

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).

**Internal Revenue Service, Treasury**

**§ 1.263(a)-0**

(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)-0 Table of contents.**

This section lists captioned paragraphs contained in §§ 1.263(a)-1 through 1.263(a)-5.

**§ 1.263(a)-1**

**Capital expenditures; in general.**

**§ 1.263(a)-2**

**Examples of capital expenditures.**

**§ 1.263(a)-3**

**Election to deduct or capitalize certain expenditures.**

**§ 1.263(a)-4**

**Amounts paid to acquire or create intangibles.**

(a) Overview.  
(b) Capitalization with respect to intangibles.

(1) In general.  
(2) Published guidance.  
(3) Separate and distinct intangible asset.  
(i) Definition.  
(ii) Creation or termination of contract rights.

(iii) Amounts paid in performing services.  
(iv) Creation of computer software.  
(v) Creation of package design.  
(4) Coordination with other provisions of the Internal Revenue Code.

(i) In general.  
(ii) Example.  
(c) Acquired intangibles.  
(1) In general.  
(2) Readily available software.  
(3) Intangibles acquired from an employee.  
(4) Examples.

(d) Created intangibles.  
(1) In general.  
(2) Financial interests.  
(i) In general.  
(ii) Amounts paid to create, originate, enter into, renew or renegotiate.

(iii) Renegotiate.  
(iv) Coordination with other provisions of this paragraph (d).  
(v) Coordination with § 1.263(a)-5.

(vi) Examples.  
(3) Prepaid expenses.  
(i) In general.  
(ii) Examples.

(4) Certain memberships and privileges.

(i) In general.  
(ii) Examples.  
(5) Certain rights obtained from a government agency.

(i) In general.  
(ii) Examples.  
(6) Certain contract rights.  
(i) In general.  
(ii) Amounts paid to create, originate, enter into, renew or renegotiate.

(iii) Renegotiate.  
(iv) Right.  
(v) *De minimis* amounts.  
(vi) Exception for lessee construction allowances.

(vii) Examples.  
(7) Certain contract terminations.

(i) In general.  
(ii) Certain break-up fees.  
(iii) Examples.  
(8) Certain benefits arising from the provision, production, or improvement of real property.

(i) In general.  
(ii) Exclusions.  
(iii) Real property.  
(iv) Impact fees and dedicated improvements.  
(v) Examples.

(9) Defense or perfection of title to intangible property.  
(i) In general.  
(ii) Certain break-up fees.  
(iii) Example.  
(e) Transaction costs.

(1) Scope of facilitate.  
(i) In general.  
(ii) Treatment of termination payments.  
(iii) Special rule for contracts.  
(iv) Borrowing costs.  
(v) Special rule for stock redemption costs of open-end regulated investment companies.

(2) Coordination with paragraph (d) of this section.  
(3) Transaction.  
(4) Simplifying conventions.  
(i) In general.

(ii) Employee compensation.  
(iii) *De minimis* costs.  
(iv) Election to capitalize.  
(5) Examples.  
(f) 12-month rule.  
(1) In general.

(2) Duration of benefit for contract terminations.  
(3) Inapplicability to created financial interests and self-created amortizable section 197 intangibles.  
(4) Inapplicability to rights of indefinite duration.

(5) Rights subject to renewal.  
(i) In general.  
(ii) Reasonable expectancy of renewal.  
(iii) Safe harbor pooling method.  
(6) Coordination with section 461.  
(7) Election to capitalize.