

In a pair of recent rulings the IRS addressed the treatment of termination fees paid as a result of a broken deal. The rulings addressed the payer and payee respectively and held that the payments resulted in capital gain or loss.



In prior rulings the IRS had held that such payments represented ordinary deductions providing a tax shield to shelter operating profits. This change in position could saddle a taxpayer with a capital loss upon payment, which is much harder to recognize, and when recognized, only shelters income at capital gain rates. The termination fee at issue in one of the rulings is believed to relate to the terminated 2014 proposed AbbVie Inc.-Shire Plc merger where a termination fee in excess of \$1.5 billion was paid. Based upon recent comments by the IRS, it appears they placed significant importance upon the fact that the termination fee was paid under a contract to purchase the stock of a target, which is generally a capital asset. The answer could be different if the fee is not paid under an executed contract or where the contract is for the acquisition of something other than stock (e.g., operating business assets).

A silver lining may be found in the fact that the other ruling held the receipt of a termination fee would result in capital gain, which if ultimately passed through to an individual investor would be taxed at favorable capital gain rates.

Read more about this development and how it may impact the tax treatment of your next break-up or termination fee paid or received, and as always consult your tax advisor.

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Lyft may beat Uber in race to profitability



Ridesharing company Lyft has long operated in the shadow of its arch-nemesis Uber. Although Lyft has seen growth in many key metrics, such as total rides facilitated, its figures have always seemingly paled in comparison to its \$68 billion competitor.

Well, it appears that Lyft is possibly beating Uber in one very important way: a path to profitability.

In a new report from The Information, it's revealed...

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