

Rev. Proc. 2001-3, Areas in Which Rulings Will Not be Issued; Correction

Announcement 2001-25

This document contains corrections to Rev. Proc. 2001-3, 2001-1 I.R.B. 111, the annual revised list of those provisions of the Internal Revenue Code under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions & Products), the Associate Chief Counsel (Income Tax & Accounting), the Associate Chief Counsel (Passthroughs & Special Industries), the Associate Chief Counsel (Procedure and Administration), and the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) relating to issues on which the Internal Revenue Service will not issue letter rulings or determination letters. As published in the Internal Revenue Bulletin on January 2, 2001, Rev. Proc. 2001-3 contains errors that may prove to be misleading and are in need of clarification. Accordingly, the below sections of Rev. Proc. 2001-3 are corrected to read as follows:

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SECTION 1.02 * * *

(7) New section 3.01(9), dealing with §115 and income of states, municipalities, etc., is moved from old section 5.09, and a new provision is added to indicate the Service's unwillingness to rule as to whether income of certain state established membership organizations is excluded from gross income.

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SECTION 1.02 * * *

(9) New section 3.01(29) combines old sections 3.01(22)-(24), (26) and (27) (which include type A, B, E and F reorganizations, and § 351 and § 1036 exchanges), adds § 332 liquidations and type C reorganizations, expands the no-rule concerning § 351 to include all asset transfers and expands the no-rule concerning § 1036, eliminates the overlap prohibition (*i.e.*, the Service previously would not rule under any Code section if the transaction is described under both one of the enumerated no-rule sections and a section that is not included in the no-rule provisions), and provides that the

Service will now rule on an entire transaction (not just the narrow significant issue) if there is a significant issue in the transaction.

SECTION 3.01***

(9) Section 115.—Income of states, municipalities, etc.—Whether the results of transactions pursuant to a plan or arrangement created by state statute a primary objective of which is to enable participants to pay for the costs of a post-secondary education for themselves or a designated beneficiary, including: (i) whether the plan or arrangement, itself, is an entity separate from a state and, if so, how the plan or arrangement is treated for federal tax purposes; and (ii) whether any contract under the plan or arrangement is a debt instrument and, if so, how interest or original issue discount attributable to the contract is treated for federal tax purposes. (Also §§ 61, 163, 1275, 2501, and 7701.)

—Whether the income of membership organizations established by states exclusively to reimburse members for losses arising from workmen's compensation claims is excluded from gross income under § 115.

SECTION 3.01***

(29) Sections 332, 351, 368(a)(1)(A), (B), (C), (E) and (F), and 1036. Complete Liquidations of Subsidiaries; Transfer to Corporation Controlled by Transferor; Definitions Relating to Corporate Reorganizations; and Stock for Stock of Same Corporation.—Whether a transaction qualifies under § 332, § 351 or § 1036 for nonrecognition treatment, or whether it constitutes a corporate reorganization within the meaning of § 368(a)(1)(A) (including a transaction that qualifies under § 368(a)(1)(A) by reason of § 368(a)(2)(D) or § 368(a)(2)(E)), § 368(a)(1)(B), § 368(a)(1)(C), § 368(a)(1)(E) or § 368(a)(1)(F), and whether various consequences (such as nonrecognition and basis) result from the application of that section, unless the Service determines that there is a significant issue that must be resolved in order to decide those matters. Notwithstanding the foregoing, and to the extent the transaction is not described in another no-rule section: (1) the Service will rule on the entire transaction, and not just the significant issue; and (2) the Service will rule on the application of

§ 351 to a controlled corporation when the transaction is undertaken prior to the distribution of the stock of the controlled corporation in a transaction qualifying under § 355.

SIGNIFICANT ISSUE: A significant issue is an issue of law that meets the three following tests: (1) the issue is not clearly and adequately addressed by a statute, regulation, decision of a court, tax treaty, revenue ruling, revenue procedure, notice, or other authority published in the Internal Revenue Bulletin; (2) the resolution of the issue is not essentially free from doubt; and (3) the issue is legally significant and germane to determining the major tax consequences of the transaction.

OBTAINING A RULING: To obtain a ruling on a transaction involving a significant issue, the taxpayer must in its ruling request explain the significance of the issue, set forth the authorities most closely related to the issue, and explain why the issue is not resolved by these authorities.

As a pilot program to better serve taxpayers the No-Rule for §§ 368(a)(1) (A), (B), (C), (E) and (F), and §§ 332, 351 and 1036 were combined, simplified and expanded. Our objective is to encourage taxpayers to seek rulings on transactions involving these provisions where there are significant issues that are not essentially free from doubt, and to prevent expending limited Service resources on the tax consequences of transactions that are clear under controlling authorities. In addition, the Service will now rule on an entire transaction if there is a significant issue, and the Service eliminated the overlap provision which prohibited the Service from issuing rulings under any Code section if the transaction qualifies under both one of the sections listed in this revenue procedure and under a section not listed in this revenue procedure.

FOR FURTHER INFORMATION CONTACT: Michael Danbury of the Office of Associate Chief Counsel (Corporate) at (202) 622-7978 (not a toll-free number).
