



Notice of Proposed Rulemaking and Notice of Public Hearing

Stock Transfer Rules: Supplemental Rules

REG-116048-99

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document proposes, by cross-reference to temporary regulations, amendments to the final regulations concerning the Federal tax treatment of certain exchanges subject to section 367(b) of the Internal Revenue Code (Code). The temporary regulations, T.D. 8863, provide an election for certain taxpayers engaged in certain exchanges described in section 367(b). The temporary regulations provide guidance for taxpayers that make the specified election in order to determine the extent to which income must be included and certain corresponding adjustments must be made. The text of the temporary regulations also serves as the text of the proposed regulations. This

document also provides notice of a public hearing on the proposed regulations.

DATES: Written comments must be received by April 24, 2000. Requests to speak (with outlines of oral comments) at the public hearing scheduled for April 20, 2000, must be submitted by March 31, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-116048-99), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-116048-99), 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.ustreas.gov/prod/tax_regs/reglist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Mark D. Harris, (202) 622-3860 (not a toll-free number); concerning submissions and the hearing, Guy Traynor, (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by March 24, 2000. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the **Internal Revenue Service**, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in §1.367(b)-3(b)(4). This information is required to properly make an election to include an amount in income that is different than the inclusion currently required under §1.367(b)-3 of the final regulations. This information will be used to verify proper compliance with the section 367(b) regulations, including that the election provided herein was made and that the required adjustments will be made by all parties to the section 367(b) transaction. The collection of information is mandatory. The likely respondents are businesses or other for-profit institutions.

Estimated total annual reporting burden: 85 hours.

Estimated average annual burden hours per respondent: 4 hours, 15 minutes.

Estimated number of respondents: 20

Estimated annual frequency of responses: once

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

T.D. 8863 on page 488 amends the Income Tax Regulations (26 CFR part 1) re-

lating to section 367(b). The temporary regulations contain rules that provide an election for certain taxpayers engaged in certain exchanges described in section 367(b).

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed regulations.

Proposed Effective Date

Except as otherwise specified, these regulations are proposed to apply to section 367(b) exchanges that occur on or after January 24, 2000.

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that the collection of information contained in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the number of section 367(b) exchanges that require reporting under these regulations is estimated to be only 20 per 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, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

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) that are submitted timely to the IRS. The IRS and Treasury request comments on the clarity of the proposed regulation and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for April 20, 2000, beginning at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washing-

ton, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit timely written comments and an outline of the topics to be discussed and the time to be devoted to each topic by (preferably a signed original and eight (8) copies) March 31, 2000. However, comments not to be presented at the hearing must be submitted by April 24, 2000.

A period of 10 minutes will be allotted 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 author of these regulations is Mark Harris of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

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Proposed Amendments to the Regulations

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

Income taxes, Reporting and record-keeping requirements.

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.367(b)-3 is amended by adding paragraph (b)(4) to read as follows:

§1.367(b)-3 Repatriation of foreign corporate assets in certain nonrecognition transactions.

* * * * *

(b) * * *

(4) [The text of this proposed addition is the same as the text of §1.367(b)-3T(b)(4) published in T.D.8863].

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John M. Dalrymple,
*Acting Deputy Commissioner
of Internal Revenue.*

(Filed by the Office of the Federal Register on January 21, 2000, 8:45 a.m., and published in the issue of the Federal Register for January 24, 2000, 65 F.R.