Reg. Section 1.195-1(b)

Election to amortize start-up expenditures

(a)In general. Under section 195(b), a taxpayer may elect to amortize start-up expenditures as defined in section 195(c)(1). In the taxable year in which a taxpayer begins an active trade or business, an electing taxpayer may deduct an amount equal to the lesser of the amount of the start-up expenditures that relate to the active trade or business, or $5,000 (reduced (but not below zero) by the amount by which the start-up expenditures exceed $50,000). The remainder of the start-up expenditures is deductible ratably over the 180-month period beginning with the month in which the active trade or business begins. All start-up expenditures that relate to the active trade or business are considered in determining whether the start-up expenditures exceed $50,000, including expenditures incurred on or before October 22, 2004.

(b)Time and manner of making election. A taxpayer is deemed to have made an election under section 195(b) to amortize start-up expenditures as defined in section 195(c)(1) for the taxable year in which the active trade or business to which the expenditures relate begins. A taxpayer may choose to forgo the deemed election by affirmatively electing to capitalize its start-up expenditures on a timely filed Federal income tax return (including extensions) for the taxable year in which the active trade or business to which the expenditures relate begins. The election either to amortize start-up expenditures under section 195(b) or to capitalize start-up expenditures is irrevocable and applies to all start-up expenditures that are related to the active trade or business. A change in the characterization of an item as a start-up expenditure is a change in method of accounting to which sections 446 and 481(a) apply if the taxpayer treated the item consistently for two or more taxable years. A change in the determination of the taxable year in which the active trade or business begins also is treated as a change in method of accounting if the taxpayer amortized start-up expenditures for two or more taxable years.

(c)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 start-up expenditures after October 22, 2004, that relate to an active trade or business that begins on July 1, 2011. Under paragraph (b) of this section, Corporation X is deemed to have elected to amortize start-up expenditures under section 195(b) in 2011. Therefore, Corporation X may deduct the entire amount of the start-up expenditures in 2011, the taxable year in which the active trade or business begins.

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 start-up expenditures of $41,000. Under paragraph (b) of this section, Corporation X is deemed to have elected to amortize start-up expenditures under section 195(b) in 2011. Therefore, Corporation X may deduct $5,000 and the portion of the remaining $36,000 that is allocable to July through December of 2011 ($36,000/180 x 6 = $1,200) in 2011, the taxable year in which the active trade or business begins. Corporation X may amortize the remaining $34,800 ($36,000 - $1,200 = $34,800) ratably over the remaining 174 months.

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 2013 that Corporation X incurred $10,000 for an additional start-up expenditure erroneously deducted in 2011 under section 162 as a business expense. Under paragraph (b) of this section, Corporation X is deemed to have elected to amortize start-up expenditures under section 195(b) in 2011, including the additional $10,000 of start-up expenditures. Corporation X is using an impermissible method of accounting for the additional $10,000 of start-up expenditures and must change its method under §1.446-1(e) and the applicable general administrative procedures in effect in 2013.

Example (4). Subsequent redetermination of year in which business begins. The facts are the same as in Example 2 except that, in 2012, Corporation X deducted the start-up expenditures allocable to January through December of 2012 ($36,000/180 x 12 = $2,400). In addition, in 2013 it is determined that Corporation X actually began business in 2012. Under paragraph (b) of this section, Corporation X is deemed to have elected to amortize start-up expenditures under section 195(b) in 2012. Corporation X impermissibly deducted start-up expenditures in 2011, and incorrectly determined the amount of start-up expenditures deducted in 2012. Therefore, Corporation X is using an impermissible method of accounting for the start-up expenditures and must change its method under §1.446-1(e) and the applicable general administrative procedures in effect in 2013.

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 start-up expenditures of $54,500. Under paragraph (b) of this section, Corporation X is deemed to have elected to amortize start-up expenditures under section 195(b) in 2011. 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 2011 ($54,000/180 x 6 = $1,800) in 2011, the taxable year in which the active trade or business begins. Corporation X may amortize the remaining $52,200 ($54,000 - $1,800 = $52,200) ratably over the remaining 174 months.

Example (6). Expenditures of more than $55,000. The facts are the same as in Example 1 except that Corporation X incurs start-up expenditures of $450,000. Under paragraph (b) of this section, Corporation X is deemed to have elected to amortize start-up expenditures under section 195(b) in 2011. Therefore, Corporation X may deduct the amounts allocable to July through December of 2011 ($450,000/180 x 6 = $15,000) in 2011, the taxable year in which the active trade or business begins. Corporation X may amortize the remaining $435,000 ($450,000 - $15,000 = $435,000) ratably over the remaining 174 months.

(d)Effective/applicability date. This section applies to start-up expenditures paid or incurred after August 16, 2011. However, taxpayers may apply all the provisions of this section to start-up 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 (b) of this section is deemed made has not expired. For start-up expenditures paid or incurred on or before September 8, 2008, taxpayers may instead apply §1.195-1, as in effect prior to that date (§1.195-1 as contained in 26 CFR part 1 edition revised as of April 1, 2008).