

Reg. Section 1.248-1T(a)

Election to amortize organizational expenditures (temporary).

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- A red arrow pointing to the right, highlighting the first item in the list.
- (a) In general. Under section 248(a), a corporation may elect to amortize organizational expenditures as defined in section 248(b) and § 1.248-1(b). In the taxable year in which a corporation begins business, an electing corporation may deduct an amount equal to the lesser of the amount of the organizational expenditures of the corporation, or \$ 5,000 (reduced (but not below zero) by the amount by which the organizational expenditures exceed \$ 50,000). The remainder of the organizational expenditures is deducted ratably over the 180-month period beginning with the month in which the corporation begins business. All organizational expenditures of the corporation are considered in determining whether the organizational expenditures exceed \$ 50,000, including expenditures incurred on or before October 22, 2004.
- (b) [Reserved]. For further guidance, see § 1.248-1(b).
- (c) Time and manner of making election. A corporation is deemed to have made an election under section 248(a) to amortize organizational expenditures as defined in section 248(b) and § 1.248-1(b) for the taxable year in which the corporation begins business. A corporation may choose to forgo the deemed election by clearly electing to capitalize its organizational expenditures on a timely filed Federal income tax return (including extensions) for the taxable year in which the corporation begins business. The election either to amortize organizational expenditures under section 248(a) or to capitalize organizational expenditures is irrevocable and applies to all organizational expenditures of the corporation. A change in the characterization of an item as an organizational expenditure is a change in method of accounting to which sections 446 and 481(a) apply if the corporation treated the item consistently for two or more taxable years. A change in the determination of the taxable year in which the corporation begins business also is treated as a change in method of accounting if the corporation amortized organizational expenditures for two or more taxable years.
- (d) Determination of when corporation begins business. The deduction allowed under section 248 must be spread over a period beginning with the month in which the corporation begins business. The determination of the date the corporation begins business presents a question of fact which must be determined in each case in light of all the circumstances of the particular case. The words "begins business," however, do not have the same meaning as "in existence." Ordinarily, a corporation begins business when it starts the business operations for which it was organized; a corporation comes into existence on the date of its incorporation. Mere organizational activities, such as the obtaining of the corporate charter, are not alone sufficient to show the beginning of business. If the activities of the corporation have advanced to the extent necessary to establish the nature of its business operations, however, it will be deemed to have begun business. For example, the acquisition of operating

assets which are necessary to the type of business contemplated may constitute the beginning of business.

(e) Examples. The following examples illustrate the application of this section:

Example 1. Expenditures of \$ 5,000 or less. Corporation X, a calendar year taxpayer, incurs \$ 3,000 of organizational expenditures after October 22, 2004, and begins business on July 1, 2009. Under paragraph (c) of this section, Corporation X is deemed to have elected to deduct organizational expenditures under section 248(a) in 2009. Therefore, Corporation X may deduct the entire amount of the organizational expenditures in 2009, the taxable year in which Corporation X begins business.

Example 2. Expenditures of more than \$ 5,000 but less than or equal to \$ 50,000. The facts are the same as in Example 1 except that Corporation X incurs organizational expenditures of \$ 41,000. Under paragraph (c) of this section, Corporation X is deemed to have elected to deduct organizational expenditures under section 248(a) in 2009. Therefore, Corporation X may deduct \$ 5,000 and the portion of the remaining \$ 36,000 that is allocable to July through December of 2009 ($\$ 36,000/180 \times 6 = \$ 1,200$) in 2009, the taxable year in which Corporation X begins business.

Example 3. Subsequent change in the characterization of an item. The facts are the same as in Example 2 except that Corporation X determines in 2011 that Corporation X incurred \$ 10,000 for an additional organizational expenditure erroneously deducted in 2009 under section 162 as a business expense. Under paragraph (c) of this section, Corporation X is deemed to have elected to amortize organizational expenditures under section 248(a) in 2009, including the additional \$ 10,000 of organizational expenditures. Corporation X is using an impermissible method of accounting for the additional \$ 10,000 of organizational expenditures and must change its method under § 1.446-1(e) and the applicable general administrative procedures in effect in 2011.

Example 4. Subsequent redetermination of year in which business begins. The facts are the same as in Example 2 except that, in 2010, Corporation X deducted the organizational expenditures allocable to January through December of 2010 ($\$ 36,000/180 \times 12 = \$ 2,400$). In addition, in 2011 it is determined that Corporation X actually began business in 2010. Under paragraph (c) of this section, Corporation X is deemed to have elected to deduct organizational expenditures under section 248(a) in 2010. Corporation X impermissibly deducted organizational expenditures in 2009, and incorrectly determined the amount of organizational expenditures deducted in 2010. Therefore, Corporation X is using an impermissible method of accounting for the organizational expenditures and must change its method under § 1.446-1(e) and the applicable general administrative procedures in effect in 2011.

Example 5. Expenditures of more than \$ 50,000 but less than or equal to \$ 55,000. The facts are the same as in Example 1 except that Corporation X incurs organizational expenditures of \$ 54,500. Under paragraph (c) of this section, Corporation X is deemed to have elected to deduct organizational expenditures under section 248(a) in 2009. Therefore, Corporation X may deduct \$ 500 ($\$ 5,000 - 4,500$) and the portion of the remaining \$ 54,000 that is allocable to July through December of 2009 ($\$ 54,000/180 \times 6 = \$ 1,800$) in 2009, the taxable year in which Corporation X begins business.

Example 6. Expenditures of more than \$ 55,000. The facts are the same as in Example 1 except that Corporation X incurs organizational expenditures of \$ 450,000. Under paragraph (c) of this section, Corporation X is deemed to have elected to deduct organizational expenditures under section 248(a) in 2009. Therefore, Corporation X may deduct the amounts allocable to July through December of 2009 ($\$ 450,000/180 \times 6 = \$ 15,000$) in 2009, the taxable year in which Corporation X begins business.

(f) Effective/applicability date. This section applies to organizational expenditures paid or incurred after September 8, 2008. However, taxpayers may apply all the provisions of this section to organizational expenditures paid or incurred after October 22, 2004, provided that the period of limitations on assessment of tax for the year the election under paragraph (c) of this section is deemed made has not expired. Otherwise, for organizational expenditures paid or incurred prior to September 8, 2008, see § 1.248-1 in effect prior to that date (§ 1.248-1 as contained in 26 CFR part 1 edition revised as of April 1, 2008).

(g) Expiration date. This section expires on July 7, 2011.