

**Internal Revenue Service, Treasury**

**§ 7.704-1**

for this paragraph) would be less than zero, the amount at risk on the effective date shall be zero.

[T.D. 7504, 42 FR 42197, Aug. 22, 1977]

**§ 7.465-3 Allocation of loss for different taxable years.**

If the taxable year of the entity conducting the activity differs from that of the taxpayer, the loss attributable to the activity for the first taxable year of the entity ending after the beginning of the first taxable year of the taxpayer beginning after December 31, 1975, shall be allocated in the following manner. That portion of the loss from the activity for such taxable year of the entity which bears the same ratio as the number of days in such taxable year before January 1, 1976, divided by the total number of days in the taxable year, shall be attributable to taxable years of the taxpayer beginning before January 1, 1976. Consequently, that portion shall be treated in accordance with § 7.465-2.

[T.D. 7504, 42 FR 42198, Aug. 22, 1977]

**§ 7.465-4 Insufficient records.**

If sufficient records do not exist to accurately determine under § 7.465-2 the amount which a taxpayer is at risk on the effective date, the amount at risk shall be the taxpayer's basis in the activity reduced (but not below zero) by the taxpayer's share of amounts described in section 465(b) (3) or (4) with respect to the activity on the day before the effective date.

[T.D. 7504, 42 FR 42198, Aug. 22, 1977]

**§ 7.465-5 Examples.**

The provisions of § 7.465-1 and § 7.465-2 may be illustrated by the following examples:

*Example (1).* J and K, as equal partners, form partnership JK on January 1, 1975. Partnership JK is engaged solely in an activity described in section 465(c)(1). On January 1, 1975, each partner contributes \$10,000 in cash from personal assets to JK. On July 1, 1975, JK borrows \$40,000 (of which J's share is \$20,000) from a bank under a nonrecourse financing arrangement secured only by the new equipment (for use in the activity) purchased with the \$40,000. On September 1, 1975, JK reduces the amount due on the loan to \$36,000 (of which J's share is \$18,000). On October 1, 1975, JK distributes \$3,000 to each

partner. For taxable year 1975, JK has no income or loss. Although J's basis in the activity is \$25,000 (\$10,000+\$18,000-\$3,000) J's amount at risk on the effective date is \$7,000 determined as follows:

Initial amount at risk .....	\$10,000
Plus: Items which increased basis other than amounts described in sec. 465(b) (3) or (4) .....	0
<b>Total .....</b>	<b>10,000</b>
Less: Distribution .....	3,000
<b>J's amount at risk on effective date .....</b>	<b>7,000</b>

*Example (2).* Assume the same facts as in Example (1) except that JK has a loss (as described in section 465(d) for 1975 of which J's share is \$12,000. Although J's basis in the activity is \$13,000 (\$10,000+\$18,000-\$3,000+\$12,000) J's amount at risk on the effective date is \$7,000 determined as follows:

Initial amount at risk .....	\$10,000
Plus: Items which increased basis other than amounts described in sec. 465(b) (3) or (4) .....	0
<b>Total .....</b>	<b>10,000</b>
Less: Distribution .....	3,000
Portion of loss (\$12,000) in excess of portion of basis not at risk (\$18,000) .....	0
<b>Total .....</b>	<b>3,000</b>
<b>J's amount at risk on effective date .....</b>	<b>7,000</b>

*Example (3).* Assume the same facts as in Example (1) except that JK has a loss (as described in section 465(d) for 1975, and J's share is \$23,000. J's basis in the activity is \$2,000 (\$10,000+\$18,000-\$3,000+\$23,000)). The amount at risk on the effective date is determined as follows:

Initial amount at risk .....	\$10,000
Plus: Items which increased basis other than amounts described in sec. 465(b) (3) or (4) .....	0
<b>Total .....</b>	<b>10,000</b>
Less: Distribution .....	3,000
Portion of loss (\$23,000) in excess of portion of basis not at risk (\$18,000) .....	5,000
<b>Total .....</b>	<b>8,000</b>
<b>J's amount at risk on the effective date .....</b>	<b>2,000</b>

[T.D. 7504, 42 FR 42198, Aug. 22, 1977]

**§ 7.704-1 Partner's distributive share.**

- (a)-(c) [Reserved]
- (d) *Limitation on allowance of losses.*
- (1)-(2) [Reserved]
- (3)(i) Section 213(e) of the Tax Reform Act of 1976 amended section 704(d) of the Internal Revenue Code relating to the deductions by partners of losses incurred by a partnership. A partner is entitled to deduct the share of partnership loss to the extent of the adjusted basis of the partner's interest in the