

Internal Revenue Service, Treasury

§ 1.57-5

Gross income	\$90,000
Deductions:	
Capital gains deduction dis-	
allowed.	
Medical expenses (\$4,100 actu-	
ally paid but allowable only to	
the extent in excess of 3 per-	
cent of adjusted gross income	
of \$90,000)	\$1,400
Other itemized deductions	40,000
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Taxable income for section	\$41,400
172(b)(2)	48,600

The limitation on the amount treated as items of tax preference is computed as follows:

Items of tax preference:	
Capital gains	\$20,000
Stock options	35,000
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55,000	
Less:	
Lesser of capital gains deduction (\$20,000) or amount of reduction in carryover due to its disallowance (\$20,600)	(20,000)
Limitation	35,000

Thus, the minimum tax for 1970 under section 56 would be 10 percent of \$5,000 (items of tax preference of \$35,000 less the minimum tax exemption of \$30,000).

Example 6. Assume the same facts as in example (5) except that the 1973 net operating loss was \$45,000. In this case, the \$20,600 increase in the 1970 taxable income as redetermined, results in a decrease of \$17,000 (i.e., the remaining 1973 net operating loss after an initial decrease of \$28,000 resulting from the 1970 taxable income before redetermination). The limitation on the amount treated as items of tax preference is computed as follows:

Items of tax preference computed without regard to this section	\$55,000
Less: Lesser of capital gains deduction (\$20,000) or amount of reduction in carryover due to its disallowance (\$17,000)	(17,000)
Limitation	38,000

Thus, the minimum tax for 1970 under section 56 would be 10 percent of \$8,000 (items of tax preference of \$38,000 less the minimum tax exemption of \$30,000).

Example 7. The taxpayer has the following items of income and deduction for 1973 without regard to any net operating loss deduction:

Gross income (all from business):	
Ordinary	\$100,000
Net section 1201 gains	120,000

Deductions:		\$220,000
Items of tax preference:		
Excess amortization of certified pollution control facilities	45,000	
Capital gains deduction	60,000	
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105,000		
Other business deductions	75,000	
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\$180,000		
Taxable income (before net operating loss deduction)	40,000	

In 1972, the taxpayer had a net operating loss of \$70,000 which is carried forward to 1973; \$20,000 of this net operating loss is attributable to excess tax preferences. In order to determine the amount of the 1972 net operating loss which remains as a carryover to 1974, the 1973 taxable income is redetermined, in accordance with section 172(b)(2) and the regulations thereunder, as follows:

Gross income	\$220,000
Deductions:	
Capital gains deduction	Disallowed
Business deductions	120,000
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Taxable income per section 172(b)(2) ..	100,000

In this case, the \$60,000 increase in the 1972 taxable income as redetermined and the \$30,000 decrease in the amount of the 1973 net operating loss remaining as a carryover to 1974 (i.e., the remaining 1972 net operating loss after an initial decrease of \$40,000 resulting from the 1973 taxable income before redetermination) is entirely attributable to the disallowance of the capital gains deduction. The limitation on the amount treated as items of tax preference is computed as follows:

Items of tax preference computed without regard to this section:	
Capital gains	\$60,000
Excess amortization of certified pollution control facilities	45,000
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105,000	
Less: Lesser of capital gains deduction (60,000) or amount of reduction in carryover due to its disallowance (\$30,000)	(30,000)
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75,000	
Plus: Amount of reduction of carryover (due to disallowance of capital gains deduction) attributable to excess tax preferences	20,000
Limitation	95,000

[T.D. 7564, 43 FR 40476, Sept. 12, 1978, as amended by T.D. 8138, 52 FR 15309, Apr. 28, 1987]

§ 1.57-5 Records to be kept.

(a) *In general.* The taxpayer shall have available permanent records of all the facts necessary to determine with

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reasonable accuracy the amounts described in § 1.57-1. Such records shall include:

(1) In the case of amounts described in paragraph (a) of § 1.57-1: the amount and nature of indebtedness outstanding for the taxable year and the date or dates on which each such indebtedness was incurred or renewed in any form; the amount expended for property held for investment during any taxable year during which such indebtedness was incurred or renewed; and the manner in which it was determined that property was or was not held for investment.

(2) In the case of amounts described in paragraphs (b), (c), (d), (e), and (h) of § 1.57-1:

(i) The dates, and manner in which, the property was acquired and placed in service,

(ii) The taxpayer's basis on the date the property was acquired and the manner in which the basis was determined,

(iii) An estimate of the useful life (in terms of months, hours of use, etc., whichever is appropriate) of the property on the date placed in service or an estimate of the number of units to be produced by the property on the date the property is placed in service, whichever is appropriate, and the manner in which such estimate was determined,

(iv) The amount and date of all adjustments by the taxpayer to the basis of the property and an explanation of the nature of such adjustments, and

(v) In the case of property which has an adjusted basis reflecting adjustments taken by another taxpayer with respect to the property or taken by the taxpayer with respect to other property, the information described in paragraph (a)(2)(i) through (iv) of this section, with respect to such other property or other taxpayer.

(3) In the case of amounts described in paragraph (f) of § 1.57-1, the fair market value of the shares of stock at the date of exercise of the option and the option price and the manner in which each was determined.

(4) In the case of amounts described in paragraph (g) of § 1.57-1, the amount of debts written off and the amount of the loans outstanding for the taxable year and the 5 preceding taxable years

or such shorter or longer period as is appropriate.

(b) *Net operating losses.* The taxpayer shall have available permanent records for the first taxable year in which a portion of a net operating loss was attributable to items of tax preference (within the meaning of § 1.56A-2 (b)) and each succeeding taxable year in which there is a net operating loss or a net operating loss carryover a portion of which is so attributable. Such records shall include all the facts necessary to determine with reasonable accuracy the amount of deferred tax liability under section 56, including the amount of the net operating loss in each taxable year in which there are items of tax preference in excess of the minimum tax exemption (as determined under § 1.58-1), the amount of the items of tax preference for each such taxable year, the amount by which each such net operating loss reduces taxable income in any taxable year, and the amount by which each such net operating loss is reduced in any taxable year.

[T.D. 7564, 43 FR 40479, Sept. 12, 1978, as amended by T.D. 8138, 52 FR 15309, Apr. 28, 1987]

§ 1.58-1 Minimum tax exemption.

(a) *In general.* For purposes of the minimum tax for tax preferences (subtitle A, chapter 1A, part VI), the minimum tax exemption is \$30,000 except as otherwise provided in this section.

(b) *Husband and wife.* In the case of a married individual filing a separate return, section 58(a) provides that the minimum tax exemption is \$15,000. This rule applies without regard to whether the married individual is living together with or apart from his spouse and without regard to whether or not his spouse has any items of tax preference.

(c) *Members of controlled groups—(1) Amount of exemption—(i) General rule.* Under section 58(b), if a corporation is a component member of a controlled group of corporations on December 31 (as defined in section 1563 (a) and (b) and the regulations thereunder), the minimum tax exemption for such taxable year which includes such December 31 is an amount equal to—