

(2) The amount of debt allocated to an asset exceeds the fair market value of the asset, and the amount of debt allocated to any other asset is less than the fair market value (lesser of basis or fair market value in the case of goodwill) of such other asset.

(vi) *Coordination with other provisions.* The effect of any events occurring after the last day of the taxable year that includes December 31, 1986, shall be determined under the rules of this section, applied by treating the debt allocated to an asset under paragraph (n)(3)(v) of this section as if proceeds of such debt were used to make an expenditure properly chargeable to capital account with respect to such asset on the last day of the taxable year that includes December 31, 1986. Thus, debt that is allocated to an asset in accordance with this paragraph (n)(3) must be reallocated in accordance with paragraph (j) of this section upon the occurrence with respect to such asset of any event described in such paragraph (j). Similarly, such debt is treated as repaid in the order prescribed in paragraph (d) of this section. In addition, a replacement debt (within the meaning of paragraph (e) of this section) is allocated to an expenditure properly chargeable to capital account with respect to an asset to the extent the proceeds of such debt are used to repay the portion of a debt allocated to such asset under this paragraph (n)(3).

(vii) *Form for allocation of debt.* A taxpayer shall allocate debt for purposes of this paragraph (n)(3) by attaching to the taxpayer's return for the first taxable year beginning after December 31, 1986, a statement that is prominently identified as a transitional allocation statement under § 1.163-8T(n)(3) and includes the following information:

- (A) A description of the business or rental activity to which the debt is properly attributable;
- (B) The amount of debt allocated;
- (C) The assets among which the debt is allocated;
- (D) The manner in which the debt is allocated;
- (E) The amount of debt allocated to each asset; and
- (F) Such other information as the Commissioner may require.

(viii) *Form for election out.* A taxpayer shall elect to allocate debt outstanding on December 31, 1986, in accordance with the provisions of this section other than this paragraph (n)(3) by attaching to the taxpayer's return (or amended return) for the first taxable year beginning after December 31, 1986, a statement to that effect, prominently identified as an election out under § 1.163-8T(n)(3).

(ix) *Special rule for partnerships and S corporations.* For purposes of paragraph (n)(3)(ii)(B), (v), (vii) and (viii) of this section (relating to the allocation of debt and election out), a partnership or S corporation shall be treated as the taxpayer with respect to the debt of the partnership or S corporation.

(x) *Irrevocability.* An allocation or election filed in accordance with paragraph (n)(3) (vii) or (viii) of this section may not be revoked or modified except with the consent of the Commissioner.

[T.D. 8145, 52 FR 24999, July 2, 1987, as amended by T.D. 8145, 62 FR 40270, July 28, 1997]

§ 1.163-9T Personal interest (temporary).

(a) *In general.* No deduction under any provision of Chapter 1 of the Internal Revenue Code shall be allowed for personal interest paid or accrued during the taxable year by a taxpayer other than a corporation.

(b) *Personal interest—(1) Definition.* For purposes of this section, personal interest is any interest expense other than—

- (i) Interest paid or accrued on indebtedness properly allocable (within the meaning of § 1.163-8T) to the conduct of trade or business (other than the trade or business of performing services as an employee),
- (ii) Any investment interest (within the meaning of section 163(d)(3)),
- (iii) Any interest that is taken into account under section 469 in computing income or loss from a passive activity of the taxpayer,
- (iv) Any qualified residence interest (within the meaning of section 163(h)(3) and § 1.163-10T), and
- (v) Any interest payable under section 6601 with respect to the unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax

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is in effect under section 6163, 6166, or 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981).

(2) Interest relating to taxes—(i) In general. Except as provided in paragraph (b)(2)(iii) of this section, personal interest includes interest—

(A) Paid on underpayments of individual Federal, State or local income taxes and on indebtedness used to pay such taxes (within the meaning of §1.163-8T), regardless of the source of the income generating the tax liability;

(B) Paid under section 453(e)(4)(B) (interest on deferred tax resulting from certain installment sales) and section 1291(c) (interest on deferred tax attributable to passive foreign investment companies); or

(C) Paid by a trust, S corporation, or other pass-through entity on underpayments of State or local income taxes and on indebtedness used to pay such taxes.

(ii) Example. A, an individual, owns stock of an S corporation. On its return for 1987, the corporation underreports its taxable income. Consequently, A underreports A's share of that income on A's tax return. In 1989, A pays the resulting deficiency plus interest to the Internal Revenue Service. The interest paid by A in 1989 on the tax deficiency is personal interest, notwithstanding the fact that the additional tax liability may have arisen out of income from a trade or business. The result would be the same if A's business had been operated as a sole proprietorship.

(iii) Certain other taxes. Personal interest does not include interest—

(A) Paid with respect to sales, excise and similar taxes that are incurred in connection with a trade or business or an investment activity;

(B) Paid by an S corporation with respect to an underpayment of income tax from a year in which the S corporation was a C corporation or with respect to an underpayment of the taxes imposed by sections 1374 or 1375, or similar provision of State law; or

(C) Paid by a transferee under section 6901 (tax liability resulting from transferred assets), or a similar provision of

State law, with respect to a C corporation's underpayment of income tax.

(3) Cross references. See §1.163-8T for rules for determining the allocation of interest expense to various activities. See §1.163-10T for rules concerning qualified residence interest.

(c) Effective date—(1) In general. The provisions of this section are effective for taxable years beginning after December 31, 1986. In the case of any taxable year beginning in calendar years 1987 through 1990, the amount of personal interest that is nondeductible under this section is limited to the applicable percentage of such amount.

(2) Applicable percentages. The applicable percentage for taxable years beginning in 1987 through 1990 are as follows:

- 1987: 35 percent
- 1988: 60 percent
- 1989: 80 percent
- 1990: 90 percent

[T.D. 8168, 52 FR 48409, Dec. 22, 1987; 68 FR 13226, Mar. 19, 2003]

§ 1.163-10T Qualified residence interest (temporary).

(a) Table of contents. This paragraph (a) lists the major paragraphs that appear in this §1.163-10T.

- (a) Table of contents.
- (b) Treatment of qualified residence interest.
- (c) Determination of qualified residence interest when secured debt does not exceed the adjusted purchase price.
 - (1) In general.
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- (d) Determination of qualified residence interest when secured debt exceeds adjusted purchase price—Simplified method.
 - (1) In general.
 - (2) Treatment of interest paid or accrued on secured debt that is not qualified residence interest.
 - (3) Example.
- (e) Determination of qualified residence interest when secured debt exceeds adjusted purchase price—Exact method.
 - (1) In general.
 - (2) Determination of applicable debt limit.
 - (3) Example.
 - (4) Treatment of interest paid or accrued with respect to secured debt that is not qualified residence interest.
 - (i) In general.
 - (ii) Example.