INSTRUCTOR NOTE: THESE SELECTED CODE SECTIONS ARE PRESENTED GENERALLY IN NUMERICAL ORDER. THEY HAVE BEEN HEAVILY EDITED WITH A LOT OF IRRELEVANT SENTENCES REMOVED. NOTE THE ABSENCE OF LAW WHEN YOU SEE "….." THIS LAW APPLIES TO MANY OF OUR CHAPTERS.

PLEASE BE PATIENT, INSTRUCTOR WILL EXPLAIN THE MEANING OF THE CONFUSING SENTENCES.

IN MANY CASES, ORIGINAL DOLLAR AMOUNTS HAVE BEEN ADJUSTED FOR INFLATION, BUT CODE SHOWS THE ORIGINAL AMOUNT- NOT NEW AMOUNT.

Code § 1 - Tax imposed

(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES. There is hereby imposed on the taxable income of-

(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table: **Omitted.**

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(3) COST-OF-LIVING ADJUSTMENT. …

(g) CERTAIN UNEARNED INCOME OF CHILDREN TAXED AS IF PARENT'S INCOME

(1) IN GENERAL. In the case of any child to whom this subsection applies, **the tax imposed by this section shall be equal to the greater of—**

(A) the tax imposed by this section without regard to this subsection, or

(B) the sum of—

(i) the tax which would be imposed by this section if the taxable income of such child for the taxable year were reduced by the net unearned income of such child, plus

(ii) such child's share of the allocable parental tax.

(h) MAXIMUM CAPITAL GAINS RATE [INSTRUCTOR NOTE – THIS SECTION IS VERY DIFFICULT TO READ-JUST LEARN THE MEANING]

(1) IN GENERAL. If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

(i) taxable income reduced by the net capital gain; or

(ii) the lesser of—

the amount of taxable income taxed at a rate below 25 percent; or

(II) taxable income reduced by the adjusted net capital gain;

(B) 0 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 25 percent, over

(ii) the taxable income reduced by the adjusted net capital gain;

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(11) DIVIDENDS TAXED AS NET CAPITAL GAIN

(A)In general. For purposes of this subsection, the term "net capital gain" means net capital gain (determined without regard to this paragraph) increased by qualified dividend income.

(B) Qualified dividend income. For purposes of this paragraph—

(i) In general. The term "qualified dividend income" means dividends received during the taxable year from—

(I) domestic corporations, and **(II)** qualified foreign corporations.

Code § 2 - Definitions and special rules

(a) **DEFINITION OF SURVIVING SPOUSE**

(1) IN GENERAL. For purposes of section 1, the term **"surviving spouse"** means a taxpayer—

(A) whose spouse died during either of his two taxable years immediately preceding the taxable year, and

(B) who maintains as his home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent (i) who (within the meaning of section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) is a son, stepson, daughter, or stepdaughter of the taxpayer, and (ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 151.

Code § 11 - Tax imposed

(a) CORPORATIONS IN GENERAL. A tax is hereby imposed for each taxable year on the taxable income of every corporation.

(b) AMOUNT OF TAX

(1) IN GENERAL. The amount of the tax imposed by subsection (a) shall be the sum of—

(A) 15 percent of so much of the taxable income as does not exceed $50,000,

(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000,

(C) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $10,000,000, and

(D) 35 percent of so much of the taxable income as exceeds $10,000,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,750. In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000.

(2) CERTAIN PERSONAL SERVICE CORPORATIONS NOT ELIGIBLE FOR GRADUATED RATES

Notwithstanding paragraph (1), the amount of the tax imposed by subsection (a) on the taxable income of a **qualified personal service corporation** (as defined in section 448(d)(2)) shall be equal to **35 percent** of the taxable income.

Code § 61 - Gross income defined

(a) GENERAL DEFINITION. Except as otherwise provided in this subtitle, **gross income means all income** from whatever source derived, including (but not limited to) the following items:

(1) Compensation for services, including fees, commissions, fringe benefits, and similar items;

(2) Gross income derived from business;

(3) Gains derived from dealings in property;

(4) Interest;

(5) Rents;

(6) Royalties;

(7) Dividends;

(8) Alimony and separate maintenance payments;

(9) Annuities;

(10) Income from life insurance and endowment contracts;

(11) Pensions;

(12) Income from discharge of indebtedness;

(13) Distributive share of partnership gross income;

(14) Income in respect of a decedent; and

(15) Income from an interest in an estate or trust.

(b) CROSS REFERENCES

For items specifically included in gross income, see part II (sec. 71 and following). For items specifically excluded from gross income, see part III (sec. 101 and following).

Code § 62 - Adjusted gross income defined

(a) GENERAL RULE. For purposes of this subtitle, the term "adjusted gross income" means, in the case of an individual, gross income minus the following deductions:

(1) TRADE AND BUSINESS DEDUCTIONS

The deductions allowed by this chapter (other than by part VII of this subchapter) which are **attributable to a trade or business carried on by the taxpayer, if such trade or business does not consist of the performance of services by the taxpayer as an employee.**

(2) CERTAIN TRADE AND BUSINESS DEDUCTIONS OF EMPLOYEES

(A) Reimbursed expenses of employees

The deductions allowed by part VI (section 161 and following) which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer. The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies.

(B) Certain expenses of performing artists…

(C) Certain expenses of officials…

(D) Certain expenses of elementary and secondary school teachers ….

(E) Certain expenses of members of reserve components of the Armed Forces of the United States

..

(3) LOSSES FROM SALE OR EXCHANGE OF PROPERTY

The deductions allowed by part VI (sec. 161 and following) as losses from the sale or exchange of property.

(4) DEDUCTIONS ATTRIBUTABLE TO RENTS AND ROYALTIES

The deductions allowed by part VI (sec. 161 and following), by section 212 (relating to expenses for production of income), ….

(5) CERTAIN DEDUCTIONS OF LIFE TENANTS AND INCOME BENEFICIARIES OF PROPERTY...

(6) PENSION, PROFIT-SHARING, AND ANNUITY PLANS OF SELF-EMPLOYED INDIVIDUALS...

(7) RETIREMENT SAVINGS

The deduction allowed by section 219 (relating to deduction of certain retirement savings).

(9) PENALTIES FORFEITED BECAUSE OF PREMATURE WITHDRAWAL OF FUNDS FROM TIME SAVINGS ACCOUNTS OR DEPOSITS...

(10) ALIMONY. The deduction allowed by section 215.

(13) JURY DUTY PAY REMITTED TO EMPLOYER

Any deduction allowable under this chapter by reason of an individual remitting any portion of any jury pay to such individual's employer in exchange for payment by the employer of compensation for the period such individual was performing jury duty. For purposes of the preceding sentence, the term "jury pay" means any payment received by the individual for the discharge of jury duty.

(15) MOVING EXPENSES. The deduction allowed by section 217.

(16) ARCHER MSAs. The deduction allowed by section 220.

(17) INTEREST ON EDUCATION LOANS. The deduction allowed by section 221.

(18) HIGHER EDUCATION EXPENSES. The deduction allowed by section 222.

(19) HEALTH SAVINGS ACCOUNTS. The deduction allowed by section 223.

(20) COSTS INVOLVING DISCRIMINATION SUITS, ETC.

Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination …

(21) ATTORNEYS FEES RELATING TO AWARDS TO WHISTLEBLOWERS. Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any award under section 7623(b) (relating to awards to whistleblowers). …

(c) CERTAIN ARRANGEMENTS NOT TREATED AS REIMBURSEMENT ARRANGEMENTS. For purposes of subsection (a)(2)(A), an arrangement shall in no event be treated as a reimbursement or other expense allowance arrangement if—

(1) such arrangement does not require the employee to substantiate the expenses covered by the arrangement to the person providing the reimbursement, or

(2) such arrangement provides the employee the right to retain any amount in excess of the substantiated expenses covered under the arrangement.

Code § 63 - Taxable income defined

(a) In general. Except as provided in subsection (b), for purposes of this subtitle, the term "**taxable income" means gross income minus the deductions allowed by this chapter (other than the standard deduction).**

(b) Individuals who do not itemize their deductions. In the case of an individual who does not elect to itemize his deductions for the taxable year, for purposes of this subtitle, the term "taxable income" means adjusted gross income, minus—

(1) the **standard deduction**, and

(2) the deduction for **personal exemptions** provided in section 151.

(c) Standard deduction. For purposes of this subtitle—

(1) In general. Except as otherwise provided in this subsection, the term "standard deduction" means the sum of—

(A) the basic standard deduction, and

(B) the additional standard deduction.

(2) Basic standard deduction. For purposes of paragraph (1), the basic standard deduction is—

(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—

(i) a joint return, or

(ii) a surviving spouse (as defined in section 2(a)),

(B) $4,400 in the case of a head of household (as defined in section 2(b)), or

(C) $3,000 in any other case.

(3) Additional standard deduction for aged and blind. For purposes of paragraph (1), the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (f).

(4) Adjustments for inflation. ...

(5) Limitation on basic standard deduction in the case of certain dependents. In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the basic standard deduction applicable to such individual for such individual's taxable year shall not exceed the greater of—

(A) $500, or

(B) the sum of $250 and such individual's earned income.

(6) Certain individuals, etc., not eligible for standard deduction. In the case of—

(A) a married individual filing a separate return where either spouse itemizes deductions,

(B) a nonresident alien individual,

(C) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, or

(D) an estate or trust, common trust fund, or partnership,

the standard deduction shall be zero.

(d) Itemized deductions. For purposes of this subtitle, the term "itemized deductions" means the deductions allowable under this chapter other than—

(1) the deductions allowable in arriving at adjusted gross income, and

(2) the deduction for personal exemptions provided by section 151.

(e) Election to itemize

(1) In general. Unless an individual makes an election under this subsection for the taxable year, no itemized deduction shall be allowed for the taxable year. For purposes of this subtitle, the determination of whether a deduction is allowable under this chapter shall be made without regard to the preceding sentence.

….

(f) Aged or blind additional amounts

(1) Additional amounts for the aged. The taxpayer shall be entitled to an additional amount of $600—

(A) for himself if he has attained age 65 before the close of his taxable year, and

(B) for the spouse of the taxpayer if the spouse has attained age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

(2) Additional amount for blind. The taxpayer shall be entitled to an additional amount of $600—

(A) for himself if he is blind at the close of the taxable year, and

(B) for the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

… if the spouse dies during the taxable year the determination of whether such spouse is blind shall be made as of the time of such death.

(3) Higher amount for certain unmarried individuals

In the case of an individual who is not married and is not a surviving spouse, paragraphs (1) and (2) shall be applied by substituting “$750” for “$600”.

(4) Blindness defineD… individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, …

(g) Marital status

For purposes of this section, marital status shall be determined under section 7703.

Code § 64 - Ordinary income defined

For purposes of this subtitle, the term “ordinary income” includes any gain from the sale or exchange of **property which is neither a capital asset nor property described in section 1231(b).** Any gain from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as “ordinary income” shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b).

Code § 65 - Ordinary loss defined

For purposes of this subtitle, the term “ordinary loss” includes **any loss from the sale or exchange of property which is not a capital asset**. Any loss from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as “ordinary loss” shall be treated as loss from the sale or exchange of property which is not a capital asset.

Code § 66 - Treatment of community income

(a) Treatment of community income where spouses live apart. If—

(1) 2 individuals are married to each other at any time during a calendar year;

(2) such individuals—

(A) live apart at all times during the calendar year, and

(B) do not file a joint return under section 6013 with each other for a taxable year beginning or ending in the calendar year;

(3) one or both of such individuals have earned income for the calendar year which is community income; and

(4) no portion of such earned income is transferred (directly or indirectly) between such individuals before the close of the calendar year,

then, for purposes of this title, any community income of such individuals for the calendar year shall be treated in accordance with the rules provided by section 879(a).

(b) Secretary may disregard community property laws where spouse not notified of community income. The Secretary may disallow the benefits of any community property law to any taxpayer with respect to any income if such taxpayer acted as if solely entitled to such income and failed to notify the taxpayer’s spouse before the due date (including extensions) for filing the return for the taxable year in which the income was derived of the nature and amount of such income.

(c) Spouse relieved of liability in certain other cases. Under regulations prescribed by the Secretary, if—

(1) an individual does not file a joint return for any taxable year,

(2) such individual does not include in gross income for such taxable year an item of community income properly includible therein which, in accordance with the rules contained in section 879(a), would be treated as the income of the other spouse,

(3) the individual establishes that he or she did not know of, and had no reason to know of, such item of community income, and

(4) taking into account all facts and circumstances, it is inequitable to include such item of community income in such individual’s gross income,

then, for purposes of this title, such item of community income shall be included in the gross income of the other spouse (and not in the gross income of the individual). Under procedures prescribed by the Secretary, if, taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under the preceding sentence, the Secretary may relieve such individual of such liability.

Code § 67 - 2-percent floor on miscellaneous itemized deductions

(a) General rule. In the case of an individual, the miscellaneous itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds **2 percent of adjusted gross income.**

(b) Miscellaneous itemized deductions. For purposes of this section, the term "miscellaneous itemized deductions**" means the itemized deductions other than—**

(1) the deduction under section 163 (relating to interest),

(2) the deduction under section 164 (relating to taxes),

(3) the deduction under section 165(a) for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d),

(4) the deductions under section 170 (relating to charitable, etc., contributions and gifts) and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose),

(5) the deduction under section 213 (relating to medical, dental, etc., expenses),

(6) any deduction allowable for impairment-related work expenses,

(7) the deduction under section 691(c) (relating to deduction for estate tax in case of income in respect of the decedent),

(8) any deduction allowable in connection with personal property used in a short sale,

(9) the deduction under section 1341 (relating to computation of tax where taxpayer restores substantial amount held under claim of right),

(10) the deduction under section 72(b)(3) (relating to deduction where annuity payments cease before investment recovered),

(11) the deduction under section 171 (relating to deduction for amortizable bond premium), and

(12) the deduction under section 216 (relating to deductions in connection with cooperative housing corporations).

(f) Coordination with other limitation. This section shall be applied before the application of the dollar limitation of the second sentence of section 162(a) (relating to trade or business expenses).

Code § 68 - Overall limitation on itemized deductions

(a) General rule. In the case of an individual whose adjusted gross income exceeds the applicable amount, the amount of **the itemized deductions otherwise allowable for the taxable year shall be reduced by the lesser of—**

(1) 3 percent of the excess of adjusted gross income over the applicable amount, or

(2) 80 percent of the amount of the itemized deductions otherwise allowable for such taxable year.

(b) Applicable amount

(1) In general. For purposes of this section, the term "applicable amount" means—

(A) $300,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

(B) $275,000 in the case of a head of household (as defined in section 2(b)),

(C) $250,000 in the case of an individual who is not married and who is not a surviving spouse or head of household, and

(D) ½ the amount applicable under subparagraph (A) (after adjustment, if any, under paragraph (2)) in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

(2) Inflation adjustment. …

(c) Exception for certain itemized deductions. For purposes of this section**, the term "itemized deductions" does not include—**

(1) the deduction under section 213 (relating to medical, etc. expenses),

(2) any deduction for investment interest (as defined in section 163(d)), and

(3) the deduction under section 165(a) for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d).

(d) Coordination with other limitations. This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

Code § 71 - Alimony and separate maintenance payments

(a) GENERAL RULE. Gross income includes amounts received as alimony or separate maintenance payments.

(b) ALIMONY OR SEPARATE MAINTENANCE PAYMENTS DEFINED. For purposes of this section-

(1) IN GENERAL. The term "alimony or separate maintenance payment" means any payment in cash if-

(A) such payment is received by (or on behalf of) a spouse under a divorce or separation instrument,

(B) the divorce or separation instrument does not designate such payment as a payment which is not includible in gross income under this section and not allowable as a deduction under section 215,

(C) in the case of an individual legally separated from his spouse under a decree of divorce or of separate maintenance, the payee spouse and the payor spouse are not members of the same household at the time such payment is made, and

(D) there is no liability to make any such payment for any period after the death of the payee spouse and there is no liability to make any payment (in cash or property) as a substitute for such payments after the death of the payee spouse.

(2) DIVORCE OR SEPARATION INSTRUMENT. The term "divorce or separation instrument" means—

(A) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

(B) a written separation agreement, or

(C) a decree (not described in subparagraph (A)) requiring a spouse to make payments for the support or maintenance of the other spouse.

(c) PAYMENTS TO SUPPORT CHILDREN

(1) IN GENERAL. Subsection (a) shall not apply to that part of any payment which the terms of the divorce or separation instrument fix (in terms of an amount of money or a part of the payment) as a sum which is payable for the support of children of the payor spouse.

(2) TREATMENT OF CERTAIN REDUCTIONS RELATED TO CONTINGENCIES INVOLVING CHILD. For purposes of paragraph (1), if any amount specified in the instrument will be reduced—

(A) on the happening of a contingency specified in the instrument relating to a child (such as attaining a specified age, marrying, dying, leaving school, or a similar contingency), or

(B) at a time which can clearly be associated with a contingency of a kind specified in subparagraph (A), an amount equal to the amount of such reduction will be treated as an amount fixed as payable for the support of children of the payor spouse.

(3) SPECIAL RULE WHERE PAYMENT IS LESS THAN AMOUNT SPECIFIED IN INSTRUMENT

For purposes of this subsection, if any payment is less than the amount specified in the instrument, then so much of such payment as does not exceed the sum payable for support shall be considered a payment for such support.

(d) SPOUSE. For purposes of this section, the term "spouse" includes a former spouse.

(e) EXCEPTION FOR JOINT RETURNS. This section and section 215 shall not apply if the spouses make a joint return with each other.

(g) CROSS REFERENCES. (1) For deduction of alimony or separate maintenance payments, see section 215.

Code § 72 - Annuities; certain proceeds of endowment and life insurance contracts

(a) GENERAL RULES FOR ANNUITIES

(1) INCOME INCLUSION. Except as otherwise provided in this chapter, gross income includes any amount received as an annuity (whether for a period certain or during one or more lives) under an annuity, endowment, or life insurance contract.

…

(b) EXCLUSION RATIO

(1) IN GENERAL. Gross income does not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract (as of the annuity starting date) bears to the expected return under the contract (as of such date).

(2) EXCLUSION LIMITED TO INVESTMENT. The portion of any amount received as an annuity which is excluded from gross income under paragraph (1) shall not exceed the unrecovered investment in the contract immediately before the receipt of such amount.

Code § 83 - Property transferred in connection with performance of services

(a) GENERAL RULE. If, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the excess of—

[We will cover this code section in great detail. More in a separate handout.]

Code § 101 - Certain death benefits

(a) PROCEEDS OF LIFE INSURANCE CONTRACTS PAYABLE BY REASON OF DEATH

(1) GENERAL RULE. Except as otherwise provided in paragraph (2), subsection (d), subsection (f), and subsection (j), gross income does not include amounts received (whether in a single sum or otherwise) under a life insurance contract, if such amounts are paid by reason of the death of the insured.

Code § 102 - Gifts and inheritances

(a)GENERAL RULE

Gross income does not include the value of property acquired by gift, bequest, devise, or inheritance.

(b) INCOME. Subsection (a) shall not exclude from gross income—

(1) the income from any property referred to in subsection (a); or

(2) where the gift, bequest, devise, or inheritance is of income from property, the amount of such income….

(c) EMPLOYEE GIFTS

(1) IN GENERAL. Subsection (a) shall not exclude from gross income any amount transferred by or for an employer to, or for the benefit of, an employee.

(2) CROSS REFERENCES

For provisions excluding certain employee achievement awards from gross income, see section 74(c). For provisions excluding certain de minimis fringes from gross income, see section 132(e).

Code § 103 - Interest on State and local bonds

(a) EXCLUSION

Except as provided in subsection (b), gross income does not include interest on any State or local bond.

..

(c) DEFINITIONS. For purposes of this section and part IV—

(1) STATE OR LOCAL BOND. The term "State or local bond" means an obligation of a State or political subdivision thereof.

(2) STATE. The term "State" includes the District of Columbia and any possession of the United States.

Code § 162 - Trade or business expenses

(a) IN GENERAL. There shall be allowed as a deduction all **the ordinary and necessary expenses** paid or incurred during the taxable year in carrying on any trade or business, including-

(1) a reasonable allowance for salaries or other compensation for personal services actually rendered;

(2) traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and

(3) rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. …………

26 U.S. Code § 163 - Interest

(a) GENERAL RULE. There shall be allowed as a deduction all interest paid or accrued within the taxable year on indebtedness.

(b) INSTALLMENT PURCHASES WHERE INTEREST CHARGE IS NOT SEPARATELY STATED ….

(c) REDEEMABLE GROUND RENTS….

(d) LIMITATION ON INVESTMENT INTEREST

(1) IN GENERAL. In the case of a taxpayer other than a corporation, the amount allowed as a deduction under this chapter for investment interest for any taxable year shall not exceed the net investment income of the taxpayer for the taxable year.

(2) CARRYFORWARD OF DISALLOWED INTEREST. The amount not allowed as a deduction for any taxable year by reason of paragraph (1) shall be treated as investment interest paid or accrued by the taxpayer in the succeeding taxable year.

(3) INVESTMENT INTEREST. For purposes of this subsection—

(A) In general. The term "investment interest" means any interest allowable as a deduction under this chapter (determined without regard to paragraph (1)) which is paid or accrued on indebtedness properly allocable to property held for investment.

(B) Exceptions. The term "investment interest" shall not include—

(i) any qualified residence interest (as defined in subsection (h)(3)), or

(ii) any interest which is taken into account under section 469 in computing income or loss from a passive activity of the taxpayer.

…

(4) NET INVESTMENT INCOME. For purposes of this subsection—

(A) In general. The term “net investment income” means the excess of—

(i) investment income, over

(ii) investment expenses.

(B) Investment income. The term “investment income” means the sum of—

(i) gross income from property held for investment (other than any gain taken into account under clause (ii)(I)),

(ii) the excess (if any) of—

the net gain attributable to the disposition of property held for investment, over

(II) the net capital gain determined by only taking into account gains and losses from dispositions of property held for investment, plus

(iii) so much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause.

Such term shall include qualified dividend income (as defined in section 1(h)(11)(B)) only to the extent the taxpayer elects to treat such income as investment income for purposes of this subsection.

(C) Investment expenses. The term “investment expenses” means the deductions allowed under this chapter (other than for interest) which are directly connected with the production of investment income.

…

(h) DISALLOWANCE OF DEDUCTION FOR PERSONAL INTEREST

(1) IN GENERAL. In the case of a taxpayer other than a corporation, **no deduction shall be allowed under this chapter for personal interest paid or accrued during the taxable year.**

(2) PERSONAL INTEREST. For purposes of this subsection, the term “personal interest” means any interest allowable as a deduction under this chapter other than—

(A) interest paid or accrued on indebtedness properly allocable to a trade or business (other than the trade or business of performing services as an employee),

(B) any investment interest (within the meaning of subsection (d)),

(C) any interest which is taken into account under section 469 in computing income or loss from a passive activity of the taxpayer,

(D) any qualified residence interest (within the meaning of paragraph (3)),

(E) any interest payable under section 6601 on any unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6163, and

(F) any interest allowable as a deduction under section 221 (relating to interest on educational loans).

(3) QUALIFIED RESIDENCE INTEREST. For purposes of this subsection—

(A) In general. The term “qualified residence interest” means any interest which is paid or accrued during the taxable year on—

(i) acquisition indebtedness with respect to any qualified residence of the taxpayer, or

(ii) home equity indebtedness with respect to any qualified residence of the taxpayer.

For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

(B) Acquisition indebtedness

(i) In general. The term “acquisition indebtedness” means any indebtedness which—

(I) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

(II) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

(ii) $1,000,000 limitation

The aggregate amount treated as acquisition indebtedness for any period shall not exceed $1,000,000 ($500,000 in the case of a married individual filing a separate return).

(C) Home equity indebtedness

(i) In general. The term “home equity indebtedness” means any indebtedness (other than acquisition indebtedness) secured by a qualified residence to the extent the aggregate amount of such indebtedness does not exceed—

(I) the fair market value of such qualified residence, reduced by

(II) the amount of acquisition indebtedness with respect to such residence.

(ii) Limitation. The aggregate amount treated as home equity indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

(D)Treatment of indebtedness incurred on or before October 13, 1987….

(E) Mortgage insurance premiums treated as interest

(i) In general. Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this section as interest which is qualified residence interest.

[This deduction applies to years before 2015]

(4) Other definitions and special rules. For purposes of this subsection—

(A) Qualified residence

(i) In general. The term “qualified residence” means—

(I) the principal residence (within the meaning of section 121) of the taxpayer, and

(II) 1 other residence of the taxpayer which is selected by the taxpayer for purposes of this subsection for the taxable year and which is used by the taxpayer as a residence (within the meaning of section 280A(d)(1)).

(ii) Married individuals filing separate returns. If a married couple does not file a joint return for the taxable year—

(I) such couple shall be treated as 1 taxpayer for purposes of clause (i), and

(II) each individual shall be entitled to take into account 1 residence unless both individuals consent in writing to 1 individual taking into account the principal residence and 1 other residence.

(iii) Residence not rented. For purposes of clause (i)(II), notwithstanding section 280A(d)(1), if the taxpayer does not rent a dwelling unit at any time during a taxable year, such unit may be treated as a residence for such taxable year.

(B) Special rule for cooperative housing corporations

Any indebtedness secured by stock held by the taxpayer as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder. If stock described in the preceding sentence may not be used to secure indebtedness, indebtedness shall be treated as so secured if the taxpayer establishes to the satisfaction of the Secretary that such indebtedness was incurred to acquire such stock.

(C) Unenforceable security interests…

(D) Special rules for estates and trusts…

Code § 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.

…

(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.

(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.

…

(E) Compensating use taxes. A compensating use tax with respect to an item shall be treated as a general sales tax. …

(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…

(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.

(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.

Code § 165 - Losses

(a) GENERAL RULE. There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) AMOUNT OF DEDUCTION. For purposes of subsection (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) LIMITATION ON LOSSES OF INDIVIDUALS. In the case of an individual, the deduction under subsection (a) shall be limited to—

(1) losses incurred in a trade or business;

(2) losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(3) except as provided in subsection (h), losses of property not connected with a trade or business or a transaction entered into for profit, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft.

(d) WAGERING LOSSES. Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(e) THEFT LOSSES. For purposes of subsection (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) CAPITAL LOSSES. Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in sections 1211 and 1212.

(g) WORTHLESS SECURITIES

(1) GENERAL RULE. If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this subtitle, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset….

(3) SECURITIES IN AFFILIATED CORPORATION. For purposes of paragraph (1), any security in a corporation affiliated with a taxpayer which is a domestic corporation shall not be treated as a capital asset. For purposes of the preceding sentence, a corporation shall be treated as affiliated with the taxpayer only if—

(A) the taxpayer owns directly stock in such corporation meeting the requirements of section 1504(a)(2), …

(i) DISASTER LOSSES

(1) ELECTION TO TAKE DEDUCTION FOR PRECEDING YEAR. Notwithstanding the provisions of subsection (a), any loss occurring in a disaster area and attributable to a federally declared disaster may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred. ……

(5) For special rule for losses on small business stock, see section 1244.

Code § 166 - Bad debts

(a) General rule

(1) Wholly worthless debts. There shall be allowed as a deduction any debt which becomes worthless within the taxable year.

(2) Partially worthless debts. …

(b) Amount of deduction. For purposes of subsection (a), the basis for determining the amount of the deduction for any bad debt shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property. …………

(d) Nonbusiness debts

(1) General rule. In the case of a taxpayer other than a corporation-

(A) subsection (a) shall not apply to any nonbusiness debt; and

(B) where any nonbusiness debt becomes worthless within the taxable year, the loss resulting therefrom shall be **considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 1 year.**

Code § 170 - Charitable, etc., contributions and gifts

(a) Allowance of deduction

(1) General rule. There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. ..

(2) Corporations on accrual basis. In the case of a corporation reporting its taxable income on the accrual basis, if—

(A) the board of directors authorizes a charitable contribution during any taxable year, and

(B) payment of such contribution is made after the close of such taxable year and on or before the 15th day of the fourth month following the close of such taxable year, …

(3) Future interests in tangible personal property…

(b) Percentage limitations

(1) Individuals. In the case of an individual, the deduction provided in subsection (a) shall be limited as provided in the succeeding subparagraphs.

(A) General rule. Any charitable contribution to—

(i) a church or a convention or association of churches,

(ii) an educational organization …

(iii) an organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research, ….

…

(v) a governmental unit referred to in subsection (c)(1),

…

shall be allowed to the extent that the aggregate of such contributions does not exceed 50 percent of the taxpayer's contribution base for the taxable year.

(B) Other contributions. Any charitable contribution other than a charitable contribution to which subparagraph (A) applies shall be allowed to the extent that the aggregate of such contributions does not exceed the lesser of—

(i) 30 percent of the taxpayer's contribution base for the taxable year, or

(ii) the excess of 50 percent of the taxpayer's contribution base for the taxable year over the amount of charitable contributions allowable ..

(C) Special limitation with respect to contributions described in subparagraph (A) of certain capital gain property

… At the election of the taxpayer … subsection (e)(1) shall apply to all contributions of capital gain property (to which subsection (e)(1)(B) does not otherwise apply) made by the taxpayer during the taxable year. If such an election is made, clauses (i) and (ii) shall not apply to contributions of capital gain property made during the taxable year, and, in applying subsection (d)(1) for such taxable year with respect to contributions of capital gain property made in any prior contribution year for which an election was not

made under this clause, such contributions shall be reduced as if subsection (e)(1) had applied to such contributions in the year in which made.

(iv) For purposes of this paragraph, the term "capital gain property" means, with respect to any contribution, any capital asset the sale of which at its fair market value at the time of the contribution would have resulted in gain which would have been long-term capital gain. For purposes of the preceding sentence, any property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

(E)Contributions of qualified conservation contributions…

(G)Contribution base defined. For purposes of this section, the term "contribution base" means adjusted gross income (computed without regard to any net operating loss carryback to the taxable year under section 172).

(2) CORPORATIONS. In the case of a corporation—

(A) In general. The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) **shall not exceed 10 percent of the taxpayer's taxable income**.

(C)Taxable income. For purposes of this paragraph, taxable income shall be computed without regard to—

- **(i)** this section,
- **(ii)** part VIII (except section 248),
- **(iii)** any net operating loss carryback to the taxable year under section 172,
- **(iv)** section 199, and
- **(v)** any capital loss carryback to the taxable year under section 1212(a)(1).

(c) CHARITABLE CONTRIBUTION DEFINED. For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of—

(1) A State, a possession of the United States, .

(2) A corporation, trust, or community chest, ..

(d) CARRYOVERS OF EXCESS CONTRIBUTIONS

(1) INDIVIDUALS

(A) In general. In the case of an individual, if the amount of charitable contributions described in subsection (b)(1)(A) payment of which is made within a taxable year (hereinafter in this paragraph referred to as the "contribution year") exceeds 50 percent of the taxpayer's contribution base for such year**, such excess shall be treated as a charitable contribution described in subsection (b)(1)(A) paid in each of the 5 succeeding taxable years** …

(2) CORPORATIONS

(A) In general. Any contribution made by a corporation in a taxable … in excess of the amount deductible for such year under subsection (b)(2)(A) shall be deductible for each of the 5 succeeding taxable years in order of time, …

(e) CERTAIN CONTRIBUTIONS OF ORDINARY INCOME AND CAPITAL GAIN PROPERTY

(1) GENERAL RULE. The **amount of any charitable contribution of property otherwise taken into account under this section shall be reduced by the sum of—**

(A) the amount of gain which would not have been long-term capital gain (determined without regard to section 1221(b)(3)) if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), and

(B) in the case of a charitable contribution—

(i) of tangible personal property—

(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 ….

(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS

(A) General rule. No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

(B) Content of acknowledgement. An acknowledgement meets the requirements of this subparagraph if it includes the following information:

(i) The amount of cash and a description (but not value) of any property other than cash contributed.

(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any property described in clause (i).

(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term "intangible religious benefit" means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

(C) Contemporaneous. For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

- **(i)** the date on which the taxpayer files a return for the taxable year in which the contribution was made, or
- **(ii)** the due date (including extensions) for filing such return.

(D) Substantiation not required for contributions reported by the donee organization

Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

..

..

(11) Qualified appraisal and other documentation for certain contributions

(A) In general

(i) Denial of deduction. In the case of an individual, partnership, or corporation, no deduction shall be allowed under subsection (a) for any contribution of property for which a deduction of **more than $500** is claimed unless such person meets the requirements of subparagraphs (B), (C), and (D), as the case may be, with respect to such contribution.

(ii) Exceptions

(I) Readily valued property. Subparagraphs (C) and (D) shall not apply to cash, property described in subsection (e)(1)(B)(iii) or section 1221(a)(1), publicly traded securities (as defined in section 6050L(a)(2)(B)), and any qualified vehicle described in paragraph (12)(A)(ii) for which an acknowledgement under paragraph (12)(B)(iii) is provided.

(II) Reasonable cause

Clause (i) shall not apply if it is shown that the failure to meet such requirements is due to reasonable cause and not to willful neglect.

(B) Property description for contributions of more than $500…

(C) Qualified appraisal for contributions of more than $5,000…

(12) Contributions of used motor vehicles, boats, and airplanes…

(B) Content of acknowledgement. An acknowledgement meets the requirements of this subparagraph if it includes the following information:

(i) The name and taxpayer identification number of the donor.

(ii) The vehicle identification number or similar number.

(iii) In the case of a qualified vehicle to which subparagraph …

(C) Contemporaneous. For purposes of subparagraph (A), an acknowledgement shall be considered to be contemporaneous if the donee organization provides it within 30 days of—

(i) the sale of the qualified vehicle, or

(ii) in the case of an acknowledgement including a certification described in subparagraph (B)(iv), the contribution of the qualified vehicle.

(16) Contributions of clothing and household items

(A) In general. In the case of an individual, partnership, or corporation, no deduction shall be allowed under subsection (a) for any contribution of clothing or a household item unless such clothing or household item is in good used condition or better.

(B) Items of minimal value

Notwithstanding subparagraph (A), the Secretary may by regulation deny a deduction under subsection (a) for any contribution of clothing or a household item which has minimal monetary value.

(C) Exception for certain property

Subparagraphs (A) and (B) shall not apply to any contribution of a single item of clothing or a household item for which a deduction of more than $500 is claimed if the taxpayer includes with the taxpayer's return a qualified appraisal with respect to the property.

(D) Household items. For purposes of this paragraph—

(i) In general. The term "household items" includes furniture, furnishings, electronics, appliances, linens, and other similar items.

(ii) Excluded items. Such term does not include—

(I) food, **(II)** paintings, antiques, and other objects of art, **(III)** jewelry and gems, and **(IV)** collections.

(18) Contributions to donor advised funds …

(g) Amounts paid to maintain certain students as members of taxpayer's household

(1) In general. Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 152) ..

(A) a member of the taxpayer's household .. and

(B) a full-time pupil or student … located in the United States [Deduction allowed]

Code § 267 - Losses, expenses, and interest with respect to transactions between related taxpayers

(a) In general-

(1) Deduction for losses disallowed. No deduction shall be allowed in respect of any loss from the sale or exchange of property, directly or indirectly, between persons specified in any of the paragraphs of subsection (b). The **preceding sentence shall not apply** to any loss of the distributing corporation (or the distributee) in the case of a distribution **in complete liquidation.**

(d) Amount of gain where loss previously disallowed If-

(1) in the case of a sale or exchange of property to the taxpayer a loss sustained by the transferor is not allowable to the transferor as a deduction by reason of subsection (a)(1); and

(2) the taxpayer sells or otherwise disposes of such property (or of other property the basis of which in his hands is determined directly or indirectly by reference to such property) at a gain,

then **such gain shall be recognized only to the extent that it exceeds so much of such loss as is properly allocable to the property sold or otherwise disposed of by the taxpayer.** This subsection shall not apply if the loss sustained by the transferor is not allowable to the transferor as a deduction by reason of section 1091 (relating to wash sales).

Code § 453 - Installment method

(a) General rule. Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the **installment method.**

(b) Installment sale defined. For purposes of this section-

(1) In general. The term "installment sale" means a disposition of property where at least 1 payment is to be received after the close of the taxable year in which the disposition occurs.

(2) Exceptions. The term "installment sale" does not include-

(A) Dealer dispositions. Any dealer disposition (as defined in subsection (*l*)).

(B) Inventories of personal property. A disposition of personal property of a kind which is required to be included in the inventory of the taxpayer if on hand at the close of the taxable year.

(c) Installment method defined. For purposes of this section, the term "installment method" means a method under which the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

(d) Election out

(1) In general. Subsection (a) shall not apply to any disposition if the taxpayer elects to have subsection (a) not apply to such disposition.

(2) Time and manner for making election. Except as otherwise provided by regulations, an election under paragraph (1) with respect to a disposition may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed by this chapter for the taxable year in which the disposition occurs. Such an election shall be made in the manner prescribed by regulations.

(3) Election revocable only with consent. An election under paragraph (1) with respect to any disposition may be revoked only with the consent of the Secretary.

(e) Second dispositions by related persons

(1) In general. If—

(A) any person disposes of property to a related person (hereinafter in this subsection referred to as the "first disposition"), and

(B) before the person making the first disposition receives all payments with respect to such disposition, the related person disposes of the property (hereinafter in this subsection referred to as the "second disposition"),

then, for purposes of this section, the amount realized with respect to such second disposition shall be treated as received at the time of the second disposition by the person making the first disposition.

(h) Use of installment method by shareholders in certain liquidations

(1) Receipt of obligations not treated as receipt of payment

(A) In general. If, in a liquidation to which section 331 applies, the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period beginning on the date a plan of complete liquidation is adopted and the liquidation is completed during such 12-month period, then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock.

(i) Recognition of recapture income in year of disposition

(1) In general. In the case of any installment sale of property to which subsection (a) applies—

(A) notwithstanding subsection (a), any recapture income shall be recognized in the year of the disposition, and

(B) any gain in excess of the recapture income shall be taken into account under the installment method.

(2) Recapture income. For purposes of paragraph (1), the term "recapture income" means, with respect to any installment sale, the aggregate amount which would be treated as ordinary income under (or so much of section 751 as relates to section 1245 or 1250) for the taxable year of the disposition if all payments to be received were received in the taxable year of disposition.

Code § 1001 - Determination of amount of and recognition of gain or loss

(a) COMPUTATION OF GAIN OR LOSS. **The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 1011 for determining gain**, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) AMOUNT REALIZED. The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received. In determining the amount realized—

(1) there shall not be taken into account any amount received as reimbursement for real property taxes which are treated under section 164(d) as imposed on the purchaser, and

(2) there shall be taken into account amounts representing real property taxes which are treated under section 164(d) as imposed on the taxpayer if such taxes are to be paid by the purchaser.

(c) RECOGNITION OF GAIN OR LOSS. Except as otherwise provided in this subtitle, the entire amount of the gain or loss, determined under this section, on the sale or exchange of property shall be recognized.

(d) INSTALLMENT SALES. Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

Code § 1011 - Adjusted basis for determining gain or loss

(a) GENERAL RULE. The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis (determined under section 1012 or other applicable sections of this subchapter and subchapters C (relating to corporate distributions and adjustments), K (relating to partners and partnerships), and P (relating to capital gains and losses)), adjusted as provided in section 1016.

Code § 1012 - Basis of property—cost

(a) IN GENERAL. The basis of property shall be the cost of such property, except as otherwise provided in this subchapter and subchapters C (relating to corporate distributions and adjustments), K (relating to partners and partnerships), and P (relating to capital gains and losses).

Code § 1014 - Basis of property acquired from a decedent

(a) IN GENERAL. Except as otherwise provided in this section, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged, or otherwise disposed of before the decedent's death by such person, be- **(1) the fair market value of the property at the date of the decedent's death,….**

Code § 1015 - Basis of property acquired by gifts and transfers in trust

(a) GIFTS AFTER DECEMBER 31, 1920. If the property was acquired by gift after December 31, 1920, **the basis shall be the same as it would be in the hands of the donor** or the last preceding owner by whom it was not acquired by gift, **excep**t that if such basis (adjusted for the period before the date of the gift as provided in section 1016) is greater than the fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the Secretary shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the Secretary finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the Secretary as of the date or approximate date at

which, according to the best information that the Secretary is able to obtain, such property was acquired by such donor or last preceding owner.

(d) INCREASED BASIS FOR GIFT TAX PAID

(1) IN GENERAL. If-….

Code § 1031 - Exchange of property held for productive use or investment

(a) NONRECOGNITION OF GAIN OR LOSS FROM EXCHANGES SOLELY IN KIND

(1) IN GENERAL. No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment.

(b) GAIN FROM EXCHANGES NOT SOLELY IN KIND

If an exchange would be within the provisions of subsection (a), of section 1035(a), of section 1036(a), or of section 1037(a), if it were not for the fact that the property received in exchange consists not only of property permitted by such provisions to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(c)LOSS FROM EXCHANGES NOT SOLELY IN KIND

If an exchange would be within the provisions of subsection (a), of section 1035(a), of section 1036(a), or of section 1037(a), if it were not for the fact that the property received in exchange consists not only of property permitted by such provisions to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(d) BASIS

If property was acquired on an exchange described in this section, section 1035(a), section 1036(a), or section 1037(a), then the basis shall be the same as that of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized on such exchange. ….For purposes of this section, section 1035(a), and section 1036(a), where as part of the consideration to the taxpayer another party to the exchange assumed (as determined under section 357(d)) a liability of the taxpayer, **such assumption shall be considered as money received by the taxpayer on the exchange**.

Code § 1032 - Exchange of stock for property

(a) NONRECOGNITION OF GAIN OR LOSS. No gain or loss shall be recognized to a corporation on the receipt of money or other property in exchange for stock (including treasury stock) of such corporation. No gain or loss shall be recognized by a corporation with respect to any lapse or acquisition of an option, or with respect to a securities futures contract (as defined in section 1234B), to buy or sell its stock (including treasury stock).

(b) BASIS. For basis of property acquired by a corporation in certain exchanges for its stock, see section 362.

Code § 1033 - Involuntary conversions

(a) GENERAL RULE. If property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted—

(1) CONVERSION INTO SIMILAR PROPERTY. Into property similar or related in service or use to the property so converted, no gain shall be recognized.

(2) CONVERSION INTO MONEY. Into money or into property not similar or related in service or use to the converted property, the gain (if any) shall be recognized except to the extent hereinafter provided in this paragraph:

(A) Nonrecognition of gain. If the taxpayer during the period specified in subparagraph (B), for the purpose of replacing the property so converted, purchases other property similar or related in service or use to the property so converted, or purchases stock in the acquisition of control of a corporation owning such other property**, at the election of the taxpayer** the gain shall be recognized only to the extent that the amount realized upon such conversion (regardless of whether such amount is received in one or more taxable years) exceeds the cost of such other property or such stock. …

Code § 1041 - Transfers of property between spouses or incident to divorce

(a) GENERAL RULE. No gain or loss shall be recognized on a transfer of property from an individual to (or in trust for the benefit of)—

(1) a spouse, or

(2) a former spouse, but only if the transfer is incident to the divorce.

(b) TRANSFER TREATED AS GIFT; TRANSFEREE HAS TRANSFEROR'S BASIS. In the case of any transfer of property described in subsection (a)—

(1) for purposes of this subtitle, the property shall be treated as acquired by the transferee by gift, and

(2) the basis of the transferee in the property shall be the adjusted basis of the transferor.

Code § 1091 - Loss from wash sales of stock or securities

(a) DISALLOWANCE OF LOSS DEDUCTION. In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, **the taxpayer has acquired … substantially identical stock or securities, then no deduction shall be allowed under section 165** unless the taxpayer is a dealer in stock or securities and the loss is sustained in a transaction made in the ordinary course of such business. …

…

(d) UNADJUSTED BASIS IN CASE OF WASH SALE OF STOCK If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under this section or corresponding provisions of prior internal revenue laws) of the loss from the sale or other disposition of substantially identical stock or securities, **then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.**

Code § 1201 - Alternative tax for corporations [Instructor note, the section is a lot about nothing – in effect there is no special capital gains rate for corps.]

(a) GENERAL RULE. If for any taxable year a corporation has a net capital gain and any rate of tax imposed by section 11, 511, or 831(a) or (b) (whichever is applicable) exceeds 35 percent (determined without regard to the last 2 sentences of section 11(b)(1)), then, in lieu of any such tax, there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

(2) a tax of **35 percent of the net capital gain** (or, if less, taxable income).

Code § 1211 - Limitation on capital losses

(a) CORPORATIONS. In the case of a corporation, losses from sales or exchanges of capital assets shall be **allowed only to the extent of gains** from such sales or exchanges.

(b) OTHER TAXPAYERS. In the case of a taxpayer other than a corporation, **losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains** from such sales or exchanges, **plus** (if such losses exceed such gains) the lower of—

(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

(2) the excess of such losses over such gains.

Code § 1212 - Capital loss carrybacks and carryovers

(a) CORPORATIONS

(1) IN GENERAL. If a corporation has a net capital loss for any taxable year (hereinafter in this paragraph referred to as the "loss year"), the amount thereof shall be—

(A) a **capital loss carryback to each of the 3 taxable years preceding the loss year,** but only to the extent—

(i) such loss is not attributable to a foreign expropriation capital loss, and

(ii) the carryback of such loss does not increase or produce a net operating loss (as defined in section 172(c)) for the taxable year to which it is being carried back;

(B) except as provided in subparagraph (C**), a capital loss carryover to each of the 5 taxable years succeeding the loss year;** and

(C) a capital loss carryover to each of the 10 taxable years succeeding the loss year, but only to the extent such loss is attributable to a foreign expropriation loss,…

(b) OTHER TAXPAYERS

(1) IN GENERAL. If a taxpayer other than a corporation has a net capital loss for any taxable year—

(A) the excess of the net short-term capital loss over the net long-term capital gain for such year shall be a short-term capital loss in the succeeding taxable year, and

(B) the excess of the net long-term capital loss over the net short-term capital gain for such year shall be a long-term capital loss in the succeeding taxable year.

Code § 1221 - Capital asset defined

(a) IN GENERAL. For purposes of this subtitle, the term "capital asset" means property held by the taxpayer (whether or not connected with his trade or business), **but does not include**—

(1) stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business;

(2) property, used in his trade or business, of a character which is subject to the allowance for depreciation provided in section 167, or real property used in his trade or business;

(3) a copyright, a literary, musical, or artistic composition, a letter or memorandum, or similar property, held by—

(A) a taxpayer whose personal efforts created such property,

(B) in the case of a letter, memorandum, or similar property, a taxpayer for whom such property was prepared or produced, or

(C) a taxpayer in whose hands the basis of such property is determined, for purposes of determining gain from a sale or exchange, in whole or part by reference to the basis of such property in the hands of a taxpayer described in subparagraph (A) or (B);

(4) accounts or notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property described in paragraph (1);

(5) a publication of the United States Government (including the Congressional Record) which is received from the United States Government or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by—

(A) a taxpayer who so received such publication, or

(B) a taxpayer in whose hands the basis of such publication is determined, for purposes of determining gain from a sale or exchange, in whole or in part by reference to the basis of such publication in the hands of a taxpayer described in subparagraph (A);

(6) any commodities derivative financial instrument held by a commodities derivatives dealer, unless—

(A) it is established to the satisfaction of the Secretary that such instrument has no connection to the activities of such dealer as a dealer, and

(B) such instrument is clearly identified in such dealer's records as being described in subparagraph (A) before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe);

(7) any hedging transaction which is clearly identified as such before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe); or

(8) supplies of a type regularly used or consumed by the taxpayer in the ordinary course of a trade or business of the taxpayer.

(b) DEFINITIONS AND SPECIAL RULES ….

(3) SALE OR EXCHANGE OF SELF-CREATED MUSICAL WORKS
At the election of the taxpayer, paragraphs (1) and (3) of subsection (a) shall not apply to musical compositions or copyrights in musical works sold or exchanged by a taxpayer described in subsection (a)(3).

Code § 1222 - Other terms relating to capital gains and losses

For purposes of this subtitle-

(1) Short-term capital gain

The term "short-term capital gain" means gain from the sale or exchange of a capital asset held for not more than 1 year, if and to the extent such gain is taken into account in computing gross income.

(2) Short-term capital loss

The term "short-term capital loss" means loss from the sale or exchange of a capital asset held for not more than 1 year, if and to the extent that such loss is taken into account in computing taxable income.

(3) Long-term capital gain

The term "long-term capital gain" means gain from the sale or exchange of a capital asset held for more than 1 year, if and to the extent such gain is taken into account in computing gross income.

(4) Long-term capital loss

The term "long-term capital loss" means loss from the sale or exchange of a capital asset held for more than 1 year, if and to the extent that such loss is taken into account in computing taxable income.

(5) Net short-term capital gain

The term "net short-term capital gain" means the excess of short-term capital gains for the taxable year over the short-term capital losses for such year.

(6) Net short-term capital loss

The term "net short-term capital loss" means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year.

(7) Net long-term capital gain

The term "net long-term capital gain" means the excess of long-term capital gains for the taxable year over the long-term capital losses for such year.

(8) Net long-term capital loss

The term "net long-term capital loss" means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year.

(9) Capital gain net income

The term "capital gain net income" means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges.

(10) Net capital loss

The term "net capital loss" means the excess of the losses from sales or exchanges of capital assets over the sum allowed under section 1211. In the case of a corporation, for the purpose of determining losses under this paragraph, amounts which are short-term capital losses under section 1212(a)(1) shall be excluded.

(11) Net capital gain

The term "net capital gain" means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year.

Code § 1223 - Holding period of property

For purposes of this subtitle-

(1) In determining the period for which the taxpayer has held property received in an exchange, there shall be included the period for which he held the property exchanged if, under this chapter, the property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged, and, in the case of such exchanges the property exchanged at the time of such exchange was a capital asset as defined in section 1221 or property described in section 1231. For purposes of this paragraph—

- **(A)** an involuntary conversion described in section 1033 shall be considered an exchange of the property converted for the property acquired, and
- **(B)** a distribution to which section 355 (or so much of section 356 as relates to section 355) applies shall be treated as an exchange.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under this chapter such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 1091 relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(4) In determining the period for which the taxpayer has held stock or rights to acquire stock received on a distribution, if the basis of such stock or rights is determined under section 307, there shall (under regulations prescribed by the Secretary) be included the period for which he held the stock in the

distributing corporation before the receipt of such stock or rights upon such distribution.

(5) In determining the period for which the taxpayer has held stock or securities acquired from a corporation by the exercise of rights to acquire such stock or securities, there shall be included only the period beginning with the date on which the right to acquire was exercised.

[(6) …..]

(7) In determining the period for which the taxpayer has held a commodity acquired in satisfaction of a commodity futures contract (other than a commodity futures contract to which section 1256 applies) there shall be included the period for which he held the commodity futures contract if such commodity futures contract was a capital asset in his hands.

[(8) ….]

(9) In the case of a person **acquiring property from a decedent** or to whom property passed from a decedent (within the meaning of section 1014(b)), if—

- **(A)** the basis of such property in the hands of such person is determined under section 1014, and
- **(B)** such property is sold or otherwise disposed of by such person within 1 year after the decedent's death,

then such person shall be considered to have held such property for more than 1 year.

(10) If—

- **(A)** property is acquired by any person in a transfer to which section 1040 applies,
- **(B)** such property is sold or otherwise disposed of by such person within 1 year after the decedent's death, and
- **(C)** such sale or disposition is to a person who is a qualified heir (as defined in section 2032A(e)(1)) with respect to the decedent,

then the person making such sale or other disposition shall be considered to have held such property for more than 1 year.

(11) In determining the period for which the taxpayer has held qualified replacement property (within the meaning of section 1042(b)) the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale of qualified securities (within the meaning of section 1042(b)), there shall be included the period for which such qualified securities had been held by the taxpayer.

(12) In determining the period for which the taxpayer has held property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property had been held as of the date of such sale.

(13) Except for purposes of sections 1202(a)(2), 1202(c)(2)(A), 1400B(b), and 1400F(b), in determining the period for which the taxpayer has held property the acquisition of which resulted under section 1045 or 1397B in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property has been held as of the date of such sale.

(14) If the security to which a securities futures contract (as defined in section 1234B) relates (other than a contract to which section 1256 applies) is acquired in satisfaction of such contract, in determining the period for which the taxpayer has held such security, there shall be included the period for which the taxpayer held such contract if such contract was a capital asset in the hands of the taxpayer.

Code § 1244 - Losses on small business stock

(a) General rule. In the case of an individual, a loss on section 1244 stock issued to such individual or to a partnership which would (but for this section) be treated as a loss from the sale or exchange of a capital asset shall, to the extent provided in this section, be treated as an ordinary loss.

(b) Maximum amount for any taxable year. For any taxable year the aggregate amount treated by the taxpayer by reason of this section as an ordinary loss shall not exceed—

- **(1)** $50,000, or
- **(2)** $100,000, in the case of a husband and wife filing a joint return for such year under section 6013.

(c) Section 1244 stock defined

(1) In general. For purposes of this section, the term "section 1244 stock" means stock in a domestic corporation if—

- **(A)** at the time such stock is issued, such corporation was a small business corporation,
- **(B)** such stock was issued by such corporation for money or other property (other than stock and securities), and
- **(C)** ...

(3) SMALL BUSINESS CORPORATION DEFINED

(A) In general. For purposes of this section, a corporation shall be treated as a small business corporation if the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, does not exceed $1,000,000. The determination under the preceding sentence shall be made as of the time of the issuance of the stock in question but shall include amounts received for such stock and for all stock theretofore issued.

Code § 1245 - Gain from dispositions of certain depreciable property

(a) GENERAL RULE

(1) ORDINARY INCOME. Except as otherwise provided in this section, if section 1245 property is disposed of the amount by which the lower of—

(A) the recomputed basis of the property, or

(B) (i) in the case of a sale, exchange, or involuntary conversion, the amount realized, or

(ii) in the case of any other disposition, the fair market value of such property,

exceeds the adjusted basis of such property shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

(2) RECOMPUTED BASIS. For purposes of this section—

(A) In general. The term "recomputed basis" means, with respect to any property, its adjusted basis recomputed by adding thereto all adjustments reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation or amortization. ….

(3) SECTION 1245 PROPERTY. For purposes of this section, the term "section 1245 property" means any property which is or has been property of a character subject to the allowance for depreciation provided in section 167 and is either—

(A) personal property, **….**

Code § 1250 - Gain from dispositions of certain depreciable realty

(a) GENERAL RULE. Except as otherwise provided in this section—

(1) ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1975

(A) In general. If section 1250 property is disposed of after December 31, 1975, then the applicable percentage of the lower of—

(i) that portion of the additional depreciation (as defined in subsection (b)(1) or (4)) attributable to periods after December 31, 1975, in respect of the property, or

(ii) the **excess of the amount realized** (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such property (in the case of any other disposition), **over the adjusted basis of such property,**

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle. ….

(b) ADDITIONAL DEPRECIATION DEFINED. For purposes of this section—

(1) IN GENERAL. The term "additional depreciation" means, in the case of any property, the depreciation adjustments in respect of such property; except that, in the case of property held more than one year, it means such adjustments **only to the extent that they exceed the amount of the depreciation adjustments which would have resulted if such adjustments had been determined for each taxable year under the straight line method of adjustment.**

[INSTRUCTOR NOTE: THESE LAST TWO CODE SECTIONS ARE SHOW HERE, OUT OF ORDER, BECAUSE THEY RELATE ALMOST ENTIRELY TO A SINGLE CHAPTER – CHAPTER 4. These amounts are generally inflation adjusted to the current year.]

Code § 151 - Allowance of deductions for personal exemptions

(a) ALLOWANCE OF DEDUCTIONS. In the case of an individual, the exemptions provided by this section shall be allowed as deductions in computing taxable income.

(b) TAXPAYER AND SPOUSE. An exemption of the exemption amount for the taxpayer; and an additional exemption of the exemption amount for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(c) ADDITIONAL EXEMPTION FOR DEPENDENTS

An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.

(d) EXEMPTION AMOUNT. For purposes of this section—

(1) IN GENERAL. Except as otherwise provided in this subsection, the term “exemption amount” means $2,000.

(2) EXEMPTION AMOUNT DISALLOWED IN CASE OF CERTAIN DEPENDENTS. In the case of an individual with respect to whom a deduction under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual’s taxable year begins, the exemption amount applicable to such individual for such individual’s taxable year shall be zero.

(3) PHASEOUT

(A) In general. In the case of any taxpayer whose adjusted gross income for the taxable year exceeds the applicable amount in effect under section 68(b), the exemption amount shall be reduced by the applicable percentage.

(B) Applicable percentage. For purposes of subparagraph (A), the term “applicable percentage” means **2 percentage points for each $2,500** (or fraction thereof) by which the taxpayer’s adjusted gross income for the taxable year exceeds the applicable amount in effect under section 68(b). In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting “$1,250” for “$2,500”. In no event shall the applicable percentage exceed 100 percent.

(C) Coordination with other provisions

The provisions of this paragraph shall not apply for purposes of determining whether a deduction under this section with respect to any individual is allowable to another taxpayer for any taxable year.

(4) INFLATION ADJUSTMENT...

(e) IDENTIFYING INFORMATION REQUIRED

No exemption shall be allowed under this section with respect to any individual unless the TIN of such individual is included on the return claiming the exemption.

26 U.S. Code § 152 - Dependent defined

(a) IN GENERAL. For purposes of this subtitle, the term “dependent” means—

(1) a qualifying child, or

(2) a qualifying relative.

(b) EXCEPTIONS. For purposes of this section—

(1) DEPENDENTS INELIGIBLE. If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

(2) MARRIED DEPENDENTS. An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual’s spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES

(A) In general. The term “dependent” does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

(B) Exception for adopted child. Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of “dependent” if—

(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer’s household, and

(ii) the taxpayer is a citizen or national of the United States.

(c) QUALIFYING CHILD. For purposes of this section—

(1) IN GENERAL. The term "qualifying child" means, with respect to any taxpayer for any taxable year, an individual—

(A) who bears a relationship to the taxpayer described in paragraph (2),

(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

(C) who meets the age requirements of paragraph (3),

(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins, and

(E) who has not filed a joint return (other than only for a claim of refund) with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(2) RELATIONSHIP. For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

(A) a child of the taxpayer or a descendant of such a child, or

(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

(3) AGE REQUIREMENTS

(A) In general. For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual is younger than the taxpayer claiming such individual as a qualifying child and—

(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

(B) Special rule for disabled. In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

(4) SPECIAL RULE RELATING TO 2 OR MORE WHO CAN CLAIM THE SAME QUALIFYING CHILD

(A) In general. Except as provided in subparagraphs (B) and (C), if (but for this paragraph) an individual may be claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

(i) a parent of the individual, or

(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

(B) More than 1 parent claiming qualifying child. If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

(i) the parent with whom the child resided for the longest period of time during the taxable year, or

(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

(C) No parent claiming qualifying child. If the parents of an individual may claim such individual as a qualifying child but no parent so claims the individual, such individual may be claimed as the qualifying child of another taxpayer but only if the adjusted gross income of such taxpayer is higher than the highest adjusted gross income of any parent of the individual.

(d) QUALIFYING RELATIVE. For purposes of this section—

(1) IN GENERAL. The term "qualifying relative" means, with respect to any taxpayer for any taxable year, an individual-

(A) who bears a relationship to the taxpayer described in paragraph (2),

(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

(C)with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

(2) RELATIONSHIP. For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

(A) A child or a descendant of a child.

(B) A brother, sister, stepbrother, or stepsister.

(C) The father or mother, or an ancestor of either.

(D) A stepfather or stepmother.

(E) A son or daughter of a brother or sister of the taxpayer.

(F) A brother or sister of the father or mother of the taxpayer.

(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS. For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

(A) no one person contributed over one-half of such support,

(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

(C) the taxpayer contributed over 10 percent of such support, and

(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS

(A) In general. For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

(ii) the income arises solely from activities at such workshop which are incident to such medical care.

(B) Sheltered workshop defined…

(5) SPECIAL RULES FOR SUPPORT. For purposes of this subsection—

(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

(e) SPECIAL RULE FOR DIVORCED PARENTS, ETC.

(1) IN GENERAL. Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—

(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

(ii) who are separated under a written separation agreement, or

(iii) who live apart at all times during the last 6 months of the calendar year, and—

(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year, such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) or (3) are met.

(2) EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR. For purposes of paragraph (1), the requirements described in this paragraph are met with respect to any calendar year if—

(A) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will

not claim such child as a dependent for any taxable year beginning in such calendar year, and
(B) the noncustodial parent attaches such written declaration to the noncustodial parent's return for the taxable year beginning during such calendar year.

(3) EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS
(A) In general. For purposes of paragraph (1), the requirements described in this paragraph are met with respect to any calendar year if—
(i) a qualified pre-1985 instrument between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, and
(ii) the noncustodial parent provides at least $600 for the support of such child during such calendar year.
For purposes of this subparagraph, amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.
…
(4) CUSTODIAL PARENT AND NONCUSTODIAL PARENT. For purposes of this subsection—
(A) Custodial parent. The term "custodial parent" means the parent having custody for the greater portion of the calendar year.
(B) Noncustodial parent. The term "noncustodial parent" means the parent who is not the custodial parent.
(5) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT. This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).
(6) SPECIAL RULE FOR SUPPORT RECEIVED FROM NEW SPOUSE OF PARENT. For purposes of this subsection, in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.
(f) OTHER DEFINITIONS AND RULES. For purposes of this section-
(1) CHILD DEFINED
(A) In general. The term "child" means an individual who is-
(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or
(ii) an eligible foster child of the taxpayer.
(B) Adopted child. In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.
(C) Eligible foster child. For purposes of subparagraph (A)(ii), the term "eligible foster child" means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.
(2) STUDENT DEFINED. The term "student" means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—
(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or
(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.
(3) DETERMINATION OF HOUSEHOLD STATUS. An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.
(4) BROTHER AND SISTER. The terms "brother" and "sister" include a brother or sister by the half blood.
(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.
For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—
(A) a child of the taxpayer, and
(B) a student,
amounts received as scholarships … shall not be taken into account.
(6) TREATMENT OF MISSING CHILDREN
(A) In general. Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—
(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and
(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,
shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

(B) Purposes. Subparagraph (A) shall apply solely for purposes of determining—

(i) the deduction under section 151(c),

(ii) the credit under section 24 (relating to child tax credit),

(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

(iv) the earned income credit under section 32.

(C) Comparable treatment of certain qualifying relatives. For purposes of this section, a child of the taxpayer-

(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

(D) Termination of treatment

Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18)