

Capital account following sale	Z	LK
Deemed sale adjustment	\$11,000	\$11,000
	9,000	9,000
Capital account before constructive liquidation	20,000	20,000

Constructive liquidating distributions of the interests in the new partnership are made with reference to its \$40,000 fair market value. Under section 732(b), the adjusted tax basis of the 50 percent interest in the new partnership constructively distributed to Z is equal to the \$11,000 adjusted tax basis of Z's partnership interest before the constructive liquidation, and the adjusted tax basis of the 50 percent interest in the new partnership constructively distributed to LK is equal to the \$20,000 adjusted tax basis of LK's partnership interest before the constructive liquidation. Under paragraph (b)(2)(iv)(d) of this section, the capital account of the terminated partnership with respect to the new partnership would be \$40,000 (i.e., the fair market value of the property constructively contributed to the new partnership by the terminated partnership). The capital accounts of Z and LK with respect to the constructively distributed interests in the new partnership are stated at \$20,000 (i.e., one-half of the \$40,000 capital account of the terminated partnership). This Example 13(v) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the Federal Register.

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Par. 3. Section 1.704-4 is amended by revising paragraphs (a)(4)(ii) and (c)(3) to read as follows:

§ 1.704-4 Distribution of contributed property.

- (a) * * *
- (4) * * *

(ii) Section 708(b)(1)(B) terminations.

A termination of the partnership under section 708(b)(1)(B) does not begin a new five-year period for each partner with respect to the built-in gain and built-in loss property that the terminated partnership is deemed to contribute to a new partnership following the termination. See § 1.704-3(a)(3)(ii) for the definitions of built-in gain and built-in loss on section 704(c) property. This paragraph (a)(4)(ii) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the Federal Register.

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- (c) * * *

(3) Section 708(b)(1)(B) terminations.

Section 704(c)(1)(B) and this section do not apply to a deemed distribution of interests in a new partnership caused by a termination of a partnership under section 708(b)(1)(B). A subsequent distribution of section 704(c) property

by the new partnership to a partner of the new partnership is subject to section 704(c)(1)(B) to the same extent that a distribution by the terminated partnership would have been subject to section 704(c)(1)(B). See also § 1.737-2(a) for a similar rule in the context of section 737. This paragraph (c)(3) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the Federal Register.

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Par. 4. In § 1.708-1, paragraph (b)(1)(iv) is amended by removing the first sentence and adding two new sentences in its place to read as follows:

§ 1.708-1 Continuation of Partnership.

* * * * *

- (b) * * *
- (1) * * *

(iv) If a partnership is terminated by a sale or exchange of an interest, the following is deemed to occur: The partnership transfers all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and, immediately thereafter, the terminated partnership distributes an interest in the new partnership to the purchasing partner and the other remaining partners in liquidation of the terminated partnership, either for the continuation of the business of the new partnership or for its dissolution and winding up. The first sentence of this paragraph (b)(1)(iv) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the Federal Register.

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Par. 5. Section 1.743-1 is amended by adding paragraph (d) as follows:

§ 1.743-1 Optional adjustment to basis of partnership property.

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(d) Section 708(b)(1)(B) terminations.

A partner with a special basis adjustment in property held by a partnership that terminates under section 708(b)(1)(B) will continue to have the same special basis adjustment with respect to property contributed by the terminated partnership to the new partnership under § 1.708-1(b)(1)(iv). This paragraph (d) applies to terminations of partnerships under

section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the Federal Register.

Par. 6. In § 1.737-2, paragraph (a) is revised to read as follows:

§ 1.737-2 Exceptions and special rules.

(a) Section 708(b)(1)(B) terminations.

Section 737 and this section do not apply to a deemed distribution of interests in a new partnership caused by a termination of a partnership under section 708(b)(1)(B). A subsequent distribution of section 704(c) property by the new partnership to a partner of the new partnership is subject to section 737 to the same extent that a distribution by the terminated partnership would have been subject to section 737. See also § 1.704-4(c)(3) for a similar rule in the context of section 704(c)(1)(B). This paragraph (a) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the Federal Register.

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Par. 7. In § 1.761-1, paragraph (e) is added to read as follows:

§ 1.761-1 Terms defined.

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(e) Distribution of partnership interest. For purposes of section 708(b)(1)(B) and § 1.708-1(b)(1)(iv), the distribution of an interest in a new partnership by a partnership that terminates under section 708(b)(1)(B) is not a sale or exchange of an interest in the new partnership. This paragraph (e) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the Federal Register.

Margaret Milner Richardson,
Commissioner of Internal Revenue.
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26 CFR Part 1

[FI-47-92]

RIN 1545-AR76

Reissuance of Mortgage Credit Certificates; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to implementing a provision of the Tax reform Act of 1984 permitting the reissuance of mortgage credit certificates.

DATES: The public hearing originally scheduled for May 22, 1996, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Evangelista C. Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-7190 (not a toll free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations under section 25 of the Internal Revenue Code. A notice of public hearing appearing in the Federal Register on Friday, April 5, 1996 (61 FR 15204), announced that a public hearing would be held on Wednesday, May 22, 1996, beginning at 10:00 a.m., in the Commissioners Conference Room, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, D.C. 20224.

The public hearing scheduled for Wednesday, May 22, 1996, is cancelled.

Michael L. Slaughter,

Acting Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96-11778 Filed 5-10-96; 8:45 am]

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26 CFR Part 301

[PS-43-95]

RIN 1545-AT91

Simplification of Entity Classification Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that would replace the existing regulations for classifying certain business organizations with an elective regime. These proposed regulations simplify the existing classification rules.

DATES: Written comments and requests to speak (with outlines of oral comments) at a public hearing scheduled for August 21, 1996, at 10 a.m. must be submitted by August 12, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (PS-43-95), room

5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (PS-43-95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Armando Gomez, (202) 622-3050; concerning foreign organizations, Ronald M. Gootzeit or William H. Morris, (202) 622-3880; concerning submissions and the hearing, Evangelista Lee (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224. Comments on the collection of information should be received by July 12, 1996.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information are required by §§ 301.6109-1(b)(2)(vi) and 301.7701-3(c). This information is required by the IRS to ensure the proper classification of business organizations and to ensure compliance with the proposed regulations. The likely respondents are businesses and other for-profit organizations, including small businesses.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

The burden of the collection of information required by § 301.6109-1 will be reflected in Forms SS-4 and W-7. The burden of the collection of information required by § 301.7701-3(c) will be reflected in such form as is

prescribed by the Commissioner for purposes of making the election described in this regulation.

Introduction

This document proposes to revise §§ 301.7701-1 through 301.7701-3 of the Procedure and Administration Regulations (26 CFR part 301) to clarify which organizations are classified as corporations automatically under the Internal Revenue Code (Code) and to provide a simple elective regime for classifying other business organizations. This document also proposes conforming changes to §§ 1.581-1, 1.581-2, and 1.761-1 of the Income Tax Regulations (26 CFR part 1), and to §§ 301.6109-1, 301.7701-4, 301.7701-6, and 301.7701-7 of the Procedure and Administration Regulations (26 CFR part 301).

Background

On April 3, 1995, Notice 95-14, relating to classification of business organizations under section 7701, was published in the Internal Revenue Bulletin (1995-1 C.B. 297). A notice of public hearing was published in the Federal Register on May 10, 1995 (60 FR 24813). Written comments were received and a public hearing was held on July 20, 1995. After consideration of the comments, the Treasury Department and the IRS propose to replace the existing classification regulations with a simplified regime that is elective for certain business organizations.

Explanation of Provisions

I. Introduction

Section 7701(a)(2) of the Code defines a partnership to include a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and that is not a trust or estate or a corporation. Section 7701(a)(3) defines a corporation to include associations, joint-stock companies, and insurance companies.

The existing regulations for classifying business organizations as associations (which are taxable as corporations under section 7701(a)(3)) or as partnerships under section 7701(a)(2) are based on the historical differences under local law between partnerships and corporations. However, many states have revised their statutes to provide that partnerships and other unincorporated organizations may possess characteristics that traditionally have been associated with corporations, thereby narrowing considerably the traditional distinctions between