

Internal Revenue Code Section 163(d) Interest

(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.

(C) Personal property used in short sale. For purposes of this paragraph, the term "interest" includes any amount allowable as a deduction in connection with personal property used in a short sale.

(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—

(I) 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.

(D) Income and expenses from passive activities. Investment income and investment expenses shall not include any income or expenses taken into account under section 469 in computing income or loss from a passive activity.

(E) Reduction in investment income during phase-in of passive loss rules. Investment income of the taxpayer for any taxable year shall be reduced by the amount of the passive activity loss to which section 469(a) does not apply for such taxable year by reason of section 469(m). The preceding sentence shall not apply to any portion of such passive activity loss which is attributable to a rental real estate activity with respect to which the taxpayer actively participates (within the meaning of section 469(i)(6)) during such taxable year.

(5) Property held for investment. For purposes of this subsection—

(A) In general. The term "property held for investment" shall include—

(i) any property which produces income of a type described in section 469(e)(1), and

(ii) any interest held by a taxpayer in an activity involving the conduct of a trade or business—

(I) which is not a passive activity, and

(II) with respect to which the taxpayer does not materially participate.

(B) Investment expenses. In the case of property described in subparagraph (A)(i), expenses shall be allocated to such property in the same manner as under section 469.

(C) Terms. For purposes of this paragraph, the terms "activity", "passive activity", and "materially participate" have the meanings given such terms by section 469.

(6) Phase-in of disallowance. In the case of any taxable year beginning in calendar years 1987 through 1990—

(A) In general. The amount of interest paid or accrued during any such taxable year which is disallowed under this subsection shall not exceed the sum of

(i) the amount which would be disallowed under this subsection if

(I) paragraph (1) were applied by substituting "the sum of the ceiling amount and the net investment income" for "the net investment income", and

(II) paragraphs (4)(E) and (5)(A)(ii) did not apply, and

(ii) the applicable percentage of the excess of

(I) the amount which (without regard to this paragraph) is not allowable as a deduction under this subsection for the taxable year, over

(II) the amount described in clause (i).

The preceding sentence shall not apply to any interest treated as paid or accrued during the taxable year under paragraph (2).

(B) Applicable percentage. For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

In the case of taxable years beginning in:	The applicable percentage is:
1987	35
1988	60
1989	80
1990	90

(C) Ceiling amount. For purposes of this paragraph, the term "ceiling amount" means--

(i) \$10,000 in the case of a taxpayer not described in clause (ii) or (iii),

(ii) \$5,000 in the case of a marriage individual filing a separate return, and

(iii) zero in the case of a trust.