Section 736 - Payments to a Retiring Partner or a Deceased Partner’s Successor in Interest

### Section 736(a) Payments

Were the payments made in exchange for the withdrawing partner’s interest in partnership property in an arm’s length agreement? If so, the payments are treated as payments under section 736(a). If not, proceed to section 736(b).

- Yes: Proceed to 736(b) Payments.
- No: With Regard to Inc. of the P’ship.

### With Regard to Inc. of the P’ship

Were the payments to the withdrawing partner determined with regard to the income of the partnership?

- Yes: Proportionate Gain Election.
- No: Alloc. Gain.

### 736(b) Payments

were payments made by the partnership (rather than by the partner) for his/her section 736(b) withdrawing “partner’s interest in partnership property”?

- Yes: Were payments made in exchange for the withdrawing partner’s interest in partnership property in an arm’s length agreement? If so, the payments are treated as payments under section 736(b). If not, allocate each fixed agreed payment as payments under section 736(b).
- No: Pro Rata Allocation.

### PRO RATA ALLOCATION

Allocate each fixed agreed payment received after section 736(b) to the extent of the value of that interest and, thereafter, as payments under section 736(b).

### Treat as a Share of Income

The payments made in liquidation of the interest of the withdrawing partner are considered as a distributive share of the partnership income. These payments are deductible by the partnership under section 162(a) and are taxable as ordinary income to the recipient under section 61(a). The payments are included in the income of the recipient for the partnership year in which the partnership is entitled to deduct such amount as a guaranteed payment. The withdrawing partner is regarded as a partner under the entire interest of the withdrawing partner is liquidated.

### Proportionate Gain Election

Allocate each section 736(b) payment as a distributive share of the partnership income. The payments are included in the income of the recipient for the year in which the payment is included in the income of the partnership, and the recipient reports the gain or loss as a capital gain or loss.

### Treat as Guaranteed Payments

The payments made in liquidation of the interest of the withdrawing partner are considered as a guaranteed payment described in section 707(c). These payments are deductible by the partnership under section 162(a) and are taxable as ordinary income to the recipient under section 61(a). The payments are included in the income of the recipient for the partnership year in which the partnership is entitled to deduct such amount as a guaranteed payment. The withdrawing partner is regarded as a partner under the entire interest of the withdrawing partner is liquidated.

### Disclaimer

This flowchart has been extensively reviewed to be as complete and accurate as possible. However, due to the complexity of these rules, this flowchart undoubtedly includes errors and omissions. You should consult a tax professional for individual advice regarding your own situation. This flowchart is not updated for changes in the tax laws and should not be relied upon for any purpose whatsoever.

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