DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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The Honorable Frank Kratovil
U.S. House of Representatives
Washington, DC 20515

Attention:

Dear Mr. Kratovil:

I am responding to your inquiry dated October 14, 2009, about section 195 of the Internal Revenue Code. You asked whether a taxpayer has to have offsetting income to take advantage of the section 195 deduction, or can a taxpayer carry forward section 195 losses.

A taxpayer can elect to deduct a certain amount of start-up expenditures up to a limit for the taxable year in which the taxpayer begins an active trade or business. The remainder of the start-up expenditures are deducted ratably over a 180-month period beginning with the month in which the taxpayer begins the active trade or business. A taxpayer does not have to have offsetting income to make this election. A taxpayer who makes the section 195 election treats a net operating loss following the rules under section 172. In general, section 172 allows a taxpayer to carryback a net operating loss 2 taxable years and carryover a net operating loss 20 taxable years.

I hope this information is helpful. If you need further assistance, please call me or at .

Sincerely,

Kathleen Reed

Kathleen Reed
Branch Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)