

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

Liabilities Assumed in Certain Corporate Transactions

REG-106791-00

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. 8924 on page 489 of this Bulletin, the IRS is issuing temporary regulations relating to the assumption of liabilities in certain corporate transactions under section 301 of the Internal Revenue Code. The temporary regulations affect corporations and their shareholders. The text of those temporary regulations also serves as the text of these proposed regulations. This document also gives notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by May 10, 2001. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for May 31, 2001 at 10 a.m. must be received by May 10, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG-106791-00), 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:M&SP:RU (REG-106791-00), 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.gov/tax-regs/regslst.html>. A public hearing will be held in room 4718, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Mary E. Dean, (202) 622-7550; concerning submissions and the hearings, Guy Traynor, (202) 622-7180.

SUPPLEMENTARY INFORMATION

Background

T.D. 8924 amends the income tax regulations (26 CFR part 1) under section 301 relating to liabilities assumed in connection with distributions made by a corporation to shareholders with respect to their stock. These regulations provide that the amount of a distribution under section 301 will be reduced by the amount of any liability that is treated as assumed by the distributee within the meaning of section 357(d)(1) and (2). Thus, in a distribution under section 301, if a liability is treated as not having been assumed by the distributee under section 357(d)(1) and (2), the amount of the distribution will not be reduced by the amount of any liability the property is subject to under section 301(b)(2)(B). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed 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 is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. These proposed regulations under section 301 of the Internal Revenue Code (Code) address distributions by corporations in which liabilities are assumed by the shareholders or in which the distributed property is subject to liabilities. These proposed regulations provide that the amount of a distribution under section 301 will be reduced by the amount of any liability that is treated as assumed by the distributee within the meaning of section 357(d)(1) and (2).

If adopted these regulations will affect only corporations making distributions of property, in which the property is subject to a liability, or in which liabilities are assumed by the distributee. Moreover, if adopted, the proposed regulations will affect only those corporations that would have, but for the regulations, considered

liabilities to have been assumed in circumstances other than those described in section 357(d)(1) and (2). Therefore, most corporations, whether large or small, will not be affected by the proposed regulations in any given 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, 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 businesses.

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) or electronically generated comments that are submitted timely to the IRS. The IRS and Treasury specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for May 31, 2000, at 10 a.m., in room 4718, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the 1111 Constitution Avenue entrance, located between 10th and 12th streets. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the access list to attend the hearing, see the FOR FURTHER INFORMATION CONTACT section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by May 10, 2001. 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 Mary E. Dean, Office of Associate Chief Counsel (Corporate). 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:

PART 1 — INCOME TAXES

Paragraph 1. The authority citation for 26 CFR part 1 continues to read in part as follows:

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

Par. 2. Section 1.301-1 is amended by revising paragraph (g) to read as follows:

§1.301-1 Rules applicable with respect to distributions of money and other property.

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(g) [The text of the proposed amendment to paragraph (g) of §1.301-1 is the same as the text of paragraph (g) of §1.301-1T published in T.D. 8924].

*David A. Mader,
Acting Deputy Commissioner
of Internal Revenue.*

(Filed by the Office of the Federal Register on January 3, 2001, 8:45 a.m., and published in the issue of the Federal Register for January 4, 2001, 66 F.R. 748)