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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9681]

RIN 1545-BL06

Partnerships; Start-up Expenditures; Organization and Syndication Fees

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final Regulations.

SUMMARY: This document contains final regulations concerning the deductibility of start-up expenditures and organizational expenses for partnerships. The final regulations provide guidance regarding the deductibility of start-up expenditures and organizational expenses for partnerships following a termination of a partnership under section 708(b)(1)(B). These final regulations affect partnerships that undergo section 708(b)(1)(B) terminations and their partners.

DATES: These regulations are effective on **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Rachel S. Smith, (202) 317-6852 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final amendments to the Income Tax Regulations (26 CFR part 1) under section 708(b) of the Internal Revenue Code (Code). On

December 9, 2013, proposed regulations (REG-126285-12, 78 FR 73753) were published in the Federal Register. The proposed regulations were intended to eliminate uncertainty regarding whether a partnership is entitled to immediately deduct any unamortized start-up and organizational expenses upon its technical termination. Specifically, the proposed regulations provided that the new partnership was required to continue to amortize those expenditures using the same amortization period adopted by the terminating partnership. No written or electronic comments were received in response to the notice of proposed rulemaking. No requests for a public hearing were received, and accordingly, no hearing was held.

Explanation of Provisions

The Treasury decision adopts the proposed regulations with one minor change for clarity. Specifically, in § 1.708-1(b)(6)(i), “using the same amortization period adopted by the terminating partnership” has been changed to “over the remaining portion of the amortization period adopted by the terminating partnership” to make clear that the amortization period does not restart. No substantive change is intended.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these

regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses. No comments were received.

Drafting Information

The principal author of these regulations is Rachel S. Smith, IRS Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1 -- INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.195-2 is added to read as follows:

§1.195-2 Technical termination of a partnership.

(a) In general. If a partnership that has elected to amortize start-up expenditures under section 195(b) and §1.195-1 terminates in a transaction (or a series of transactions) described in section 708(b)(1)(B) or §1.708-1(b)(2), the termination shall not be treated as resulting in a disposition of the partnership's

trade or business for purposes of section 195(b)(2). See §1.708-1(b)(6) for rules concerning the treatment of these start-up expenditures by the new partnership.

(b) Effective/applicability date. This section applies to a technical termination of a partnership under section 708(b)(1)(B) that occurs on or after December 9, 2013.

Par. 3. Section 1.708-1 is amended by adding paragraph (b)(6) to read as follows:

§1.708-1 Continuation of partnership.

* * * * *

(b) * * *

(6) Treatment of certain start-up or organizational expenses following a technical termination--(i) In general. If a partnership that has elected to amortize start-up expenditures under section 195(b) or organizational expenses under section 709(b)(1) terminates in a transaction (or a series of transactions) described in section 708(b)(1)(B) or paragraph (b)(2) of this section, the new partnership must continue to amortize those expenditures over the remaining portion of the amortization period adopted by the terminating partnership. See section 195 and §1.195-1 for rules concerning the amortization of start-up expenditures and section 709 and §1.709-1 for rules concerning the amortization of organizational expenses.

(ii) Effective/applicability date. This paragraph (b)(6) applies to a technical termination of a partnership under section 708(b)(1)(B) that occurs on or after December 9, 2013.

Par. 4. Section 1.709-1 is amended by:

1. Redesignating paragraph (b)(3) as (b)(3)(i).
2. Adding a heading to newly designated paragraph (b)(3)(i).
3. Adding paragraph (b)(3)(ii).
4. Adding a sentence at the end of paragraph (b)(5).

The additions read as follows:

§1.709-1 Treatment of organization and syndication costs.

* * * * *

(b) * * *

(3) Liquidation of partnership--(i) In general. * * *

(ii) Technical termination of a partnership. If a partnership that has elected to amortize organizational costs under section 709(b) terminates in a transaction (or a series of transactions) described in section 708(b)(1)(B) or §1.708-1(b)(2), the termination shall not be treated as resulting in a liquidation of the partnership for purposes of section 709(b)(2). See §1.708-1(b)(6) for rules concerning the treatment of these organizational costs by the new partnership.

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(5) * * * Paragraph (b)(3)(ii) of this section applies to a technical termination of a partnership under section 708(b)(1)(B) that occurs on or after December 9, 2013.

John Dalrymple

Deputy Commissioner for Services and Enforcement.

Approved: May 29, 2014

Mark J. Mazur

Assistant Secretary of the Treasury (Tax Policy).

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