

810-3-172-.01 Post-Termination Transition Period.

(1) The "post-termination transition period" is:

(a) The period that begins on the day following the last day of the last S year, and ending on the later of:

1. One year from the last day of the S year, or
2. The due date, including extensions, for filing the return for the last S year.

(b) The 120-day period beginning on the date of a determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election to be treated as a federal S corporation and which adjusts a subchapter S item of income, loss, or deduction of the corporation.

(c) The 120-day period beginning on the date of a determination that the S corporation's election under 26 U.S.C. §1362 for a previous tax year had been terminated.

(d) 1. For example, if (a) above applies, the return, with extensions, will be due not later than 8 ½ months after the year end, and the post-termination transition period would always end one year from the last day of the S year. For instance, if the S year ends on December 31, 1985, the post-termination transition period begins on January 1, 1986, and ends on December 31, 1986.

2. If (c) above applies, and a determination is made on July 1, 1986, that the S election was invalid for the year ended December 31, 1985, the post-termination transition period begins on July 1, 1986, and ends on October 28, 1986.

(2) The term "determination", as used herein, means:

- (a) A determination as defined in U.S.C. §1313(a); or
- (b) An agreement between the corporation and the U.S. Secretary of the Treasury that the corporation failed to qualify as an S corporation.

(3) The term "S year" means a taxable year for which a corporation is an Alabama S corporation.

Authors: Verlon Frost, Catherine McCary, and Ed Cutter, CPA
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