

(A) are incident to the creation of the partnership;

(B) are chargeable to capital account; and

(C) are of a character which, if expended incident to the creation of a partnership having an ascertainable life, would be amortized over such life.

(Added Pub. L. 94-455, title II, §213(b)(1), Oct. 4, 1976, 90 Stat. 1547; amended Pub. L. 108-357, title VIII, §902(c), Oct. 22, 2004, 118 Stat. 1651; Pub. L. 109-135, title IV, §403(I), Dec. 21, 2005, 119 Stat. 2632.)

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109-135 substituted “partnership” for “taxpayer” in introductory provisions and before “shall be allowed” in subpar. (A).

2004—Subsec. (b). Pub. L. 108-357 substituted “Deduction” for “Amortization” in heading, added par. (2), redesignated former par. (2) as (3), and amended heading and text of par. (1) generally. Prior to amendment, text of par. (1) read as follows: “Amounts paid or incurred to organize a partnership may, at the election of the partnership (made in accordance with regulations prescribed by the Secretary), be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the partnership (beginning with the month in which the partnership begins business), or if the partnership is liquidated before the end of such 60-month period, such deferred expenses (to the extent not deducted under this section) may be deducted to the extent provided in section 165.”

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) 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 to amounts paid or incurred after Oct. 22, 2004, see section 902(d) of Pub. L. 108-357, set out as a note under section 195 of this title.

EFFECTIVE DATE

Pub. L. 94-455, title II, §213(f), Oct. 4, 1976, 90 Stat. 1548, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this section and amending sections 179, 704, 706, 707, and 761 of this title] shall apply in the case of partnership taxable years beginning after December 31, 1975.

“(2) SUBSECTION (e).—The amendment made by subsection (e) [amending section 704 of this title] shall apply to liabilities incurred after December 31, 1976.

“(3) SECTION 709(b) OF THE CODE.—Section 709(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by the amendment made by subsection (b)(1) of this section) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1976.”

PART II—CONTRIBUTIONS, DISTRIBUTIONS, AND TRANSFERS

Subpart

- A. Contributions to a partnership.
- B. Distributions by a partnership.
- C. Transfers of interests in a partnership.
- D. Provisions common to other subparts.

SUBPART A—CONTRIBUTIONS TO A PARTNERSHIP

Sec.

- 721. Nonrecognition of gain or loss on contribution.
- 722. Basis of contributing partner's interest.
- 723. Basis of property contributed to partnership.
- 724. Character of gain or loss on contributed unrealized receivables, inventory items, and capital loss property.

AMENDMENTS

1984—Pub. L. 98-369, div. A, title I, §74(c), July 18, 1984, 98 Stat. 593, added item 724.

§ 721. Nonrecognition of gain or loss on contribution

(a) General rule

No gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.

(b) Special rule

Subsection (a) shall not apply to gain realized on a transfer of property to a partnership which would be treated as an investment company (within the meaning of section 351) if the partnership were incorporated.

(c) Regulations relating to certain transfers to partnerships

The Secretary may provide by regulations that subsection (a) shall not apply to gain realized on the transfer of property to a partnership if such gain, when recognized, will be includible in the gross income of a person other than a United States person.

(d) Transfers of intangibles

For regulatory authority to treat intangibles transferred to a partnership as sold, see section 367(d)(3).

(Aug. 16, 1954, ch. 736, 68A Stat. 245; Pub. L. 94-455, title XXI, §2131(b), Oct. 4, 1976, 90 Stat. 1924; Pub. L. 105-34, title XI, §1131(b)(3), (5)(B), Aug. 5, 1997, 111 Stat. 979, 980.)

CODIFICATION

Another section 1131(b) of Pub. L. 105-34 enacted section 684 of this title.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105-34, §1131(b)(3), added subsec. (c).

Subsec. (d). Pub. L. 105-34, §1131(b)(5)(B), added subsec. (d).

1976—Pub. L. 94-455 designated existing provisions as subsec. (a), added subsec. (a) heading “General rule”, and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XXI, §2131(f)(3)–(5), Oct. 4, 1976, 90 Stat. 1924, 1925, provided that:

“(3) Except as provided in paragraph (4), the amendments made by subsections (b) and (c) [amending this section and sections 722 and 723 of this title] shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

“(4) The amendments made by subsections (b) and (c) shall not apply to transfers to a partnership made on or before the 90th day after the date of the enactment of this Act [Oct. 4, 1976] if—

“(A) either—

“(i) a ruling request with respect to such transfers was filed with the Internal Revenue Service before March 27, 1976, or

“(ii) a registration statement with respect to such transfers was filed with the Securities and Exchange Commission before March 27, 1976.
“(B) the securities transferred were deposited on or before the 60th day after the date of the enactment of this Act [Oct. 4, 1976], and
“(C) either—

“(i) the aggregate value (determined as of the close of the 60th day referred to in subparagraph (B), or, if earlier, the close of the deposit period) of the securities so transferred does not exceed \$100,000,000, or

“(ii) the securities transferred were all on deposit on February 29, 1976, pursuant to a registration statement referred to in subparagraph (A)(ii).

“(5) If no registration statement was required to be filed with the Securities and Exchange Commission with respect to the transfer of securities to any partnership, then paragraph (4) shall be applied to such transfers—

“(A) as if paragraph (4) did not contain subparagraph (A)(ii) thereof, and

“(B) by substituting ‘\$25,000,000’ for ‘\$100,000,000’ in subparagraph (C)(i) thereof.”

§ 722. Basis of contributing partner's interest

The basis of an interest in a partnership acquired by a contribution of property, including money, to the partnership shall be the amount of such money and the adjusted basis of such property to the contributing partner at the time of the contribution increased by the amount (if any) of gain recognized under section 721(b) to the contributing partner at such time.

(Aug. 16, 1954, ch. 736, 68A Stat. 245; Pub. L. 94-455, title XXI, § 2131(c), Oct. 4, 1976, 90 Stat. 1924; Pub. L. 98-369, div. A, title VII, § 722(f)(1), July 18, 1984, 98 Stat. 974.)

AMENDMENTS

1984—Pub. L. 98-369 inserted “under section 721(b)” after “gain recognized”.

1976—Pub. L. 94-455 inserted “increased by the amount (if any) of gain recognized to the contributing partner at such time” after “at the time of the contribution”.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title VII, § 722(f)(2), July 18, 1984, 98 Stat. 974, provided that: “The amendments made by paragraph (1) [amending this section and section 723 of this title] shall take effect as if included in the amendments made by section 2131 of the Tax Reform Act of 1976 [Pub. L. 94-455].”

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment made by Pub. L. 94-455, see section 2131(f)(3)-(5) of Pub. L. 94-455, set out as a note under section 721 of this title.

§ 723. Basis of property contributed to partnership

The basis of property contributed to a partnership by a partner shall be the adjusted basis of such property to the contributing partner at the time of the contribution increased by the amount (if any) of gain recognized under section 721(b) to the contributing partner at such time.

(Aug. 16, 1954, ch. 736, 68A Stat. 245; Pub. L. 94-455, title XXI, § 2131(c), Oct. 4, 1976, 90 Stat. 1924; Pub. L. 98-369, div. A, title VII, § 722(f)(1), July 18, 1984, 98 Stat. 974.)

AMENDMENTS

1984—Pub. L. 98-369 inserted “under section 721(b)” after “gain recognized”.

1976—Pub. L. 94-455 inserted “increased by the amount (if any) of gain recognized to the contributing partner at such time” after “at the time of the contribution”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in amendments made by section 2131 of the Tax Reform Act of 1976, Pub. L. 94-455, see section 722(f)(2) of Pub. L. 98-369, set out as a note under section 722 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment made by Pub. L. 94-455, see section 2131(f)(3)-(5) of Pub. L. 94-455, set out as a note under section 721 of this title.

§ 724. Character of gain or loss on contributed unrealized receivables, inventory items, and capital loss property

(a) Contributions of unrealized receivables

In the case of any property which—

(1) was contributed to the partnership by a partner, and

(2) was an unrealized receivable in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property shall be treated as ordinary income or ordinary loss, as the case may be.

(b) Contributions of inventory items

In the case of any property which—

(1) was contributed to the partnership by a partner, and

(2) was an inventory item in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as ordinary income or ordinary loss, as the case may be.

(c) Contributions of capital loss property

In the case of any property which—

(1) was contributed by a partner to the partnership, and

(2) was a capital asset in the hands of such partner immediately before such contribution,

any loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as a loss from the sale of a capital asset to the extent that, immediately before such contribution, the adjusted basis of such property in the hands of the partner exceeded the fair market value of such property.

(d) Definitions

For purposes of this section—

(1) Unrealized receivable

The term “unrealized receivable” has the meaning given such term by section 751(c) (determined by treating any reference to the partnership as referring to the partner).

(2) Inventory item

The term “inventory item” has the meaning given such term by section 751(d) (determined