



## Federal Tax ADVISORY ■

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### Spin-Off Expenses

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The Large Business and International Division of the IRS recently issued an internal educational PowerPoint to its agents to help them audit the deduction of expenses that facilitate spinoffs. The material implied that not only are corporations deducting expenses that the IRS believes should be capitalized, but may not even be revealing the fact of the spin.

Reg. Section 1.263(a)-5 is clear about requiring spin expenses to be capitalized, which should prevent immediate deduction. But that does not answer the question about what can be done with the capitalized costs. Costs can be capitalized within a year and deducted for that year if an event occurs that justifies recovering the temporarily capitalized expenses.

Because the regulation is silent on cost recovery, the LB&I material had to rely on case law, and it is scant. The bottom line for taxpayers that have engaged in spinoffs is that there is good reason to consider being aggressive in deducting expenses. But they should not be buried, and the fact of the spin should be reported.

For more information, please contact [Jack Cummings](#) at 919.862.2302.

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