

## Notice of Proposed Rulemaking and Notice of Public Hearing

### Source and Grouping Rules for Foreign Sales Corporation Transfer Pricing

REG-102144-98

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: In T.D. 8764, page 9 of this Bulletin, the IRS is issuing temporary regulations that provide guidance to taxpayers who have made an election to be treated as a foreign sales corporation (FSC). The regulations provide rules clarifying the special sourcing rules under section 927(e)(1) and provide a deadline for the election to group transactions. This document also provides notice of a public hearing on these proposed regulations. The text of the temporary regulations also serves as the text of the proposed regulations.

DATES: Written comments must be received by June 1, 1998. Requests to speak (with outlines of oral comments) to be discussed at the public hearing scheduled for June 24, 1998, at 10 a.m., must be received by June 3, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-102144-98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-102144-98), 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 on the IRS Home Page, or by submitting comments directly to the IRS Internet site at [http://www.irs.ustreas.gov/prod/tax\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax_regs/comments.html). The public hearing will be held in Room 2615, Internal Revenue Service, 1111

Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Elizabeth Beck (202) 622-3880; concerning submissions and the hearing, Michael Slaughter, (202) 622-7190 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### *Background*

Temporary regulations in T.D. 8764 amend the Income Tax Regulations (26 CFR part 1) relating to sections 925 and 927. The temporary regulations contain rules relating to the grouping of transactions under the FSC transfer pricing rules and the special source rules under section 927(e)(1). The preamble to the temporary regulations explains the temporary regulations.

##### *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 has also 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 the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. 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 comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 24, 1998, at 10 a.m., in room 2615, Internal Revenue Building, 1111

Constitution Avenue, NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue 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 written comments by June 1, 1998, and submit an outline of the topics to be discussed and the time to be devoted to each topic (preferably a signed original and eight (8) copies) by June 3, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the schedule of 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 the proposed regulations is Elizabeth Beck, of the Office of the Associate Chief Counsel (International). Other personnel from the IRS and Treasury Department also participated in the development of these regulations.

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##### *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 is amended by adding the following entries to the table in numerical order to read as follows:

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

Section 1.925(a)-1 is also issued under 26 U.S.C. 925(b)(1) and (2) and 927(d)(2)(B).

Section 1.925(b)-1 is also issued under 26 U.S.C. 925(b)(1) and (2) and 927(d)(2)(B). \* \* \*

Par. 2. Section 1.925(a)-1 is added as follows:

[The text of proposed §1.925(a)-1 consisting of paragraphs (c)(8)(i) and (e)(4) is the same as the text of §1.925(a)-1T(c)-(8)(i) and (e)(4) as amended in T.D. 8764.]

Par. 3. Section 1.925(b)-1 is added as follows:

[The text of proposed §1.925(b)-1 consisting of paragraph (b)(3)(i) is the same as the text of §1.925(b)-1T(b)(3)(i) as amended in T.D. 8764.]

Par. 4. Section 1.927(e)-1 is amended as follows:

[The text of proposed §1.927(e)-1 is the same as the text of §1.927(e)-1T published in T.D. 8764.]

Michael P. Dolan,  
*Deputy Commissioner of  
Internal Revenue.*

(Filed by the Office of the Federal Register on March 2, 1998, 8:45 a.m., and published in the issue of the Federal Register for March 3, 1998, 63 F.R. 10351)