

FOREIGN TAX CREDIT

¶715 Recapture of Overall Domestic Losses

NEW LAW EXPLAINED

Recapture of ODLs accelerated.— A taxpayer who claims the foreign tax credit and has an overall domestic loss (ODL) may elect to recapture the ODL by recharacterizing up to 100 percent of U.S. source taxable income earned in subsequent years as foreign source taxable income. The amount that is recharacterized each year is limited to the lesser of the aggregate amount in the ODL account or up to 100 percent of the taxpayer's U.S. source taxable income for the year (Code Sec. 904(g)(5)(A), as added by the Tax Cuts and Jobs Act).

The increased recapture amount applies to the pre-2018 unused ODL, meaning a loss that arises in a qualified tax year beginning before January 1, 2018, and that has not been used for any tax year before that date (Code Sec. 904(g)(5)(B), as added by the 2017 Tax Cuts Act). A qualified tax year is a year for which the taxpayer elects the foreign tax credit (Code Sec. 904(g)(2)(C)). The pre-2018 unused ODL must be taken into account for tax years of the taxpayer beginning after December 31, 2017, and before January 1, 2028 (Code Sec. 904(g)(5)(C), as added by the Tax Cuts Act).

Effective date. The amendments made by this section apply to tax years beginning after December 31, 2017 (Act Sec. 14304(b) of the Tax Cuts and Jobs Act).