

deemed to have been in effect for such taxable year. Accordingly, the applicable tax liability limitation for 1976 would be governed by section 53(a) (as amended by the Revenue Act of 1978) which limits the amount of targeted jobs credit allowed to 90 percent of the tax imposed by chapter 1 of the Code after all credits listed in section 53(a) have been taken. B may carry back \$2,700 (90% of \$3,000) of the 1979 unused targeted jobs credit to 1976. B may carry back \$4,000 of the unused targeted jobs credit to 1977 because section 53(a) as it applied to the 1977 taxable year limited the amount of the credit to 100 percent of the taxpayer's tax liability imposed by chapter 1 of the Code after all credits listed in section 53(a) had been taken.

(Secs. 44B, 381, and 7805 of the Internal Revenue Code of 1954 (92 Stat. 2834, 26 U.S.C. 44B); 91 Stat. 148, 26 U.S.C. 381(c)(26); 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7921, 48 FR 52906, Nov. 23, 1983]

§ 1.53-3 Separate rule for pass-through of jobs credit.

(a) *In general.* Under section 53(b), in the case of a new jobs credit or targeted jobs credit earned under section 44B by a partnership, estate or trust, or subchapter S corporation, the amount of the credit that may be taken into account by a partner, beneficiary, or shareholder may not exceed a limitation under section 53(b) separately computed with respect to the partner's, beneficiary's, or shareholder's interest in the entity. A credit is subject to the limitation of section 53(b) with respect to a partner, beneficiary, or shareholder if it is earned by a partnership, estate or trust, or subchapter S corporation in a taxable year ending within, or ending before, a taxable year beginning before January 1, 1979 of the partner, beneficiary, or shareholder. See paragraph (f) of this section for rules on carryback or carryover of a credit subject to separate limitation. This section prescribes rules, under the authority of section 44B(b), relating to the computation of the separate limitation. For purposes of this section, references to section 53(a) and (b) are to that section as it existed before it was amended by the Revenue Act of 1978. This paragraph may be illustrated by the following examples:

Example 1. A, a calendar year taxpayer, is a partner in P, a calendar year partnership. A's pro rata portion of the credit earned by P in 1978 is \$200. The \$200 credit to be claimed

on A's 1978 return is subject to the separate limitation in section 53(b) because the limitation applies to taxable years of the taxpayer beginning before January 1, 1979.

Example 2. B, a calendar year taxpayer, is a shareholder in Corporation M, a subchapter S corporation with a July to June fiscal year. B's pro rata portion of the credit earned by Corporation M in its taxable year beginning in 1978 is \$100. The \$100 credit to be claimed on B's 1979 return is not subject to the separate limitation requirement of section 53(b) because the limitation only applies to taxable years of the taxpayer beginning before 1979, notwithstanding the credit was earned by Corporation M before 1979.

(b) *Application of credit earned.* A credit earned under section 44B by a partnership, estate or trust, or subchapter S corporation shall be applied by a partner, beneficiary, or shareholder, to the extent allowed under section 53(b), before applying any other credit earned under section 44B. For example, if an individual has a new jobs credit from a proprietorship of \$2,000 and from a partnership (after applying section 53(b)) of \$1,800, but the credit must be limited under section 53(a) to \$3,000, the entire \$1,800 credit from the partnership would be applied before any part of the \$2,000 amount is applied.

(c) *Amount of separate limitation.* The amount of the separate limitation is equal to the partner's, beneficiary's, or shareholder's limitation under section 53(a) for the taxable year multiplied by a fraction. The numerator of the fraction is the portion of the taxpayer's taxable income for the year attributable to the taxpayer's interest in the entity. The denominator of the fraction is the taxpayer's total taxable income for the year reduced by the zero bracket amount, if any.

(d) *Portion of taxable income attributable to an interest in a partnership, estate or trust, or subchapter S corporation—(1) General rule.* The portion of a taxpayer's taxable income attributable to an interest in a partnership, estate or trust, or subchapter S corporation is the amount of income from that entity the taxpayer is required to include in gross income, reduced by—

(i) The amount of the deductions allowed to the taxpayer that are attributable to the taxpayer's interest in the entity; and

(ii) A proportionate share of the deductions allowed to the taxpayer not attributable to a specific activity (as defined in paragraph (e)).

If a deduction comprises both an item that is attributable to the taxpayer's interest in the entity and an item or items that are not attributable to the interest in the entity, and if the deduction is limited by a provision of the Code (such as section 170(b), relating to limitations on charitable contributions), the deduction must be prorated among the items taken into account in computing the deduction. For example, if an individual makes a charitable contribution of \$5,000 and his distributive share of a partnership includes \$2,000 in charitable contributions made by the partnership, and if the charitable contribution deduction is limited to \$3,500 under section 170(b), then the portion of the deduction allowed to the taxpayer that is not attributable to a specific activity is \$2,500 ($\$3,500 \times (\$5,000 \div \$7,000)$) and the portion of the deduction allowed to the taxpayer that is attributable to the interest in the partnership is \$1,000 ($\$3,500 \times (\$2,000 \div \$7,000)$).

(2) *Deductions attributable to an interest in an entity.* Examples of deductions that are attributable to the taxpayer's interest in an entity include (but are not limited to) a deduction under section 1202 attributable to a net capital gain passed through the entity, and a deduction attributable to a deductible item (such as a charitable contribution) that has been passed through the entity.

(3) *Computation of the proportionate share of deductions not attributable to a specific activity.* The proportionate share of a deduction of the taxpayer not attributable to a specific activity is obtained by multiplying the amount of the deduction by a fraction. The numerator of the fraction is the income from the entity that the taxpayer is required to include in gross income, reduced by the amount of the deductions of the taxpayer that are attributable to the taxpayer's interest in the entity. The denominator is the taxpayer's gross income reduced by the amount of all the deductions attributable to specific activities.

(4) *Examples.* The method of determining the amount of taxable income attributable to an interest in a partnership, estate or trust, or subchapter S corporation is illustrated by the following examples:

Example 1. (a) A, a single individual, is a shareholder in S Corporation, a subchapter S corporation. A is required to include the following amounts from S corporation in his gross income:

Salary	\$3,000
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Undistributed taxable income:	
Ordinary income	8,000
Net capital gain	2,000
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Total	10,000
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Total	13,000

A has income from other activities:

Ordinary income	6,000
Net capital gain	4,000
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Total	10,000

(b) In order to determine the taxable income attributable to A's interest in S Corporation, it is necessary to reduce the amount of income from S Corporation that A is required to include in gross income by the amount of A's deductions attributable to the interest in S Corporation and by a proportionate share of A's deductions not attributable to a specific activity. These computations are made in paragraph (c) of this example. However, before the computation reducing A's income by a proportionate share of the deductions not attributable to a specific activity can be made, the ratio described in subparagraph (3) of this paragraph (d) must be determined. The numerator of the ratio (the amount of income from S Corporation that A is required to include in gross income, reduced by the amount of the deductions attributable to A's interest in S Corporation) is obtained in paragraph (c) of this example in the process of computing A's taxable income attributable to the interest in S Corporation. The determination of the denominator (A's gross income reduced by the amount of all deductions attributable to specific activities), however, require a separate computation, which follows:

Gross income:	
Income from S Corporation	\$13,000
Income from other sources	10,000
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Total	23,000
Less: Deductions attributable to specific activities:	
Section 1202 deduction (50 percent of \$6,000)	3,000

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A's gross income reduced by the amount of the deductions attributable to specific activities (denominator of the ratio for determining the proportionate share of deductions not attributable to a specific activity) 20,000

(c) Computation of the amount of A's taxable income attributable to the interest in S Corporation:

Income from S Corporation that A is required to include in gross income:	
Ordinary income	\$11,000
Net capital gain	2,000
Total	13,000
Less: Deductions of the taxpayer attributable to the interest in S Corporation:	
Section 1202 deduction (50 pct. of \$2,000)	1,000
(Numerator of the ratio for determining the proportionate share of deductions not attributable to a specific activity)	
	12,000
Less: Proportionate share of the deductions of the taxpayer not attributable to a specific activity:	
Personal exemption deduction (\$750×\$12,000/\$20,000)	450
Zero bracket amount (\$2,200×\$12,000/\$20,000)	1,320
Total	1,770
Portion of A's taxable income attributable to interest in S Corporation.	10,230

Example 2. (a) C, a married individual with two children, is a partner in the CD Company. C's distributive share of the CD Company consists of the following:

Ordinary income (other than guaranteed payment)	\$38,420
Guaranteed payment	20,000
Net long-term capital gain	6,000
Net short-term capital loss	2,000
Dividends qualifying for exclusion	100
Charitable contributions	500

C also has items of income from other sources and deductions, as follows:

Ordinary income	\$21,680
Short-term capital gain	2,000
Dividends qualifying for exclusion	400
Deductions:	
Deductible medical expenses	16,000
Charitable contributions	4,000
Alimony	18,000
Interest and taxes on home	8,000
Loss relating to another specific activity	4,000

(b) In order to determine C's taxable income attributable to the interest in the partnership, it is necessary to reduce the amount of income from the partnership that C is required to include in gross income by the amount of C's deductions attributable to the interest in the partnership and by a proportionate share of C's deductions not attributable to a specific activity. These computations are made in paragraph (c) of this example. However, before the computation reducing C's income by a proportionate share of the deductions not attributable to a specific activity can be made, the ratio described in

paragraph (d)(3) of this section must be determined. The numerator of the ratio is determined in paragraph (c) of this example in the process of computing C's taxable income attributable to the interest in the partnership. The denominator, however, requires a separate computation, reducing C's gross income by the amount of all deductions attributable to specific activities. This computation is as follows:

Gross income: Income from the partnership:	
Ordinary income	\$58,420
Net long-term capital gain	6,000
Dividends	100
Less: Proportionate share of dividend exclusion (\$100×\$100/\$500)	20
	80
	64,500
Income from other sources:	
Ordinary income	21,680
Net short-term capital gain	2,000
Dividends	400
Less: Proportionate share of dividend exclusion (\$100×\$400/\$500)	\$80
	320
	24,000
	88,500

Less: Deductions attributable to specific activities:	
Net short-term capital loss passed through the partnership	2,000
Loss related to another specific activity	4,000
Section 1202 deduction attributable to the interest in the partnership	2,000
Charitable contribution deduction passed through the partnership	500
	8,500

C's gross income, reduced by the amount of the deductions attributable to specific activities (denominator of the ratio for determining the proportionate share of deductions not attributable to a specific activity)

(c) Computation of the amount of C's taxable income attributable to the interest in the partnership:

Distributive share of ordinary income (other than guaranteed payments)	\$38,420
Guaranteed payment	20,000
Distributive share of dividends less share of exclusion	80
Distributive share of net long-term capital gain	6,000
	64,500
Section 1202 deduction (50 pct. of \$4,000)	2,000
Charitable contribution passed through the partnership	500
Net short-term capital loss passed through the partnership	2,000

	4,500
(Numerator of the ratio for determining the proportionate share of deductions not attributable to a specific activity)	60,000
Section 1202 deduction (\$1,000×\$60,000/\$80,000)	750
Deductible medical expenses (\$16,000×\$60,000/\$80,000)	12,000
Charitable contributions (\$4,000×\$60,000/\$80,000)	3,000
Alimony (\$18,000×\$60,000/\$80,000)	13,500
Interest and taxes on home (\$8,000×\$60,000/\$80,000)	6,000
Personal exemption deduction (\$3,000×\$60,000/\$80,000)	2,250
Total	37,500
Portion of C's taxable income attributable to the interest in the partnership	22,500

C has a deduction under section 1202 of \$3,000. Of that deduction, \$2,000 is attributable directly to C's interest in the partnership (50 percent of the net capital gain that would result from offsetting the \$6,000 net long-term capital gain and the \$2,000 net short-term capital loss that are attributable to C's interest in the partnership). Since the remaining \$1,000 deduction under section 1202 cannot be attributed directly to either C's income from the partnership or any other specific activity, it must be treated as a deduction not attributable to a specific activity.

(e) *Deductions not attributable to a specific activity*—(1) *Specific activity defined.* A specific activity means a course of continuous conduct involving a particular line of endeavor, whether or not the activity is carried on for profit. Examples of a specific activity are:

- (i) A trade or business carried on by the taxpayer;
- (ii) A trade or business carried on by an entity in which the taxpayer has an interest;
- (iii) An activity with respect to which the taxpayer is entitled to a deduction under section 212;
- (iv) The operation of a farm as a hobby.

(2) *Types of deductions not attributable to a specific activity.* Examples of deductions not attributable to a specific activity include charitable contributions made by the partner, beneficiary, or shareholder; medical expenses; alimony; interest on personal debts of the partner, beneficiary, or shareholder; and real estate taxes on the personal residence of the partner, beneficiary, or shareholder. For purposes of this section, in cases in which deductions are

not itemized, the zero bracket amount is considered to be a deduction not attributable to a specific activity.

(f) *Carryback or carryover of credit subject to separate limitation.* A credit subject to the separate limitation under section 53(b) that is carried back or carried over to a taxable year beginning before January 1, 1979, is also subject to the separate limitation in the carryback or carryover year. For purposes of the preceding sentence, a credit that is earned by a partnership, a trust, or estate, or a subchapter S corporation in a taxable year of such entity ending within, or after, the taxable year of a partner beneficiary or shareholder beginning after December 31, 1978, will not be subject to the separate limitation in section 53(b) with respect to such partner, beneficiary, or shareholder. The taxpayer to whom the credit has been passed through shall not be prevented from applying the unused portion in a carryback or carryover year merely because the entity that earned the credit changes its form of conducting business if the nature of its trade or business essentially remains the same. The computation of the separate limitation in such a case shall reflect the income attributable to the taxpayer's interest in the entity in its revised form. Thus, a shareholder carrying over a credit from a subchapter S corporation may include dividends declared by that corporation after the subchapter S election had been terminated as income attributable to that person's interest in the entity. Similarly, if a partnership incorporates in a carryover year, any income attributable to an interest in the corporation will be regarded, for purposes of computing the separate limitation under section 53(b), as income attributable to an interest in the entity. This paragraph may be illustrated by the following examples:

Example 1. A, a calendar year taxpayer, is a shareholder in Corporation M, a subchapter S corporation. In 1977, A's pro rata share of the new jobs credit earned by Corporation M was \$10,000. A could only use \$2,000 of the credit in 1977 because of the separate limitation under section 53(b). In 1978, A carries the unused credit over from 1977. The carryover credit is subject to the separate limitation under section 53(b).

Example 2. Assume the same facts as in example 1 except that the unused credit is carried over to 1979. The carryover credit is not subject to the separate limitation under section 53(b) because that limitation does not apply to taxable years of a taxpayer beginning after December 31, 1978.

Example 3. B, a calendar year taxpayer, is a shareholder in Corporation W, a subchapter S corporation. In 1979, B's pro rata share of the targeted jobs credit covered by Corporation W was \$5,000 but B could only use \$3,000 of the credit in 1979. B carries back the unused credit to 1978. The carryback credit is not subject to the separate limitation under section 53(b).

(Secs. 44B, 381, and 7805 of the Internal Revenue Code of 1954 (92 Stat. 2834, 26 U.S.C. 44B); 91 Stat. 148, 26 U.S.C. 381(c)(26); 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7560, 43 FR 60445, Dec. 28, 1978. Redesignated and amended by T.D. 7921, 48 FR 52906, 52907, Nov. 23, 1983]

§ 1.55-1 Alternative minimum taxable income.

(a) *General rule for computing alternative minimum taxable income.* Except as otherwise provided by statute, regulations, or other published guidance issued by the Commissioner, all Internal Revenue Code provisions that apply in determining the regular taxable income of a taxpayer also apply in determining the alternative minimum taxable income of the taxpayer.

(b) *Items based on adjusted gross income or modified adjusted gross income.* In determining the alternative minimum taxable income of a taxpayer other than a corporation, all references to the taxpayer's adjusted gross income or modified adjusted gross income in determining the amount of items of income, exclusion, or deduction must be treated as references to the taxpayer's adjusted gross income or modified adjusted gross income as determined for regular tax purposes.

(c) *Effective date.* These regulations are effective for taxable years beginning after December 31, 1993.

[T.D. 8569, 59 FR 60557, Nov. 25, 1994]

§ 1.56-0 Table of contents to § 1.56-1, adjustment for book income of corporations.

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