of the disorder, and that you have the typical clinical features physician stating that you have the disorder.

110.08A or B if we have: (i) a report from a laboratory evidence we need under E1, E2, or evidence that indicates that you do not have the disorder. In these rare cases, we do not need laboratory testing or any other evidence that confirms the disorder.

F. How do we evaluate mosaic Down syndrome and other congenital disorders that affect multiple body systems?

1. Mosaic Down syndrome. Approximately 2 percent of children with Down syndrome have the mosaic form. In mosaic Down syndrome, there are some cells with an extra copy of chromosome 21 and other cells with the normal two copies of chromosome 21. Mosaic Down syndrome can be so slight as to be undetected clinically, but it can also be profound and disabling, affecting various body systems.

2. Other congenital disorders that affect multiple body systems. Other congenital disorders, such as congenital anomalies, chromosomal disorders, dysmorphic syndromes, inborn metabolic syndromes, and perinatal infectious diseases, can cause deviation from, or interruption of, the normal function of the body or can interfere with development. Examples of these disorders include both the juvenile and late-onset forms of Tay-Sachs disease, trisomy X syndrome (XXX syndrome), fragile X syndrome, phenylketonuria (PKU), caudal regression syndrome, and fetal alcohol syndrome. For these disorders and other disorders like them, the degree of deviation, interruption, or interference, as well as the resulting functional limitations and their progression, may vary widely from child to child and may affect different body systems.

3. Evaluating the effects of mosaic Down syndrome or another congenital disorder under the listings. When the effects of mosaic Down syndrome or another congenital disorder that affects multiple body systems are sufficiently severe we evaluate the disorder under the appropriate affected body system(s), such as musculoskeletal, special senses and speech, neurological, or mental disorders. Otherwise, we evaluate the specific functional limitations that result from the disorder under our other rules described in 110.00G.

G. What if your disorder does not meet a listing? If you have a severe medically determinable impairment(s) that does not meet a listing, we will consider whether your impairment(s) medically equals a listing. See §416.926 of this chapter. If your impairment(s) does not meet or medically equal a listing, we will consider whether it functionally equals the listings. See §§416.924 and 416.926a of this chapter. We use the rules in §416.924a of this chapter when we decide whether you continue to be disabled.

DEPARTMENT OF THE TREASURY
Internal Revenue Service

26 CFR Part 1
[REG—109006–11]
RIN 1545–BK13

Modifications of Certain Derivative Contracts; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document cancels a public hearing on notice of proposed rulemaking by cross-reference to temporary regulations relating to whether an exchange for purposes of §1.1001–1(a) occurs for the nonassigning counterparty when there is an assignment of certain derivative contracts.

DATES: The public hearing, originally scheduled for October 27, 2011 at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Richard A. Hurst of the Publications and
SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking by cross-reference to temporary regulations and a notice of public hearing that appeared in the Federal Register on Friday, July 22, 2011 (76 FR 43957), announced that a public hearing was scheduled for October 27, 2011, beginning at 10 a.m. in the auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. The subject of the public hearing is under section 1001 of the Internal Revenue Code.

The public comment period for a notice of proposed rulemaking by cross-reference to temporary regulations expired on October 20, 2011. Outlines of topics to be discussed at the hearing were due on October 20, 2011. A notice of propose rulemaking by cross-reference to temporary regulations and notice of public hearing instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Friday, October 21, 2011, no one has requested to speak. Therefore, the public hearing scheduled for October 27, 2011 is cancelled.

LaNita Van Dyke, Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at Richard.A.Hurst@irs.counsel.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

Subchapter K is intended to permit taxpayers to conduct joint business activities through a flexible economic arrangement without incurring an entity-level tax. To achieve this goal of a flexible economic arrangement, partners are generally permitted to decide among themselves how a partnership’s items will be allocated. Section 704(a) of the Internal Revenue Code provides that a partner’s distributive share of income, gain, loss, deduction, or credit shall, except as otherwise provided, be determined by the partnership agreement.

Section 704(b) places a significant limitation on the general flexibility of section 704(a). Specifically, section 704(b) provides that a partner’s distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner’s interest in the partnership (determined by taking into account all facts and circumstances) if the allocation to a partner under the partnership agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect. Thus, the statute provides that partnership allocations either must have substantial economic effect or must be in accordance with the partners’ interests in the partnership.

For an allocation to have economic effect, it must be consistent with the underlying economic arrangement of the partners. This means that, in the event that there is an economic benefit or burden that corresponds to the allocation, the partner to whom the allocation is made must receive such economic benefit or bear such economic burden. See § 1.704–1(b)(2)(ii).

Generally, an allocation of income, gain, loss, or deduction (or item thereof) to a partner will have economic effect if, and only if, throughout the full term of the partnership, the partnership agreement provides: (1) for the determination and maintenance of the partners’ capital accounts in accordance with § 1.704–1(b)(2)(iv); (2) for liquidating distributions to the partners to be made in accordance with the positive capital account balances of the partners; and (3) for each partner to be unconditionally obligated to restore the deficit balance in the partner’s capital account following the liquidation of the partner’s partnership interest. In lieu of satisfying the third criterion, the partnership may satisfy the qualified income offset rules set forth in § 1.704–1(b)(2)(ii)(d).

Section 1.704–1(b)(2)(ii)(a) provides as a general rule that the economic effect of an allocation (or allocations) is substantial if there is a reasonable possibility that the allocation (or allocations) will affect substantially the dollar amounts to be received by the partners from the partnership, independent of tax consequences. This section further provides that, even if the allocation affects substantially the dollar amounts, the economic effect of the allocation (or allocations) is not substantial if, at the time the allocation (or allocations) becomes part of the partnership agreement: (1) The after-tax economic consequences of at least one partner may, in present value terms, be enhanced compared to such consequences if the allocation (or allocations) were not contained in the partnership agreement, and (2) there is a strong likelihood that the after-tax economic consequences of no partner will, in present value terms, be substantially diminished compared to such consequences if the allocation (or allocations) were not contained in the partnership agreement.