

Proposed Rules

Federal Register

Vol. 66, No. 3

Thursday, January 4, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-119352-00]

RIN 1545-AY58

Guidance on Filing an Application for a Tentative Carryback Adjustment in a Consolidated Return Context

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the rules and regulations portion of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the filing of an application for a tentative carryback adjustment by a consolidated group and by certain new members of a consolidated group. The text of those temporary regulations also serves as the text of these proposed regulations. In addition, this document provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by April 4, 2001. The public hearing has been scheduled for April 26, 2001. Outlines of topics to be discussed at the public hearing scheduled for April 26, 2001, at 10 a.m. must be received by April 5, 2001.

ADDRESSES: Send submissions to: Regulations Unit CC, room 5226 (REG-119352-00), Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to Regulations Unit CC, room 5226 (REG-119352-00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet directly to the IRS Internet site at http://www.irs.gov/tax_regs/reglist.html. The

public hearing is scheduled for April 26, 2001, and will be held in room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, Christopher M. Bass or Frances L. Kelly, (202) 622-7770; concerning submissions, the hearing, and/or to be placed on the building access list to attend the hearing, Guy Traynor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations sections of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code of 1986 (Code). The temporary regulations provide guidance as to the time for filing an application for a tentative carryback adjustment by a consolidated group. The amendments also extend the time for filing an application for a tentative carryback adjustment by certain corporations for the separate return year created by their becoming new members of a consolidated group. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

It has been determined that this notice of proposed rule making is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that these regulations will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses, and, moreover, that any burden on taxpayers is minimal. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are timely submitted to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be made available for public inspection and copying.

A public hearing has been scheduled for April 26, 2001, beginning at 10 a.m., in room 4718, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must request to speak, and submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by April 5, 2001. A period of ten minutes will be allocated to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these proposed regulations are Christopher M. Bass and Frances L. Kelly, Office of the Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding the following entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.1502-78 also issued under 26 U.S.C. 1502 and 6411(c). * * *

Par. 2. Section 1.1502-78, as proposed to be amended, reads as follows:

§ 1.1502-78 Tentative carryback adjustments.

[The text of the amendments to this proposed section is the same as the text of the amendments to § 1.1502-78T published elsewhere in this issue of the **Federal Register**.]

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01-197 Filed 1-3-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[REG-106791-00]

RIN 1545-AY55

Liabilities Assumed in Certain Corporate Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations, and notice of public hearing.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the assumption of liabilities in certain corporate transactions under section 301 of the Internal Revenue Code. The temporary regulations affect corporations and their shareholders. The text of those temporary regulations also serves as the text of these proposed regulations. This document also gives notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by May 10, 2001. Requests to

speak and outlines of topics to be discussed at the public hearing scheduled for May 31, 2001 at 10 a.m. must be received by May 10, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG-106791-00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG-106791-00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option of the IRS Home Page or by submitting comments directly to the IRS Internet site at <http://www.irs.gov/tax-regs/reglist.html>. A public hearing will be held in room 4718, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Mary E. Dean, (202) 622-7550; concerning submissions and the hearings, Guy Traynor, (202) 622-7180.

SUPPLEMENTARY INFORMATION**Background**

The temporary regulations amend the income tax regulations (26 CFR part 1) under section 301 relating to liabilities assumed in connection with distributions made by a corporation to shareholders with respect to their stock. These regulations provide that the amount of a distribution under section 301 will be reduced by the amount of any liability that is treated as assumed by the distributee within the meaning of section 357(d)(1) and (2). Thus, in a distribution under section 301, if a liability is treated as not having been assumed by the distributee under section 357(d)(1) and (2), the amount of the distribution will not be reduced by the amount of any liability the property is subject to under section 301(b)(2)(B). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. These proposed regulations under section 301

of the Internal Revenue Code (Code) address distributions by corporations in which liabilities are assumed by the shareholders or in which the distributed property is subject to liabilities. These proposed regulations provide that the amount of a distribution under section 301 will be reduced by the amount of any liability that is treated as assumed by the distributee within the meaning of section 357(d)(1) and (2).

If adopted these regulations will affect only corporations making distributions of property, in which the property is subject to a liability, or in which liabilities are assumed by the distributee. Moreover, if adopted, the proposed regulations will affect only those corporations that would have, but for the regulations, considered liabilities to have been assumed in circumstances other than those described in section 357(d)(1) and (2). Therefore, most corporations, whether large or small, will not be affected by the proposed regulations in any given year. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) or electronically generated comments that are submitted timely to the IRS. The IRS and Treasury specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for May 31, 2000, at 10 a.m., in room 4718, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the 1111 Constitution Avenue entrance, located between 10th and 12th streets. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.