

Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information

Announcement 2007-114

This announcement alerts the public to the fact that a new proposed form, Form 8926, Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information, is being posted on the IRS website. The proposed form requires corporate taxpayers that either paid or accrued any disqualified interest for the taxable year or carried forward disallowed disqualified interest from prior taxable years under section 163(j) of the Internal Revenue Code to provide certain information relating to the determinations and computations under section 163(j).

Section 163(j) imposes a limitation on deductions for interest paid or accrued by corporations to related persons where the interest is exempt or partially exempt from taxation. Section 163(j) also applies to a corporation that pays or accrues interest to an unrelated party if the interest is not subject to a gross basis tax and the guarantor is a related person who is either a foreign person or a tax-exempt organization as well as to a taxable REIT subsidiary of a REIT that pays or accrues interest to the REIT.

Section 424 of the American Jobs Creation Act of 2004, Public Law 108-357, 118 Stat. 1418 (October 22, 2004), mandated that the Secretary of the Treasury or a delegate conduct a study of the effectiveness of provisions of the Internal Revenue Code of 1986 applicable to earnings stripping.

The Treasury Department has conducted a study of earnings stripping as directed by Congress and has issued a report regarding its findings and recommendations on this issue. The study recommends that the relevant tax forms be modified to require more information about earnings stripping. Therefore, proposed Form 8926 has been created to obtain information relating to the application of section 163(j).

Proposed Form 8926 solicits information relating to the determination and computation of a corporate taxpayer's section 163(j) limitation, including the determination of the taxpayer's debt-to-equity ratio, net interest expense, adjusted taxable income, excess interest expense, total disqualified interest for the tax year and the amount of interest deduction disallowed under section 163(j), as well as certain information with respect to the related persons receiving disqualified interest. The proposed form will be posted on the IRS website at www.irs.gov/taxpros/topic/index.html under Draft Tax Forms.

The principal author of this announcement is Sheila Ramaswamy of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this announcement contact Sheila Ramaswamy at (202) 622-3870 (not a toll-free call).