



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

REG-132702-10

RIN 1545-BJ74

Indirect Stock Transfers and Coordination Rule Exceptions; Transfers of Stock or Securities in Outbound Asset Reorganizations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS and the Treasury Department are issuing temporary regulations that eliminate one of two exceptions to the coordination rule between asset transfers and indirect stock transfers for certain outbound asset reorganizations. The temporary regulations also modify the exception to the coordination rule for certain outbound exchanges so that it is consistent with the remaining asset reorganization exception. In addition, the regulations modify, in various contexts, procedures for obtaining reasonable cause relief. Finally, the temporary regulations implement certain changes with respect to transfers of stock or securities by a domestic corporation to a foreign corporation in a section 361 exchange. The regulations primarily affect domestic corporations that transfer property to foreign corporations in certain outbound nonrecognition exchanges. The text of the temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by **INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER**].

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-132702-10), room 5205, 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-132702-10), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-132702-10).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Robert B. Williams, Jr., (202) 622-3860; concerning submissions of comments or requests for a public hearing, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) under section 367 of the Internal Revenue Code (Code). The text of those 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 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 the collections of information contained in these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. These regulations primarily will affect United States persons that are large corporations engaged in corporate transactions among their controlled corporations. Thus, the number of affected small entities—in whichever of the three categories defined in the Regulatory Flexibility Act (small businesses, small organizations, and small governmental jurisdictions)—will not be substantial. The IRS and the Treasury Department estimate that small organizations and small governmental jurisdictions are likely to be affected only insofar as they transfer the stock of a controlled corporation to a related corporation. While a certain number of small entities may engage in such transactions, the IRS and the Treasury Department do not anticipate the number to be substantial. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under “Addresses” heading. The IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request. A public hearing will be

scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Robert B. Williams, Jr. of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the 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 continues to read as follows:

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

Par. 2. Section 1.367(a)-3 is amended by:

1. Revising paragraphs (d)(2)(vi)(B) and (d)(3) Examples 6B, 6C, and 9.
2. Revising paragraph (e).
3. Adding paragraphs (g)(1)(vii)(A) and (g)(1)(ix) .

The revisions and additions read as follows:

§1.367(a)-3 Treatment of transfers of stock or securities to foreign corporations.

* * * * *

(d) * * *

(2) * * *

(vi) * * *

(B) [The text of proposed §1.367(a)-3(d)(2)(vi)(B) is the same as the text of §1.367(a)-3T(d)(2)(vi)(B) published elsewhere in this issue of the **Federal Register**].

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(3) * * *

Example 6B. [The text of proposed §1.367(a)-3(d)(3) Example 6B is the same as the text of §1.367(a)-3T(d)(3) Example 6B published elsewhere in this issue of the **Federal Register**].

Example 6C. [The text of proposed §1.367(a)-3(d)(3) Example 6C is the same as the text of §1.367(a)-3T(d)(3) Example 6C published elsewhere in this issue of the **Federal Register**].

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Example 9. [The text of proposed §1.367(a)-3(d)(3) Example 9 is the same as the text of §1.367(a)-3T(d)(3) Example 9 published elsewhere in this issue of the **Federal Register**].

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(e) [The text of proposed §1.367(a)-3(e) is the same as the text of §1.367(a)-3T(e) published elsewhere in this issue of the **Federal Register**].

* * * * *

(g) * * *

(1) * * *

(vii)(A) [The text of proposed §1.367(a)-3(a)(1)(vii)(A) is the same as the text of §1.367(a)-3T(g)(1)(vii)(A) published elsewhere in this issue of the **Federal Register**].

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(ix) [The text of proposed §1.367(a)-3(g)(1)(ix) is the same as the text of §1.367(a)-3T(g)(1)(ix) published elsewhere in this issue of the **Federal Register**].

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Par. 3. Section 1.367(a)-6 is amended by adding a sentence to paragraph (e)(4) to read as follows:

§1.367(a)-6 Transfer of foreign branch with previously deducted losses.

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(e) * * *

(4) * * * [The text of the final sentence of proposed §1.367(a)-6(e)(4) is the same as the text of the final sentence of §1.367(a)-6T(e)(4) published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 1.367(a)-7 is amended by revising paragraph (e)(2) to read as follows:

§1.367(a)-7 Outbound transfers of property described in section 361(a) or (b).

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(e) * * *

(2) [The text of proposed §1.367(a)-7(e)(2) is the same as the text of §1.367(a)-7T(e)(2) published elsewhere in this issue of the **Federal Register**].

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Par. 5. Section 1.1248(f)-3 is amended by revising paragraph (a) to read as follows:

§1.1248(f)-3 Reasonable cause and effective/applicability dates.

(a) [The text of proposed §1.1248(f)-3 is the same as the text of proposed §1.1248(f)-3T published elsewhere in this issue of the **Federal Register**].

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Par. 6. Section 1.6038B-1 is amended by revising paragraph (f)(3) to read as follows:

§1.6038B-1 Reporting of certain transfers to foreign corporations.

* * * * *

(f) * * *

(3) [The text of proposed §1.6038B-1(f)(3) is the same as the text of §1.6038B-1T(f)(3) published elsewhere in this issue of the **Federal Register**].

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Steven T. Miller

Deputy Commissioner for Services and Enforcement.

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