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Sec. 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

The deductions allowed by section 162 which consist of expenses paid or incurred by a qualified performing artist in connection with the performances by him of services in the performing arts as an employee.

(C) Certain expenses of officials

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The deductions allowed by section 162 which consist of expenses paid or incurred with respect to services performed by an official as an employee of a State or a political subdivision thereof in a position compensated in whole or in part on a fee basis.

(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), and by section 611 (relating to depletion) which are attributable to property held for the production of rents or royalties.

(5) Certain deductions of life tenants and income beneficiaries of property

In the case of a life tenant of property, or an income beneficiary of property held in trust, or an heir, legatee, or devisee of an estate, the deduction for depreciation allowed by section 167 and the deduction allowed by section 611.

(6) Pension, profit-sharing, and annuity plans of self-employed individuals

In the case of an individual who is an employee within the meaning of section 401(c)(1), the deduction allowed by section 404.

(7) Retirement savings

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

(8)

Repealed. [Pub. L. 104-188](#), title I, Sec. 1401(b)(4), Aug. 20, 1996, 110 Stat. 1788)

(9) Penalties forfeited because of premature withdrawal of funds from time savings accounts or deposits

The deductions allowed by section 165 for losses incurred in any transaction entered into for profit, though not connected with a trade or business, to the extent that such losses include amounts forfeited to a bank, mutual savings bank, savings and loan association, building and

loan association, cooperative bank or homestead association as a penalty for premature withdrawal of funds from a time savings account, certificate of deposit, or similar class of deposit.

(10) Alimony

The deduction allowed by section 215.

(11) Reforestation expenses

The deduction allowed by section 194.

(12) Certain required repayments of supplemental unemployment compensation benefits

The deduction allowed by section 165 for the repayment to a trust described in paragraph (9) or (17) of section 501(c) of supplemental unemployment compensation benefits received from such trust if such repayment is required because of the receipt of trade readjustment allowances under section 231 or 232 of the Trade Act of 1974 ([19 U.S.C. 2291](#) and [2292](#)).

(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.

(14) Deduction for clean-fuel vehicles and certain refueling property

The deduction allowed by section 179A.

(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.

Nothing in this section shall permit the same item to be deducted more than once.

(b) Qualified performing artist

(1) In general

For purposes of subsection (a)(2)(B), the term "qualified performing artist" means, with respect to any taxable year, any individual if -

(A)

such individual performed services in the performing arts as an employee during the taxable year for at least 2 employers,

(B)

the aggregate amount allowable as a deduction under section 162 in connection with the performance of such services exceeds 10 percent of such individual's gross income attributable to the performance of such services, and

(C)

the adjusted gross income of such individual for the taxable year (determined without regard to subsection (a)(2)(B)) does not exceed \$16,000.

(2) Nominal employer not taken into account

An individual shall not be treated as performing services in the performing arts as an employee for any employer during any taxable year unless the amount received by such individual from such employer for the performance of such services during the taxable year equals or exceeds \$200.

(3) Special rules for married couples

(A) In general

Except in the case of a husband and wife who lived apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, subsection (a)(2)(B) shall apply only if the taxpayer and his spouse file a joint return for the taxable year.

(B) Application of paragraph (1)

In the case of a joint return -

(i)

paragraph (1) (other than subparagraph (C) thereof) shall be applied separately with respect to each spouse, but

(ii)

paragraph (1)(C) shall be applied with respect to their combined adjusted gross income.

(C) Determination of marital status

For purposes of this subsection, marital status shall be determined under section 7703(a).

(D) Joint return

For purposes of this subsection, the term "joint return" means the joint return of a husband and wife made under section 6013.

(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.

The substantiation requirements of the preceding sentence shall not apply to any expense to the extent that substantiation is not required under section 274(d) for such expense by reason of the regulations prescribed under the 2nd sentence thereof

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