Example 1. K, a controlled entity of a foreign sovereign, has investments in various stocks and bonds of United States corporations and also owns and manages an office building in New York. Because K has authority to participate in the management and conduct of Opco’s business, its interest in Opco is not a limited partner interest. Therefore, K will be deemed to be engaged in commercial activities because of attribution of Opco’s commercial activity, even if K does not actually make management decisions with regard to Opco’s commercial activity, the operation of the office building. Accordingly, K is a controlled commercial entity, and all of its income, including its distributive share of partnership income from its interest in Opco and its income from the stocks and bonds it owns directly, will not be exempt from tax under section 892.

Example 2. The facts are the same as in Example 1, except that Opco has hired a real estate management firm to lease and manage the office building. Notwithstanding the fact that an independent contractor is performing the activities, Opco will still be deemed to be engaged in commercial activities. Accordingly, K is a controlled commercial entity, and all of its income, including its distributive share of partnership income from its interest in Opco and its income from the stocks and bonds it owns directly, will not be exempt from tax under section 892.

Example 3. The facts are the same as in Example 1, except that K is a member that has no right to participate in the management and conduct of Opco’s business. Assume further that K is not otherwise engaged in commercial activities. Under paragraph (d)(5)(iii) of this section, Opco’s commercial activities will not be attributed to K. Accordingly, K will not be a controlled commercial entity, and its income derived from the stocks and bonds it owns directly and the portion of its distributive share of partnership income from its interest in Opco that is derived from stocks and bonds will be exempt from tax under section 892. The portion of K’s distributive share of partnership income from its interest in Opco that is derived from the operation of the office building will not be exempt from tax under section 892 and § 1.892–3T(a)(1).

(e) Effective/applicability date. This section applies on the date these regulations are published as final regulations in the Federal Register. See § 1.892–5(a) as issued under TD 9012 (August 1, 2002) for rules that apply on or after January 14, 2002, and before the date these regulations are published as final regulations in the Federal Register. See § 1.892–5T(a) for rules that apply before January 14, 2002, and § 1.892–5T(b) through (d) for rules that apply before the date these regulations are published as final regulations in the Federal Register.
because it permitted WLS–TV, an ABC network affiliate in Chicago, Illinois, to move from its post-transition channel 7 to channel 44, resulting in the restoration of ABC network service to numerous viewers that had lost service after the transition of WLS–TV to digital operations. Finally, the document notes that the petitioner’s own engineer had recognized potential technical problems associated with WWAZ–TV’s digital operations on channel 44.

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SUPPLEMENTARY INFORMATION: This is a synopsis of the Memorandum Opinion and Order, MB Docket No. 09–115, adopted September 6, 2011 by the Video Division of the Federal Communications Commission, and released September 8, 2011. For the reasons discussed above, the Federal Communications Commission denies the petition for reconsideration of an order changing the allotted channel for station WWAZ–TV, Fond du Lac, Wisconsin. The full text of this document is available for public inspection and copying during normal business hours in the FCC’s Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document will also be available via ECFS (http://www.fcc.gov/cgb/ecfs/). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–(800) 478–3160 or via email http://www.BCPIWEB.com. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to fcc504@fcc.gov or call the Commission’s Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts (other than ex parte presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

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