount referred to in paragraph (a) of this section is a capital expenditure that is taken into account through inclusion in inventory costs or a charge to capital accounts or basis no earlier than the taxable year during which the amount is incurred within the meaning of §1.446-1(c)(1)(ii). See section 263A and the regulations thereunder for cost

capitalization rules that apply to amounts referred to in paragraph (a) of this section with respect to the production of real and tangible personal property (as defined in §1.263A-2(a)(2)), including films, sound recordings, video tapes, books, or similar properties.

(c) The provisions of paragraph (a) (1) of this section shall not apply to expenditures deductible under:

(1) Section 616 and §§1.616-1 through 1.616-3, relating to the development of mines or deposits,

(2) Section 174 and §§1.174-1 through 1.174-4, relating to research and experimentation,

(3) Section 175 and §§1.175-1 through 1.175-6, relating to soil and water conservation,

(4) Section 179 and §§1.179-1 through 1.179-5, relating to election to expense certain depreciable business assets,

(5) Section 180 and §§1.180-1 and 1.180-2, relating to expenditures by farmers for fertilizer, lime, etc., and

(6) Section 182 and §§1.182-1 through 1.182-6, relating to expenditures by farmers for clearing land.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6794, 30 FR 792, Jan. 26, 1965; T.D. 8121, 52 FR 414, Jan. 6, 1987; T.D. 8131, 52 FR 10084, Mar. 30, 1987; T.D. 8408, 57 FR 12419, Apr. 10, 1992; T.D. 8482, 58 FR 42207, Aug. 9, 1993]

**§ 1.263(a)-2 Examples of capital expenditures.**

The following paragraphs of this section include examples of capital expenditures:

(a) The cost of acquisition, construction, or erection of buildings, machinery and equipment, furniture and fixtures, and similar property having a useful life substantially beyond the taxable year.

(b) Amounts expended for securing a copyright and plates, which remain the property of the person making the payments. See section 263A and the regulations thereunder for capitalization rules which apply to amounts expended in securing and producing a copyright and plates in connection with the production of property, including films, sound recordings, video tapes, books, or similar properties.

(c) The cost of defending or perfecting title to property.