

§ 1.1366-4

26 CFR Ch. I (4-1-02 Edition)

into account by the partnership and the corporation as may be necessary to reflect the value of the services rendered.

[T.D. 8852, 64 FR 71648, Dec. 22, 1999]

§ 1.1366-4 Special rules limiting the passthrough of certain items of an S corporation to its shareholders.

(a) *Passthrough inapplicable to section 34 credit.* Section 1.1366-1(a) does not apply to any credit allowable under section 34 (relating to certain uses of gasoline and special fuels).

(b) *Reduction in passthrough for tax imposed on built-in gains.* For purposes of § 1.1366-1(a), if for any taxable year of the S corporation a tax is imposed on the corporation under section 1374, the amount of the tax imposed is treated as a loss sustained by the S corporation during the taxable year. The character of the deemed loss is determined by allocating the loss proportionately among the net recognized built-in gains giving rise to the tax and attributing the character of each net recognized built-in gain to the allocable portion of the loss.

(c) *Reduction in passthrough for tax imposed on excess net passive income.* For purposes of § 1.1366-1(a), if for any taxable year of the S corporation a tax is imposed on the corporation under section 1375, each item of passive investment income shall be reduced by an amount that bears the same ratio to the amount of the tax as the net amount of the item bears to the total net passive investment income for that taxable year.

[T.D. 8852, 64 FR 71648, Dec. 22, 1999; 65 FR 12471, Mar. 9, 2000]

§ 1.1366-5 Effective date.

Sections 1.1366-1 through 1.1366-4 apply to taxable years of an S corporation beginning on or after August 18, 1998.

[T.D. 8852, 64 FR 71648, Dec. 22, 1999]

§ 1.1367-0 Table of contents.

The following table of contents is provided to facilitate the use of §§ 1.1367-1 through 1.1367-3.

§ 1.1367-1 Adjustments to basis of shareholder's stock in an S corporation.

- (a) In general.
- (1) Adjustments under section 1367.

(2) Applicability of other Internal Revenue Code provisions.

(b) Increase in basis of stock.

(1) In general.

(2) Amount of increase in basis of individual shares.

(c) Decrease in basis of stock.

(1) In general.

(2) Noncapital, nondeductible expenses.

(3) Amount of decrease in basis of individual shares.

(d) Time at which adjustments to basis of stock are effective.

(1) In general.

(2) Adjustment for nontaxable item.

(3) Effect of election under section 1377(a)(2) or § 1.1368-1(g)(2).

(e) Ordering rules for taxable years beginning before January 1, 1997.

(f) Ordering rules for taxable years beginning on or after August 18, 1998.

(g) Elective ordering rule.

(h) Examples.

(i) [Reserved]

(j) Adjustments for items of income in respect of a decedent.

§ 1.1367-2 Adjustments to basis of indebtedness to shareholder.

(a) In general.

(b) Reduction in basis of indebtedness.

(1) General rule.

(2) Termination of shareholder's interest in corporation during taxable year.

(3) Multiple indebtedness.

(c) Restoration of basis.

(1) General rule.

(2) Multiple indebtedness.

(d) Time at which adjustments to basis of indebtedness are effective.

(1) In general.

(2) Effect of election under section 1377(a)(2) or § 1.1368-1(g)(2).

(e) Examples.

§ 1.1367-3 Effective date and transition rule.

[T.D. 8508, 59 FR 15, Jan. 3, 1994, as amended by T.D. 8852, 64 FR 71648, Dec. 22, 1999]

§ 1.1367-1 Adjustments to basis of shareholder's stock in an S corporation.

(a) *In general*—(1) *Adjustments under section 1367.* This section provides rules relating to adjustments required by section 1367 to the basis of a shareholder's stock in an S corporation. Paragraph (b) of this section provides rules concerning increases in the basis of a shareholder's stock, and paragraph (c) of this section provides rules concerning decreases in the basis of a shareholder's stock.