

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

## Distributions of Interests in a Loss Corporation From Qualified Trusts

**REG-108676-03**

**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 under section 382 of the Internal Revenue Code of 1986. The proposed regulations affect loss corporations and provide guidance on whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity. The text of the temporary regulations (T.D. 9063 on page 510.) published in this issue of the Bulletin serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by September 25, 2003.

**ADDRESSES:** Send submissions to: CC:ITA:RU (REG-108676-03), room 5207, Internal Revenue Service, POB 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:ITA:RU (REG-108676-03), 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/regs](http://www.irs.gov/regs).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Martin Huck, (202) 622-7750; concerning submissions of comments and/or requests for a public hearing, Treena Garrett, (202) 622-3401 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

### Background and Explanation of Provisions

Temporary regulations in this issue of the Bulletin amend the Income Tax Regulations (26 CFR part 1) relating to section 382. The temporary regulations provide rules for determining whether a loss corporation has an ownership change where a qualified trust described in section 401(a) distributes an ownership interest in an entity. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments and these 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 proposed regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations provide relief to qualifying loss corporations that might be affected by an unintended consequence of the operation of the statute. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Nevertheless, the IRS and Treasury request comments from small entities that believe they might be adversely affected by these regulations. 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 their impact.

### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (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 may 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 hearing will be published in the Federal Register.

### **Drafting Information**

The principal author of these regulations is Martin Huck, 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 amended as follows:

## **PART 1—INCOME TAXES**

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.382–10 is also issued under 26 U.S.C. 382(m). \* \* \*

Par. 2. Section 1.382–1 is amended by revising the entry for §1.382–10 to read as follows:

*§1.382–10 Special rules for determining time and manner of acquisition of an interest in a loss corporation (temporary).*

Par. 3. Section 1.382–10 is added to read as follows:

*§1.382–10 Special rules for determining time and manner of acquisition of an interest in a loss corporation (temporary).*

[The text of proposed §1.382–10 is the same as the text of §1.382–10T published elsewhere in this issue of the Bulletin].

Robert E. Wenzel,  
*Deputy Commissioner of Internal Revenue.*

(Filed by the Office of the Federal Register on June 26, 2003, 8:45 a.m., and published in the issue of the Federal Register for June 27, 2003, 68 F.R. 38247)