

§ 1.468B

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

for the taxable year under section 6081 (b) (relating to the automatic extension for filing corporate income tax returns); and

(D) Not take the deduction allowed with respect to such payment into account in determining the amount of any overpayment of tax (within the meaning of section 6611) or underpayment of tax (within the meaning of section 6601) for the period ending on the date of such payment (see paragraph (b)(9) of this section).

(iv) The following example illustrates the application of the principles of paragraph (b)(8) of this section:

Example. X corporation is a calendar year, accrual method taxpayer engaged in the sale of electric energy generated by a nuclear power plant owned by X. On September 15, 1987, X receives a schedule of ruling amounts from the Internal Revenue Service that includes a ruling amount of \$1,000,000 for the 1986 taxable year. For purposes of this example, assume that the cost of service amount applicable to the nuclear decommissioning fund for the 1986 taxable year is also \$1,000,000 and that the after-tax rate of return of the nuclear decommissioning fund that was used in determining the schedule of ruling amounts is 10 percent compounded semi-annually. On September 15, 1987, X makes a contribution of \$1,050,000 to a nuclear decommissioning fund established by X. Under paragraph (b)(8)(ii) of this section, this contribution does not exceed the limitation on payments for the 1986 taxable year and the entire amount of the contribution is deductible for such year. The additional \$50,000 deductible payment that is allowed under this paragraph (b)(8) reflects the foregone earnings of the fund for the six-month period beginning on the deemed payment deadline date for the 1986 taxable year (March 15, 1987) and ending on the date of the contribution (September 15, 1987).

(9) *Denial of interest on overpayment.* If a deduction is allowed by reason of paragraph (b)(2) of this section for the amount of any payment made after the 15th day of the third calendar month after the close of the taxable year to which such payment relates, such deduction shall not be taken into account in determining the amount of any overpayment of tax (within the meaning of section 6611) or underpayment of tax (within the meaning of section 6601) for the period ending on the date of such payment.

(10) *Determination of addition to tax for failure to pay estimated tax.* In the case

of any taxable year that ends on or after July 18, 1984, and begins before January 1, 1987, the tax shown on the return for such taxable year for purposes of section 6655(b) shall equal the tax that would be shown on the return if a deduction were allowed for the lesser of—

(i) The amount of the payment made to the nuclear decommissioning fund for such taxable year; or

(ii) The amount determined under section 468A(b) and paragraph (b) of § 1.468A-2 (*i.e.*, the lesser of the service amount or the ruling amount) after application of the transitional rules contained in paragraph (b)(4), (5), (6) and (7) of this section but without regard to the transitional rule contained in paragraph (b)(8) of this section.

(11) *Nuclear decommissioning fund qualification requirements.* For tax years beginning prior to January 1, 1995, the Service will not assert that an unincorporated organization referred to in § 1.468A-5(a)(1)(iv), established prior to January 1, 1993, through which the assets of a nuclear decommissioning fund are invested, is an association taxable as a corporation for federal tax purposes.

(12) *Use of formula or method.* Section 1.468A-2(f)(3)(ii) and § 1.468A-3(a)(4) (to the extent it permits a formula or method when the applicable public utility commission estimates the cost of decommissioning in future dollars), (e)(5), (i)(1)(ii)(A) (to the extent it requires the taxpayer to file a request for a revised schedule because of a substantial variation in ruling amounts), and (i)(1)(iii)(C) apply only to requests for a formula or method submitted on or after January 20, 1998 and to formulas and methods obtained in response to those requests.

[T.D. 8184, 53 FR 6818, Mar. 3, 1988; 53 FR 9276, Mar. 24, 1988, as amended by T.D. 8461, 57 FR 62200, Dec. 30, 1992; T.D. 8758, 63 FR 2894, Jan. 20, 1998]

§ 1.468B Designated settlement funds.

A designated settlement fund, as defined in section 468B(d)(2), is taxed in the manner described in § 1.468B-2. The rules for transferors to a qualified settlement fund described in § 1.468B-3 apply to transferors to a designated

settlement fund. Similarly, the rules for claimants of a qualified settlement fund described in §1.468B-4 apply to claimants of a designated settlement fund. A fund, account, or trust that does not qualify as a designated settlement fund is, however, a qualified settlement fund if it meets the requirements of a qualified settlement fund described in §1.468B-1.

[T.D. 8459, 57 FR 60988, Dec. 23, 1992]

§ 1.468B-0 Table of contents.

This section contains a listing of the headings of §§1.468B-1 through 1.468B-5.

§ 1.468B-1 Qualified settlement funds.

- (a) In general.
- (b) Coordination with other entity classifications.
- (c) Requirements.
- (d) Definitions.
 - (1) Transferor.
 - (2) Related person.
- (e) Governmental order or approval requirement.
 - (1) In general.
 - (2) Arbitration panels.
- (f) Resolve or satisfy requirement.
- (1) Liabilities to provide property or services.
 - (2) CERCLA liabilities.
- (g) Excluded liabilities.
- (h) Segregation requirement.
 - (1) In general.
 - (2) Classification of fund established to resolve or satisfy allowable and non-allowable claims.
 - (i) [Reserved]
 - (j) Classification of fund prior to satisfaction of requirements in paragraph (c) of this section.
 - (1) In general.
 - (2) Relation-back rule.
 - (i) In general.
 - (ii) Relation-back election.
 - (k) Examples.

§ 1.468B-2 Taxation of qualified settlement funds and related administrative requirements.

- (a) In general.
- (b) Modified gross income.
- (c) Partnership interests held by a qualified settlement fund on February 14, 1992.
 - (1) In general.
 - (2) Limitation on changes in partnership agreements and capital contributions.
- (d) Distributions to transferors and claimants.
- (e) Basis of property transferred to a qualified settlement fund.
- (f) Distribution of property.
- (g) Other taxes.
- (h) Denial of credits against tax.

- (i) [Reserved]
- (j) Taxable year and accounting method.
- (k) Treatment as corporation for purposes of subtitle F.
 - (1) Information reporting withholding requirements.
 - (1) Payments to a qualified settlement fund.
 - (2) Payments and distributions by a qualified settlement fund.
 - (i) In general.
 - (ii) Special rules.
 - (m) Request for prompt assessment.
 - (n) Examples.

§ 1.468B-3 Rules applicable to the transferor.

- (a) Transfer of property.
 - (1) In general.
 - (2) Anti-abuse rule.
- (b) Qualified appraisal requirement for transfers of certain property.
 - (1) In general.
 - (2) Provision of copies.
 - (3) Qualified appraisal.
 - (4) Information included in a qualified appraisal.
 - (5) Effect of signature of the qualified appraiser.
 - (c) Economic performance.
 - (1) In general.
 - (2) Right to a refund or reversion.
 - (i) In general.
 - (ii) Right extinguished.
 - (3) Obligations of a transferor.
 - (d) Payment of insurance amounts.
 - (e) Statement to the qualified settlement fund and the Internal Revenue Service.
 - (1) In general.
 - (2) Required statement.
 - (i) In general.
 - (ii) Combined statements.
 - (f) Distributions to transferors.
 - (1) In general.
 - (2) Deemed distributions.
 - (i) Other liabilities.
 - (ii) Constructive receipt.
 - (3) Tax benefit rule.
 - (g) Example.

§ 1.468B-4 Taxability of distributions to claimants.

§ 1.468B-5 Effective dates and transition rules.

- (a) In general.
- (b) Taxation of certain pre-1996 fund income.
 - (1) Reasonable method.
 - (i) In general.
 - (ii) Qualified settlement funds established after February 14, 1992, but before January 1, 1993.
 - (iii) Use of cash method of accounting.
 - (iv) Unreasonable position.
 - (v) Waiver of penalties.
 - (2) Election to apply qualified settlement fund rules.
 - (i) In general.