basis. The $1,000 basis increase is allocated between Properties A1 and A2 based on the unrealized appreciation in each asset before such basis adjustment. As a result, the adjusted tax basis of Property A1 is increased by $167 ($1,000×$500/$3,000) and the adjusted tax basis of Property A2 is increased by $833 ($1,000×$2,500/3,000).

§ 1.737–4 Anti-abuse rule.

(a) *In general.* The rules of section 737 and §§ 1.737–1, 1.737–2, and 1.737–3 must be applied in a manner consistent with the purpose of section 737. Accordingly, if a principal purpose of a transaction is to achieve a tax result that is inconsistent with the purpose of section 737, the Commissioner can recast the transaction for federal tax purposes as appropriate to achieve tax results that are consistent with the purpose of section 737. Whether a tax result is inconsistent with the purpose of section 737 must be determined based on all the facts and circumstances. See § 1.704–4(f) for an anti-abuse rule and examples in the context of section 704(c)(1)(B). The anti-abuse rule and examples under section 704(c)(1)(B) and § 1.704–4(f) are relevant to section 737 and §§ 1.737–1, 1.737–2, and 1.737–3 to the extent that the net precontribution gain for purposes of section 737 is determined by reference to section 704(c)(1)(B).

(b) *Examples.* The following examples illustrate the rules of this section. The examples set forth below do not delineate the boundaries of either permissible or impermissible types of transactions. Further, the addition of any facts or circumstances that are not specifically set forth in an example (or the deletion of any facts or circumstances) may alter the outcome of the transaction described in the example. Unless otherwise specified, partnership income equals partnership expenses (other than depreciation deductions for contributed property) for each year of the partnership, the fair market value of partnership property does not change, all distributions by the partnership are subject to section 737, and all partners are unrelated.

Example 1. Increase in distributee partner's basis by temporary contribution; results inconsistent with the purpose of section 737. (i) On January 1, 1995, A, B, and C form partnership ABC as equal partners. A contributes Property A1, nondepreciable real property with a fair market value of $10,000 and an adjusted tax basis of $1,000. B contributes Property B, nondepreciable real property with a fair market value of $10,000 and an adjusted tax basis of $10,000. C contributes $10,000 cash.

(ii) On January 1, 1999, pursuant to a plan a principal purpose of which is to avoid gain under section 737, A contributes to the partnership Property A2, nondepreciable real property with a fair market value and adjusted tax basis of $9,000. A, therefore, increased the adjusted tax basis of A's partnership interest from $1,000 to $10,000. The partnership agreement is amended and all other necessary steps are taken so that substantially all of the economic risks and benefits of Property A2 are retained by A. On February 1, 1999, Property B is distributed to A in partial liquidation of A's interest in the partnership. If the contribution of Property A2 is taken into account for purposes of section 737, there is no excess distribution because the fair market value of distributed Property B ($10,000) does not exceed the adjusted tax basis of A's interest in the partnership ($10,000), and therefore section 737 does not apply. A's adjusted tax basis in distributed Property B is $10,000 under section 732(a)(1) and the adjusted tax basis of A's partnership interest is reduced to zero under section 733.

(iii) On March 1, 2000, A receives Property A2 from the partnership in complete liquidation of A's interest in the partnership. A recognizes no gain on the distribution of Property A2 because the property was previously contributed property. See § 1.737–2(d).

(iv) Although the contribution of Property A2 increases the adjusted tax basis of A's interest in the partnership (assuming it was a valid contribution to the partnership under section 721), it would be inconsistent with the purpose of section 737 to recognize the contribution of Property A2 to the partnership as in substance a bona fide contribution of an asset used in the conduct of joint business activity. Section 737 requires recognition of gain when the value of distributed property exceeds the distributee partner's adjusted tax basis in the partnership interest. Section 737 assumes that any contribution or other transaction that affects a partner's adjusted tax basis in the partnership interest is not a transitory contribution or transaction engaged in with a principal purpose of avoiding recognition of gain under section 737. Because the contribution of Property A2 was a transitory contribution made with a principal purpose of avoiding recognition of gain under section 737, the Commissioner can disregard the contribution of Property A2 for this purpose. As a result, A recognizes gain of $9,000 under section 737 on the receipt of Property B, an amount equal to the lesser of the excess distribution of $9,000 ($10,000 fair market value of distributed Property B less the $1,000 adjusted tax basis of A's partnership interest, determined without regard to the transitory contribution of Property A2) or A's net precontribution gain of $9,000 on Property A1.

Example 2. Increase in distributee partner's basis; section 752 liability shift; results consistent with the purpose of section 737. (i) On January 1, 1995, A and B form general partnership AB as equal partners. A contributes Property A, nondepreciable real property with a fair market value of $10,000 and an adjusted tax basis of $1,000. B contributes Property B, nondepreciable real property with a fair market value and adjusted tax basis of $10,000. The partnership also borrows $10,000 on a recourse basis and purchases Property C. The $10,000 liability is allocated equally between A and B under section 752, thereby increasing the adjusted tax basis in A's partnership interest to $6,000.

(ii) On December 31, 1998, the partners agree that A is to receive Property B in partial liquidation of A's interest in the partnership. If A were to receive Property B at that time, A would recognize $4,000 of gain under section 737, an amount equal to the lesser of the excess distribution of $4,000 ($10,000 fair market value of Property B less $6,000 adjusted tax basis in A's partnership interest) or A's net precontribution gain of $9,000 ($10,000 fair market value of Property A less $1,000 adjusted tax basis of Property A).

(iii) With a principal purpose of avoiding such gain, A and B agree that A will be solely liable for the repayment of the $10,000 partnership liability and take the steps necessary so that the entire amount of the liability is allocated to A under section 752. The adjusted tax basis in A's partnership interest is thereby increased from $6,000 to $11,000 to reflect A's share of the $5,000 of liability previously allocated to B. As a result of this increase in A's adjusted tax basis, there is no excess distribution because the fair market value of distributed Property B ($10,000) is less than the adjusted tax basis of A's partnership interest. Recognizing A's increased adjusted tax basis as a result of the shift in liabilities is consistent with the purpose of section 737 and this section. Section 737 requires recognition of gain only when the value of the distributed property exceeds the distributee partner's adjusted tax basis in the partnership interest. The $10,000 recourse liability is a bona fide liability of the partnership and A's and B's agreement that A will assume responsibility for repayment of that debt has substance. Therefore, the increase in A's adjusted tax basis in A's interest in the partnership due to the shift in partnership liabilities under section 752 is respected, and A recognizes no gain under section 737.

§ 1.737–5 Effective date.

Sections 1.737–1, 1.737–2, 1.737–3, and 1.737–4 apply to distributions by a partnership to a partner on or after January 9, 1995.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–171 Filed 1–6–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 86–079]

RIN 2115–AC96]

Anchorage Regulations; Regulated Navigation Areas and Limited Access Areas (CGD 86–079)

AGENCY: Coast Guard, DOT.

ACTION: Notice of termination.

SUMMARY: This rulemaking project was initiated to make various administrative changes to clarify the statutory authority and purposes of special anchorage areas and anchorage grounds; remove references to specific state and local ordinances governing special anchorage areas; relocate anchorage grounds (Subpart B) from Part 110 to a new Part 111; adopt a standardized anchorage description format using latitudes and longitudes; and establish a geographically oriented national numbering system for anchorages. Because Coast Guard resources have been devoted to higher priority issues, staff to complete this editorial effort has not been and will not be available in the foreseeable future to complete this initiative. Therefore, the Coast Guard is terminating further rulemaking under docket number 86–079.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Project Manager, Short Range Aids to Navigation Division, U.S. Coast Guard Headquarters, (202) 267–0415.

SUPPLEMENTARY INFORMATION: Responsibility for the administration and enforcement of anchorage regulations was transferred from the U.S. Army Corps of Engineers to the U.S. Coast Guard in 1967. Many of the regulations have remained basically unchanged since that time. In 1979, the authority to designate special anchorage areas and anchorage grounds and to issue regulations pertaining to anchorage grounds was delegated to Coast Guard district commanders. State and local governments have also promulgated ordinances which apply in some of these designated anchorages.

On March 11, 1988 (53 FR 7949) the Coast Guard proposed a number of editorial changes and a partial reorganization of the anchorage regulations in 33 CFR Part 110. After reviewing the comments received as a result of the NPRM, the Coast Guard published a Supplemental Notice of Proposed Rulemaking on December 5, 1988 (53 FR 48935) proposing to expand the editorial revision of Part 110 to include creating a new Part 111 and standardizing the format for anchorage descriptions by using latitudes and longitudes.

Because Coast Guard resources have been devoted to higher priority issues, staff to complete this extensive editorial effort has not been and will not be available in the foreseeable future to complete this initiative. Therefore, due to the time that has lapsed since the last section (1988) and the lack of resources to complete this rulemaking, the Coast Guard is terminating further rulemaking under docket number 86–079. This subject may be further reviewed and, as resources permit, future rulemaking projects initiated as needed.

Dated: December 30, 1994.

G.A. Penington,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–435 Filed 1–6–95; 8:45 am]

BILLING CODE 4910–14–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 89–2A]

Cable Compulsory License: Notice of Inquiry Regarding Merger of Cable Systems and Individual Pricing of Broadcast Signals

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of comment period.

SUMMARY: The Copyright Office is reopening the comment period in Docket RM 89–2 (Merger of Cable Systems) to broaden the scope of this proceeding. Specifically, the Office seeks comment as to the copyright royalty implications of *a la carte* offerings of broadcast signals by cable operators and the permissibility of allocating gross receipts among subscriber groups for *a la carte* signals in computing royalties due under the cable compulsory license of the Copyright Act.

DATES: Initial comments should be received by February 23, 1995. Reply comments should be received by February 8, 1995.

ADDRESSES: Interested persons should submit fifteen copies of their written comments, if delivered by mail, to: Copyright GC/I&R, P. O. Box 70400, Southwest Station, Washington, D.C. 20024. If delivered by hand, fifteen copies should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM–407, 101 Independence Avenue, S.E., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, P. O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

On September 18, 1989, the Copyright Office published a Notice of Inquiry (NOI) in Docket No. RM 89–2 to inform the public that it was examining the issues of merger and acquisition of cable systems and their impact on the computation and reporting of royalties under the cable compulsory license, 17 U.S.C. 111. 54 FR 38390 (1989). At the heart of the 1989 NOI were the royalty filing questions raised by the application of the ''contiguous communities'' provision of the section 111(f) definition of a cable system. That provision provides that two or more cable facilities are considered as one cable system if the facilities are either in contiguous communities under common ownership or control or operating from one headend. *See also* 37 CFR 201.17(b)(2).

The Office highlighted some of the difficulties created by cable systems in contiguous communities becoming a single system through either merger or acquisition by a common owner:

> For example, assume a situation where there are two completely independent but contiguous cable systems. System A carries two non-permitted (3.75% rate) independent station signals and System B, assigned a different television market, carries the same two independent station signals but on a permitted (base rate) basis, plus a superstation signal on a non-permitted (3.75% rate) basis. Systems A and B are purchased by the same parent company and apparently become a single cable system for purposes of the compulsory license. The purchase raises several problematic issues as to the calculation of the proper royalty fee. Should the independent stations be paid for at the 3.75% rate or the non-3.75% rate system-wide, or should the rates be allocated among subscribers within the system and, if so, on what basis? Furthermore, if allocation is the answer, what rate can be attributed to new subscribers to the merged system? Finally, there is the question of the superstation signal which is only carried by former cable System B. At the time of acquisition, should the superstation be attributed throughout the entire system, even though many subscribers do not receive the signal (a so-called 'phantom' signal)? And which system's market quota (A's or B's) should be used for the entire statement?

54 FR at 38391

Based on the above scenario, the Office also formally posed a set of further questions—many of which addressed the creation of subscriber groups for attributing signals and royalty rates. Among these questions were whether cable operators should be allowed to attribute distant signals among their subscribers in accordance with the conditions that existed prior to