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Internal Revenue Code Section 461(i)(3)(B)

General rule for taxable year of deduction

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(i) Special rules for tax shelters.

(1) Recurring item exception not to apply.

In the case of a tax shelter, economic performance shall be determined without regard to paragraph (3) of subsection (h) .

(2) Special rule for spudding of oil or gas wells.

(A) In general. In the case of a tax shelter, economic performance with respect to amounts paid during the taxable year for drilling an oil or gas well shall be treated as having occurred within a taxable year if drilling of the well commences before the close of the 90th day after the close of the taxable year.

(B) Deduction limited to cash basis.

(i) Tax shelter partnerships. In the case of a tax shelter which is a partnership, in applying section 704(d) to a deduction or loss for any taxable year attributable to an item which is deductible by reason of subparagraph (A), the term "cash basis" shall be substituted for the term "adjusted basis".

(ii) Other tax shelters. Under regulations prescribed by the Secretary, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of subparagraph (A) for any taxable year shall be limited in a manner similar to the limitation under clause (i) .

(C) Cash basis defined. For purposes of subparagraph (B), a partner's cash basis in a partnership shall be equal to the adjusted basis of such partner's interest in the partnership, determined without regard to-

(i) any liability of the partnership, and

(ii) any amount borrowed by the partner with respect to such partnership which-

(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 465(b)(3)(C)), or

(II) was secured by any asset of the partnership.

(3) Tax shelter defined.

For purposes of this subsection, the term "tax shelter" means-

(A) any enterprise (other than a C corporation) if at any time interests in such enterprise have been offered for sale in any offering required to be registered with any Federal or State agency having the authority to regulate the offering of securities for sale,



(B) any syndicate (within the meaning of section 1256(e)(3)(B)), and

(C) any tax shelter (as defined in section 6662(d)(2)(C)(ii)).

(4) Special rules for farming.

In the case of the trade or business of farming (as defined in section 464(e)), in determining whether an entity is a tax shelter, the definition of farming syndicate in subsection (k) shall be substituted for subparagraphs (A) and (B) of paragraph (3).

(5) Economic performance.

For purposes of this subsection, the term "economic performance" has the meaning given such term by subsection (h).

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