

Allocating Preformation Capital Expenditure Reimbursement

Christopher McLoon discussed preformation capital expenditure reimbursement in Tax Notes Federal, Volume 174. He highlighted the significant difference in tax outcomes for partners based on how reimbursement transfers by the partnership are allocated among various types of preformation capital expenditures. Christopher also argued that the Treasury and the IRS should issue guidance allowing partnerships and partners to freely make those allocations.

Section 707(a)(2) establishes rules that clarify how sales transactions between partners and partnerships should be treated, emphasizing their true nature rather than categorizing them under sections 721 and 731. Regulations issued by the Treasury and the IRS support this policy while upholding the objectives of subchapter K, allowing partnerships to reimburse partners for specified preformation capital expenditures within certain limits. How value is allocated among multiple capital expenditure types or sources can significantly affect a partner's income tax liability for that transfer. The report emphasizes the necessity to allocate expenditures carefully. It suggests that the IRS and the Treasury should provide guidance to freely allocate transfers among capital expenditures, which would satisfy the purposes of section 707(a) regulations without undermining the goals of section 707(a)(2) or subchapter K.

To read more, [click here](#). (subscription required)



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