

**Section 100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))**

- a) A corporation that is a "financial organization" within the meaning of IITA Section 304(c) may subtract *an amount included in its taxable income as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the High Impact Business Investment Credit* under IITA Section 201(h). (IITA Section 203(b)(2)(M-1))
- b) Coordination with Subtraction for Enterprise Zone Interest. Notwithstanding subsection (a), a taxpayer may not claim a subtraction modification under IITA Section 203(b)(2)(M-1) and this Section for any taxable year in which the taxpayer is allowed to claim the subtraction modification under IITA Section 203(b)(2)(M) and Section 100.2655 of this Part for interest on a loan secured by property eligible for the enterprise zone investment credit or river edge redevelopment zone investment credit. (IITA Section 203(b)(2)(M-1))
- c) Eligible Property. For purposes of this Section, "eligible property" shall mean property that is "qualified property", as defined under IITA Section 201(h) and Section 100.2130(e) of this Part, and that is placed in service on or after the date the owner is designated as a high impact business by the Department of Commerce and Economic Opportunity. To be considered eligible property, it is not necessary that the property be placed in service in a federally designated foreign trade zone or subzone.
- d) Portion of Loan Secured by Eligible Property. *To determine the portion of a loan that is secured by eligible property, the entire principal amount of the loan between the taxpayer and the borrower should be divided into the basis of the eligible property which secures the loan, using for this purpose the original basis of such property on the date it was placed in service. The subtraction modification available to the taxpayer in any year under IITA Section 203(b)(2)(M-1) shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence.* (IITA Section 203(b)(2)(M-1)) There is no limitation to the length of time for which the subtraction may be taken with respect to a particular loan.
- e) Basis. For purposes of the computation in subsection (d), the basis of eligible property shall be its borrower's basis in the eligible property for federal income tax purposes, including the costs of any improvements or repairs included in that basis, but without adjustment for depreciation or IRC section 179 deductions claimed with respect to the property.
- f) Examples. The provisions of IITA Section 203(b)(2)(M-1) and this Section may be illustrated by the following examples.

- 1) EXAMPLE 1. Bank lends \$1,000 to Borrower, secured by eligible property with a basis of \$900. The portion of the loan secured by eligible property is the \$900 basis of the borrower in eligible property divided by the \$1,000 principal amount of the loan, or 90%.
- 2) EXAMPLE 2. Bank lends \$1,000 to Borrower, secured by eligible property with a basis of \$1,000 and by other property with a basis of \$2,000. The portion of the loan secured by eligible property is the \$1,000 basis of the borrower in eligible property divided by the \$1,000 principal amount of the loan, or 100%. The existence of other property securing the loan is irrelevant.
- 3) EXAMPLE 3. In 2008, DCEO designated ABC Company a high impact business. In 2009, ABC Company built a new warehouse at the cost of \$1,000,000 and is able to claim the high impact business investment credit under IITA Section 201(h) with respect to the warehouse. ABC takes out a \$2,000,000 loan at Bank A, which then places a lien on the property. In 2010, when the warehouse had an adjusted basis (after depreciation) of \$900,000 and a fair market value of \$1,300,000, ABC refinanced the loan for the same principal amount, but at a lower interest rate. For both loans, the portion of the loan secured by eligible property is the \$1,000,000 original basis in the warehouse divided by the \$2,000,000 principal. Neither the adjusted basis after depreciation nor the fair market value is relevant to the computation for the refinanced amount.
- 4) EXAMPLE 4. Assume the facts are the same as in Example 3, except that, in 2011, ABC Company again refinanced the loan, this time at Bank B (unrelated to Bank A). There was no change in the principal amount. Bank B takes a lien on the warehouse to secure the new loan. The portion of the Bank B loan that qualifies for the subtraction modification is 50% because the principal amount of the loan and ABC Company's original basis in the property remain unchanged.
- 5) EXAMPLE 5. The facts are the same as in Example 4, except that Bank B purchased the refinanced loan from Bank A. The loan is not refinanced. ABC continues to pay the same amount, but now pays Bank B rather than Bank A. Bank B does not qualify for the subtraction modification, which is allowed only with respect to a loan "made by such taxpayer to a borrower" and Bank B did not make the loan.

(Source: Added at 38 Ill. Reg. 38 Ill. Reg. 9550, effective April 21, 2014)