

lated to basis allocation if the amount of the amortizable basis acquired during the taxable year of all qualified timber property with respect to which the taxpayer had made an election under subsec. (a) exceeded the amount of the limitation under subsec. (b)(1).

1986—Subsec. (b)(1). Pub. L. 99-514 substituted “section 7703” for “section 143”.

1982—Subsec. (b)(2)(B). Pub. L. 97-354 substituted “Partnerships and S corporations” for “Partnerships” in heading, and inserted “A similar rule shall apply in the case of an S corporation and its shareholders.”

#### EFFECTIVE DATE OF 2005 AMENDMENT

Amendments by Pub. L. 109-135 effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which they relate, see section 403(n) of Pub. L. 109-135, set out as a note under section 26 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable with respect to expenditures paid or incurred after Oct. 22, 2004, see section 322(e) of Pub. L. 108-357, set out as a note under section 46 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97-354, set out as an Effective Date note under section 1361 of this title.

#### EFFECTIVE DATE

Pub. L. 96-451, title III, § 301(d), Oct. 14, 1980, 94 Stat. 1991, provided that: “The amendments made by this section [enacting this section and amending sections 62 and 1245 of this title] shall apply with respect to additions to capital account made after December 31, 1979.”

### § 194A. Contributions to employer liability trusts

#### (a) Allowance of deduction

There shall be allowed as a deduction for the taxable year an amount equal to the amount—

- (1) which is contributed by an employer to a trust described in section 501(c)(22) (relating to withdrawal liability payment fund) which meets the requirements of section 4223(h) of the Employee Retirement Income Security Act of 1974, and
- (2) which is properly allocable to such taxable year.

#### (b) Allocation to taxable year

In the case of a contribution described in subsection (a) which relates to any specified period of time which includes more than one taxable year, the amount properly allocable to any taxable year in such period shall be determined by prorating such amounts to such taxable years under regulations prescribed by the Secretary.

#### (c) Disallowance of deduction

No deduction shall be allowed under subsection (a) with respect to any contribution described in subsection (a) which does not relate to any specified period of time.

(Added Pub. L. 96-364, title II, § 209(c)(1), Sept. 26, 1980, 94 Stat. 1290, § 194; renumbered § 194A, Pub.

L. 97-448, title III, § 305(b)(1), Jan. 12, 1983, 96 Stat. 2399.)

#### REFERENCES IN TEXT

Section 4223(h) of the Employee Retirement Income Security Act of 1974, referred to in subsec. (a), is classified to section 1403(h) of Title 29, Labor.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-448, title III, § 311(c)(2), Jan. 12, 1983, 96 Stat. 2411, provided that: “The amendments made by subsection (b) of section 305 [redesignating section 194 of this title, relating to contributions to employer liability trusts, as this section] shall take effect on October 14, 1980.”

#### EFFECTIVE DATE

Pub. L. 96-364, title II, § 210, Sept. 26, 1980, 94 Stat. 1291, provided that:

“(a) Except as otherwise provided in this section, the amendments made by this title [amending sections 401, 404, 411 to 414, 4971, and 4975 of this title] shall take effect on the date of the enactment of this Act [Sept. 26, 1980].

“(b) Subpart C of part I of subchapter D of chapter 1 of such Code (as added by this Act) [sections 418 to 418E of this title] shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

“(1) the date on which the last collective-bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of this Act [Sept. 26, 1980], expires, without regard to extensions agreed to after such date of enactment, or

“(2) 3 years after the date of the enactment of this Act [Sept. 26, 1980].

“(c) The amendments made by section 209 [enacting this section and amending sections 501 and 4975 of this title] shall apply to taxable years ending after the date of the enactment of this Act [Sept. 26, 1980].”

### § 195. Start-up expenditures

#### (a) Capitalization of expenditures

Except as otherwise provided in this section, no deduction shall be allowed for start-up expenditures.

#### (b) Election to deduct

##### (1) Allowance of deduction

If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

(i) the amount of start-up expenditures with respect to the active trade or business, or

(ii) \$5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed \$5,000, and

(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.

##### (2) Dispositions before close of amortization period

In any case in which a trade or business is completely disposed of by the taxpayer before the end of the period to which paragraph (1)

applies, any deferred expenses attributable to such trade or business which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.

**(3) Special rule for taxable years beginning in 2010**

In the case of a taxable year beginning in 2010, paragraph (1)(A)(ii) shall be applied—

- (A) by substituting “\$10,000” for “\$5,000”, and
- (B) by substituting “\$60,000” for “\$50,000”.

**(c) Definitions**

For purposes of this section—

**(1) Start-up expenditures**

The term “start-up expenditure” means any amount—

- (A) paid or incurred in connection with—
  - (i) investigating the creation or acquisition of an active trade or business, or
  - (ii) creating an active trade or business, or
  - (iii) any activity engaged in for profit and for the production of income before the day on which the active trade or business begins, in anticipation of such activity becoming an active trade or business, and
- (B) which, if paid or incurred in connection with the operation of an existing active trade or business (in the same field as the trade or business referred to in subparagraph (A)), would be allowable as a deduction for the taxable year in which paid or incurred.

The term “start-up expenditure” does not include any amount with respect to which a deduction is allowable under section 163(a), 164, or 174.

**(2) Beginning of trade or business**

**(A) In general**

Except as provided in subparagraph (B), the determination of when an active trade or business begins shall be made in accordance with such regulations as the Secretary may prescribe.

**(B) Acquired trade or business**

An acquired active trade or business shall be treated as beginning when the taxpayer acquires it.

**(d) Election**

**(1) Time for making election**

An election under subsection (b) shall be made not later than the time prescribed by law for filing the return for the taxable year in which the trade or business begins (including extensions thereof).

**(2) Scope of election**

The period selected under subsection (b) shall be adhered to in computing taxable income for the taxable year for which the election is made and all subsequent taxable years.

(Added Pub. L. 96-605, title I, §102(a), Dec. 28, 1980, 94 Stat. 3522; amended Pub. L. 98-369, div. A, title I, §94(a), July 18, 1984, 98 Stat. 614; Pub.

L. 108-357, title VIII, §902(a), Oct. 22, 2004, 118 Stat. 1651; Pub. L. 111-240, title II, §2031(a), Sept. 27, 2010, 124 Stat. 2559.)

AMENDMENTS

2010—Subsec. (b)(3). Pub. L. 111-240 added par. (3).

2004—Subsec. (b). Pub. L. 108-357, §902(a)(2), substituted “deduct” for “amortize” in heading.

Subsec. (b)(1). Pub. L. 108-357, §902(a)(1), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “Start-up expenditures may, at the election of the taxpayer, be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction prorated equally over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the active trade or business begins).”

1984—Subsec. (a). Pub. L. 98-369 amended subsec. (a) generally, substituting provisions dealing with capitalization of expenditures for provisions dealing with election to amortize.

Subsec. (b). Pub. L. 98-369 amended subsec. (b) generally, substituting provisions dealing with election to amortize for provisions dealing with start-up expenditures.

Subsec. (c). Pub. L. 98-369 amended subsec. (c) generally, substituting provisions setting forth definitions for provisions dealing with election.

Subsec. (d). Pub. L. 98-369 amended subsec. (d) generally, substituting provisions dealing with election for provisions dealing with business beginning.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-240, title II, §2031(b), Sept. 27, 2010, 124 Stat. 2559, provided that: “The amendment made by this section [amending this section] shall apply to amounts paid or incurred in taxable years beginning after December 31, 2009.”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §902(d), Oct. 22, 2004, 118 Stat. 1652, provided that: “The amendments made by this section [amending this section and sections 248 and 709 of this title] shall apply to amounts paid or incurred after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §94(c), July 18, 1984, 98 Stat. 615, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after June 30, 1984.”

EFFECTIVE DATE

Pub. L. 96-605, title I, §102(c), Dec. 28, 1980, 94 Stat. 3522, provided that: “The amendments made by this section [enacting this section] shall apply to amounts paid or incurred after July 29, 1980, in taxable years ending after such date.”

**§196. Deduction for certain unused business credits**

**(a) Allowance of deduction**

If any portion of the qualified business credits determined for any taxable year has not, after the application of section 38(c), been allowed to the taxpayer as a credit under section 38 for any taxable year, an amount equal to the credit not so allowed shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year for which such credit could, under section 39, have been allowed as a credit.

**(b) Taxpayer’s dying or ceasing to exist**

If a taxpayer dies or ceases to exist before the first taxable year following the last taxable year