

§ 773. Computations at partnership level**(a) General rule****(1) Taxable income**

The taxable income of an electing large partnership shall be computed in the same manner as in the case of an individual except that—

(A) the items described in section 772(a) shall be separately stated, and

(B) the modifications of subsection (b) shall apply.

(2) Elections

All elections affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.

(3) Limitations, etc.**(A) In general**

Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).

(B) Certain limitations applied at partner level

The following provisions shall be applied at the partner level (and not at the partnership level):

(i) Section 68 (relating to overall limitation on itemized deductions).

(ii) Sections 49 and 465 (relating to at risk limitations).

(iii) Section 469 (relating to limitation on passive activity losses and credits).

(iv) Any other provision specified in regulations.

(4) Coordination with other provisions

Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

(b) Modifications to determination of taxable income

In determining the taxable income of an electing large partnership—

(1) Certain deductions not allowed

The following deductions shall not be allowed:

(A) The deduction for personal exemptions provided in section 151.

(B) The net operating loss deduction provided in section 172.

(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

(2) Charitable deductions

In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

(3) Coordination with section 67

In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

(c) Special rules for income from discharge of indebtedness

If an electing large partnership has income from the discharge of any indebtedness—

(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

(2) in determining the income tax of any partner of such partnership—

(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

(B) the provisions of section 108 shall be applied without regard to this part.

(Added Pub. L. 105-34, title XII, §1221(a), Aug. 5, 1997, 111 Stat. 1004.)

§ 774. Other modifications**(a) Treatment of certain optional adjustments, etc.**

In the case of an electing large partnership—

(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

(b) Credit recapture determined at partnership level**(1) In general**

In the case of an electing large partnership—

(A) any credit recapture shall be taken into account by the partnership, and

(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

(2) Method of taking recapture into account

An electing large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

(3) Dispositions not to trigger recapture

No credit recapture shall be required by reason of any transfer of an interest in an electing large partnership.

(4) Credit recapture

For purposes of this subsection, the term "credit recapture" means any increase in tax under section 42(j) or 50(a).

(c) Partnership not terminated by reason of change in ownership

Subparagraph (B) of section 708(b)(1) shall not apply to an electing large partnership.

(d) Partnership entitled to certain credits

The following shall be allowed to an electing large partnership and shall not be taken into account by the partners of such partnership:

(1) The credit provided by section 34.

(2) Any credit or refund under section 852(b)(3)(D) or 857(b)(3)(D).