



Federal Tax ADVISORY ■

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State-Sponsored Liability Limitation Funds

LTR 202024002 allows a corporation to write off Section 197 intangible contributions it makes to a state fund that appears to “insure” it and similarly situated corporations from liability for some “event.” The “event” may have been a catastrophe or an environmental problem caused by the corporations; the ruling does not say.

The state will also make contributions to the “fund,” and the participating corporations will make contributions to the fund. If the corporation satisfies certain requirements, it will be certified to receive payments from the fund on account of its liabilities. The fund is operated by some sort of state commission that regulates the corporations. The state statute regulating such corporations authorizes the creation of such fund. Participation in the fund entitles the corporation to a liability cap under state law.

The ruling treated the corporation as receiving intangible rights upon its original contribution to the fund. Additional payments into the fund are required.

The ruling found the rights received by the corporation to be a Section 197 intangible. The corporation could amortize the original payment over 15 years and could amortize any later additional payments over the remaining term of the 15 years. Key to the ruling were the facts that there was no term limit on the fund and the IRS did not view the rights as a right granted by a governmental unit or an agency or instrumentality thereof. The latter finding was not explained.

Although 15-year (or less) amortization might not seem like an advantageous treatment, the alternative may have been capitalization into the business that caused the damages.

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

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