

Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations and Notice of Public Hearing

Partner's Distributive Share: Foreign Tax Expenditures

REG-139792-02

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations relating to the proper allocation of partnership expenditures for foreign taxes. The proposed regulations affect partnerships and their partners. In this issue of the Bulletin, the IRS is issuing temporary regulations (T.D. 9121) that modify the rules relating to the proper allocation of creditable foreign taxes. The text of the temporary regulations also serves as the text of these proposed regulations. This document also contains a notice of public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by Tuesday, August 24, 2004. Outlines of topics to be discussed at the public hearing scheduled for Tuesday, September 14, 2004, at 10 a.m., must be received by Tuesday, August 24, 2004.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-139792-02), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-139792-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS internet site at www.irs.gov/reg or www.regulations.gov. The public hearing

will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Beverly M. Katz, (202) 622-3050; concerning submissions and the hearing, Treena Garrett, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations amend the rules in 26 CFR part 1 regarding the allocation of foreign taxes among partners under section 704(b). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulation.

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 also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue 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 business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Tuesday, September 14, 2004, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name on the building access list to attend the hearing, see the FOR FURTHER INFORMATION CONTACT portion of this preamble. The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments must submit written or electronic comments by Tuesday, August 24, 2004, 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 Tuesday, August 24, 2004. 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 this regulation is Beverly M. Katz, Office of the Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the IRS and Treasury Department participated in its development.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are proposed to be amended as follows:

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 1.704-1 is amended as follows:

1. Paragraphs (b)(1)(ii)(b) and (b)(4)(xi) are added.

2. Paragraph (b)(5) is amended by adding *Example 25* through *Example 28*.

The additions and revisions read as follows.

§1.704-1 Partner's distributive share.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(b) [The text of this proposed amendment is the same as the text of §1.704-1T(b)(1)(ii)(b) published elsewhere in this issue of the Bulletin].

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(4) * * *

(xi) [The text of this proposed amendment is the same as the text of §1.704-1T(b)(4)(xi) published elsewhere in this issue of the Bulletin].

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(5) [The text of this proposed amendment of §1.704-1(b)(5) is the same as the text of §1.704-1T(b)(5) published elsewhere in this issue of the Bulletin].

John M. Dalrymple,
*Acting Deputy Commissioner for
Services and Enforcement.*