

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

T.D. 9627, page 156.

Temporary regulations explain how to account for unrealized gain or loss on a position held prior to establishing an identified mixed straddle.

REG-112815-12, page 162.

Proposed regulations explain how to account for unrealized gain or loss on a position held prior to establishing an identified mixed straddle. Comments requested by October 31, 2013. A public hearing is scheduled for December 4, 2013.

REG-114122-12, page 163.

These regulations propose revisions to examples that illustrate the controlled group rules related to regulated investment companies (RICs) to resolve an issue with how the controlled group rules should be applied in connection with the RIC "asset diversification" test. A public hearing is scheduled for December 9, 2013.

Announcement 2013-39, page 167.

This announcement contains corrections to final regulations and removal of temporary regulations (TD 9622) that were published in the Federal Register on July 3, 2013 (78 FR 39984). The final regulations provide necessary guidance regarding the accelerated inclusion of deferred discharge of indebtedness (also known as cancellation of debt (COD)) income (deferred COD income) and the accelerated deduction of deferred original issue discount (OID) (deferred OID deductions) under section 108(i)(5)(D) (acceleration rules), and the calculation of earnings and profits as a result of an election under section 108(i). In addition, these regulations provide rules applicable to all taxpayers regarding deferred OID deductions under section 108(i) as a result of a reacquisition of an applicable debt instrument by an issuer or related party.

EMPLOYEE PLANS

Notice 2013-52, page 159.

This notice contains updates for the corporate bond weighted average interest rate for plan years beginning in August 2013; the 24-month average segment rates; the funding segment rates applicable for August 2013; and the minimum present value rates for July 2013. The rates in this notice reflect certain changes implemented by the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141 (MAP-21).

Finding Lists begin on page ii.

Index for July through August begins on page iv.



The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and en-

force the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered,

and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 1092.—Straddles

T.D. 9627

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 1

Mixed Straddles; Straddle-by-Straddle Identification Under Section 1092(b)(2)(A)(i)(I)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains guidance for those taxpayers electing to establish a mixed straddle using straddle-by-straddle identification. These temporary regulations explain how to account for unrealized gain or loss on a position held by a taxpayer prior to the time the taxpayer establishes a mixed straddle using straddle-by-straddle identification. The text of these temporary regulations also serves as the text of the proposed regulations (REG-112815-12) set forth in this issue of the Bulletin.

DATES: *Effective Date:* These regulations are effective on August 1, 2013.

Applicability Date: For the date of applicability, see §1.1092(b)-6T(c).

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Bouzis or Robert B. Williams at (202) 622-3950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The Tax Reform Act of 1984 (Public Law 98-369, 98 Stat. 494) amended section 1092(b) of the Internal Revenue Code (Code) to add, among other items, an election to establish a mixed straddle using

straddle-by-straddle identification (a section 1092(b)(2) identified mixed straddle).

On January 24, 1985, the Treasury Department and the IRS published a notice of proposed rulemaking by cross-reference to temporary regulations (50 FR 3351, January 24, 1985). Included in the temporary regulations was §1.1092(b)-3T (TD 8008, 1985-1 C.B. 276), which describes how to account for a section 1092(b)(2) identified mixed straddle. In particular, §1.1092(b)-3T(b)(6) currently requires that unrealized gain or loss on a position that becomes a position in a section 1092(b)(2) identified mixed straddle be recognized on the day prior to establishing the section 1092(b)(2) identified mixed straddle. After filing of these temporary regulations in the **Federal Register**, §1.1092(b)-3T(b)(6) will apply to only those section 1092(b)(2) identified mixed straddles established on or before August 1, 2013.

The approach taken in §1.1092(b)-3T(b)(6) is suggested by the legislative history of section 1092, but it has come to the attention of the Treasury Department and the IRS that this paragraph arguably permits taxpayers to selectively recognize gains and losses in inappropriate circumstances and without market constraints. Thus, for example, a taxpayer could seek to use the identified mixed straddle rules in §1.1092(b)-3T(b)(6) to accelerate a loss on a position that could not be marked to market or easily disposed of. When taxpayers use the section 1092(b)(2) identified mixed straddle rules to serve as an alternative to selling or otherwise disposing of a position, the general rules governing when gain and loss are recognized are undermined. The Treasury Department and the IRS believe that it is appropriate to act promptly to prevent these types of transactions because they represent a use of section 1092 that was not intended. Accordingly, these temporary regulations add a new §1.1092(b)-6T and limit the application of §1.1092(b)-3T as described in this preamble. Section 1.1092(b)-6T will apply to all section 1092(b)(2) identified mixed straddles established after August 1, 2013.

Section 1.1092(b)-6T provides that unrealized gain or loss on a position held prior to establishing a section 1092(b)(2) identified mixed straddle is taken into account at the time, and has the character, provided by provisions of the Code that would apply if the section 1092(b)(2) identified mixed straddle had not been established, rather than on the day prior to establishing the section 1092(b)(2) identified mixed straddle as is required by §1.1092(b)-3T(b)(6). Section 1.1092(b)-6T does not, however, override other provisions that require the recognition of gain or loss. Thus, for example, if a taxpayer enters into a transaction that creates a constructive sale under section 1259, the rules of section 1259 continue to apply. Under §1.1092(b)-6T, the provisions of §1.1092(b)-3T, with the exception of §1.1092(b)-3T(b)(6), will also continue to apply to changes in the value of a position held after a section 1092(b)(2) identified mixed straddle is established. As a result, pre-straddle gain or loss will be accounted for under other provisions of the Code, while gain or loss incurred while the straddle is in place will be accounted for using the straddle rules in section 1092. Under §1.1092(b)-6T, the holding period of a position held prior to establishing a section 1092(b)(2) identified mixed straddle will continue to be determined using the rules in §1.1092(b)-2T.

It is important to account for pre-straddle gain and loss separately from gain and loss on positions while a straddle is in place. Therefore, §1.1092(b)-6T will continue to require the segregation of pre-straddle and straddle period gain and loss, but it will do so without requiring current recognition of unrealized gain and loss.

Section 1.1092(b)-6T will apply to all section 1092(b)(2) identified mixed straddles established after August 1, 2013, regardless of when any position that is a component of the section 1092(b)(2) identified mixed straddle was purchased or otherwise acquired.

Special Analyses

It has been determined that this Treasury decision is not a significant regula-

tory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in this issue of the Bulletin. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Elizabeth M. Bouzis, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the Treasury Department and the IRS participated in their development.

* * * * *

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 entries in numerical order to read as follows:

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

Section 1.1092(b)–6T also issued under 26 U.S.C. 1092(b)(1).

Section 1.1092(b)–6T also issued under 26 U.S.C. 1092(b)(2).* * *

Par. 2. Section 1.1092(b)–3T is amended by:

1. Revising the paragraph heading of paragraph (b)(6).

2. Adding a new first sentence to paragraph (b)(6).

The revision and addition read as follows:

§1.1092(b)–3T Mixed straddles; straddle-by-straddle identification under section 1092(b)(2)(A)(i)(I) (Temporary).

* * * * *

(b)(6) *Accrued gain and loss with respect to positions of a section 1092(b)(2) identified mixed straddle established on or before August 1, 2013.* The rules of this paragraph (b)(6) apply to all section 1092(b)(2) identified mixed straddles established on or before August 1, 2013; see §1.1092(b)–6T for section 1092(b)(2) identified mixed straddles established after August 1, 2013.* * *

* * * * *

Par. 3. Section 1.1092(b)–6T is added to read as follows:

§1.1092(b)–6T Mixed straddles; accrued gain and loss associated with a position that becomes part of a section 1092(b)(2) identified mixed straddle that is established after August 1, 2013 (Temporary).

(a) *In general.* Except as otherwise provided, if one or more positions of a section 1092(b)(2) identified mixed straddle were held by the taxpayer on the day prior to the day the section 1092(b)(2) identified mixed straddle is established, any unrealized gain or loss on the day prior to the day the section 1092(b)(2) identified mixed straddle is established with respect to such position or positions is taken into account at the time, and has the character, provided by the provisions of the Internal Revenue Code that would apply to the gain or loss if the section 1092(b)(2) identified mixed straddle were not established. Unrealized gain or loss is the difference between the fair market value of the position or positions on the day before a section 1092(b)(2) identified mixed straddle is established and the taxpayer's basis in that position or positions. See §1.1092(b)–2T for treatment of holding periods with respect to such positions. Changes in value of the position or positions that occur after the section 1092(b)(2) identified mixed straddle is established are accounted for under the other provisions of §1.1092(b)–3T.

(b) *Examples.* Paragraph (a) of this section may be illustrated by the following examples. It is assumed in each example that the positions are the only positions held directly or indirectly (through a related person or flowthrough entity) by an individual calendar year taxpayer during the taxable year and no section 1256 contract is substantially identical to an offset-

ting non-section 1256 contract. It is also assumed that any gain or loss recognized on disposition of any position in the straddle would be capital gain or loss.

Example 1. On August 13, 2013, A enters into a section 1256 contract. As of the close of the day on August 15, 2013, there is \$500 of unrealized loss on the section 1256 contract. On August 16, 2013, A enters into an offsetting non-section 1256 position and makes a valid election to treat the straddle as a section 1092(b)(2) identified mixed straddle. A continues to hold both positions of the section 1092(b)(2) identified mixed straddle on January 1, 2014. Under these circumstances, A will recognize the \$500 loss on the section 1256 contract that existed prior to establishing the section 1092(b)(2) identified mixed straddle on the last business day of 2013 because the section 1256 contract would be treated as sold on December 31, 2013, (the last business day of the taxable year) under section 1256(a). The loss recognized in 2013 will be treated as 60% long-term capital loss and 40% short-term capital loss. All gains and losses occurring after the section 1092(b)(2) identified mixed straddle is established are accounted for under the applicable provisions in §1.1092(b)–3T.

Example 2. On September 3, 2012, A enters into a non-section 1256 position. As of the close of the day on August 22, 2013, there is \$400 of unrealized short-term capital gain on the non-section 1256 position. On August 23, 2013, A enters into an offsetting section 1256 contract and makes a valid election to treat the straddle as a section 1092(b)(2) identified mixed straddle. On September 10, 2013, A closes out the section 1256 contract at a \$500 loss and disposes of the non-section 1256 position, realizing an \$875 gain. Under these circumstances, A has \$400 of short-term capital gain attributable to the non-section 1256 position prior to the day the section 1092(b)(2) identified mixed straddle was established. The \$400 unrealized gain earned on the non-section 1256 position will be recognized on September 10, 2013, when the non-section 1256 position is disposed of. The gain will be short-term capital gain because, if the non-section 1256 position had been disposed of prior to establishing the section 1092(b)(2) identified mixed straddle, the gain would not have been long-term capital gain. See §1.1092(b)–2T for rules concerning holding period. On September 10, 2013, the gain of \$875 on the non-section 1256 position will be reduced to \$475 to take into account the \$400 of unrealized gain when the section 1092(b)(2) identified mixed straddle was established. The \$475 gain on the non-section 1256 position will be offset by the \$500 loss on the section 1256 contract. The net loss of \$25 from the straddle will be treated as 60% long-term capital loss and 40% short-term capital loss because it is attributable to the section 1256 contract.

(c) *Effective/applicability date.* The rules of this section apply to all section 1092(b)(2) identified mixed straddles established after August 1, 2013.

(d) *Expiration date.* The applicability of this section expires on August 1, 2016.

Beth Tucker,
Deputy Commissioner for
Operations Support.

Approved June 16, 2013.

Mark J. Mazur,
*Assistant Secretary
of the Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on August 1, 2013, 8:45 a.m., and published in the issue of the Federal Register for August 2, 2013, 78 FR. 46807)

Part III. Administrative, Procedural, and Miscellaneous

Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates

Notice 2013-52

This notice provides guidance on the corporate bond monthly yield curve (and the corresponding spot segment rates), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008, the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I), and the minimum present value segment rates under § 417(e)(3)(D) as in effect for plan years beginning after 2007. These rates reflect certain changes implemented by the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141 (MAP-21). MAP-21 provides that for purposes of § 430(h)(2), the segment rates are limited by the applicable maximum percentage or the applicable minimum percentage based on the average of segment rates over a 25 year period.

YIELD CURVE AND SEGMENT RATES

Generally, except for certain plans under sections 104 and 105 of the Pension Protection Act of 2006, § 430 of the Code specifies the minimum funding requirements that apply to single employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins. However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Notice 2007-81, 2007-44 I.R.B. 899, provides guidelines for determining the monthly corporate bond yield curve, and

the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. Pursuant to Notice 2007-81, the monthly corporate bond yield curve derived from July 2013 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of July 2013 are, respectively, 1.34, 4.45, and 5.44. For plan years beginning on or after January 1, 2012, the 24-month average segment rates determined under § 430(h)(2)(C)(iv) must be adjusted by the applicable percentage of the corresponding 25-year average segment rates. The 25-year average segment rates for plan years beginning in 2012 and for plan years beginning in 2013 were published in Notice 2012-55, 2012-36 I.R.B. 332 and Notice 2013-11, 2013-11 I.R.B. 610, respectively. The three 24-month average corporate bond segment rates applicable for August 2013 without adjustment, and the adjusted 24-month average segment rates taking into account the applicable percentages of the corresponding 25-year average segment rates, are as follows:

For Plan Years Beginning In			24-Month Average Segment Rates Not Adjusted			Adjusted 24-Month Average Segment Rates, Based on Applicable Percentage of 25-Year Average Rates		
	Applicable Month		First Segment	Second Segment	Third Segment	First Segment	Second Segment	Third Segment
2012	August	2013	1.39	4.05	5.08	5.54	6.85	7.52
2013	August	2013	1.39	4.05	5.08	4.94	6.15	6.76

30-YEAR TREASURY SECURITIES INTEREST RATES

Generally for plan years beginning after 2007, § 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount for the full-funding limitation described in section 431(c)(6)(A), based

on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88-73, 1988-2 C.B. 383,

provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for July 2013 is 3.61 percent. The Service has determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in May 2043. The following rates were determined for plan years beginning in the month shown below.

For Plan Years Beginning in		30-Year Treasury Weighted Average	Permissible Range	
<i>Month</i>	<i>Year</i>		90%	to 105%
August	2013	3.43	3.09	3.60

**MINIMUM PRESENT VALUE
SEGMENT RATES**

In general, the applicable interest rates under § 417(e)(3)(D) are segment rates

computed without regard to a 24-month average. Notice 2007-81 provides guidelines for determining the minimum present value segment rates. Pursuant to that notice, the minimum present value segment

rates determined for July 2013 are as follows:

First Segment	Second Segment	Third Segment
1.34	4.45	5.44

DRAFTING INFORMATION

The principal author of this notice is Tony Montanaro of the Employee Plans,

Tax Exempt and Government Entities Division. Mr. Montanaro may be e-mailed at RetirementPlanQuestions@irs.gov.

Table I

Monthly Yield Curve for July 2013
 Derived from July 2013 Data

<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>
0.5	0.32	20.5	5.24	40.5	5.46	60.5	5.55	80.5	5.59
1.0	0.55	21.0	5.25	41.0	5.47	61.0	5.55	81.0	5.59
1.5	0.77	21.5	5.26	41.5	5.47	61.5	5.55	81.5	5.59
2.0	1.00	22.0	5.27	42.0	5.47	62.0	5.55	82.0	5.60
2.5	1.22	22.5	5.27	42.5	5.48	62.5	5.56	82.5	5.60
3.0	1.45	23.0	5.28	43.0	5.48	63.0	5.56	83.0	5.60
3.5	1.67	23.5	5.29	43.5	5.48	63.5	5.56	83.5	5.60
4.0	1.90	24.0	5.30	44.0	5.48	64.0	5.56	84.0	5.60
4.5	2.13	24.5	5.30	44.5	5.49	64.5	5.56	84.5	5.60
5.0	2.35	25.0	5.31	45.0	5.49	65.0	5.56	85.0	5.60
5.5	2.57	25.5	5.32	45.5	5.49	65.5	5.56	85.5	5.60
6.0	2.79	26.0	5.32	46.0	5.49	66.0	5.56	86.0	5.60
6.5	3.01	26.5	5.33	46.5	5.50	66.5	5.57	86.5	5.60
7.0	3.21	27.0	5.34	47.0	5.50	67.0	5.57	87.0	5.60
7.5	3.41	27.5	5.34	47.5	5.50	67.5	5.57	87.5	5.60
8.0	3.60	28.0	5.35	48.0	5.50	68.0	5.57	88.0	5.60
8.5	3.94	28.5	5.35	48.5	5.51	68.5	5.57	88.5	5.61
9.0	4.09	29.0	5.36	49.0	5.51	69.0	5.57	89.0	5.61
9.5	4.23	29.5	5.37	49.5	5.51	69.5	5.57	89.5	5.61
10.0	4.35	30.0	5.37	50.0	5.51	70.0	5.57	90.0	5.61
10.5	4.47	30.5	5.38	50.5	5.52	70.5	5.57	90.5	5.61
11.0	4.57	31.0	5.38	51.0	5.52	71.0	5.58	91.0	5.61
11.5	4.66	31.5	5.39	51.5	5.52	71.5	5.58	91.5	5.61
12.0	4.74	32.0	5.39	52.0	5.52	72.0	5.58	92.0	5.61
12.5	4.10	32.5	5.40	52.5	5.52	72.5	5.58	92.5	5.61
13.0	4.81	33.0	5.40	53.0	5.53	73.0	5.58	93.0	5.61
13.5	4.88	33.5	5.41	53.5	5.53	73.5	5.58	93.5	5.61
14.0	4.93	34.0	5.41	54.0	5.53	74.0	5.58	94.0	5.61
14.5	4.98	34.5	5.42	54.5	5.53	74.5	5.58	94.5	5.61
15.0	5.02	35.0	5.42	55.0	5.53	75.0	5.58	95.0	5.61
15.5	5.06	35.5	5.43	55.5	5.53	75.5	5.58	95.5	5.61
16.0	5.09	36.0	5.43	56.0	5.54	76.0	5.59	96.0	5.61
16.5	5.11	36.5	5.44	56.5	5.54	76.5	5.59	96.5	5.62
17.0	5.14	37.0	5.44	57.0	5.54	77.0	5.59	97.0	5.62
17.5	5.16	37.5	5.44	57.5	5.54	77.5	5.59	97.5	5.62
18.0	5.18	38.0	5.45	58.0	5.54	78.0	5.59	98.0	5.62
18.5	5.19	38.5	5.45	58.5	5.54	78.5	5.59	98.5	5.62
19.0	5.21	39.0	5.45	59.0	5.55	79.0	5.59	99.0	5.62
19.5	5.22	39.5	5.46	59.5	5.55	79.5	5.59	99.5	5.62
20.0	5.23	40.0	5.46	60.0	5.55	80.0	5.59	100.0	5.62

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

Mixed Straddles; Straddle-by-Straddle Identification Under Section 1092(b)(2)(A)(i)(I)

REG-112815-12

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In this issue of the Bulletin, the Treasury Department and the IRS are issuing temporary regulations that explain how to account for unrealized gain or loss on a position held by a taxpayer prior to the time the taxpayer establishes a mixed straddle using straddle-by-straddle identification. The text of the temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Comments must be received by October 31, 2013. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for December 4, 2013, at 10 a.m. must be received by October 31, 2013.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-112815-12), room 5205, Internal Revenue Service, PO Box 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:PA:LPD:PR (REG-112815-12), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-112815-12).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed

regulations, Elizabeth M. Bouzis or Robert B. Williams at (202) 622-3950; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo Taylor, (202) 622-7180 (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 1092(b). First, the temporary regulations limit the application of §1.1092(b)-3T(b)(6) to section 1092(b)(2) identified mixed straddles established on or before August 1, 2013. Second, a new §1.1092(b)-6T provides that unrealized gain and loss on a position held prior to establishing a section 1092(b)(2) identified mixed straddle is taken into account at the time and has the character provided by provisions of the Internal Revenue Code (Code) that would apply if the section 1092(b)(2) identified mixed straddle had not been established. Section 1.1092(b)-6T applies to section 1092(b)(2) identified mixed straddles established after August 1, 2013. The text of the temporary regulations also serves as the text of 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, as supplemented by 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been 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 comments that are submitted timely to the IRS as prescribed in the preamble under the "Addresses" heading. The Treasury Department and the IRS welcome comments on this proposed regulation. All comments will be available at www.regulations.gov or upon request.

A public hearing has been scheduled for December 4, 2013, beginning at 10 a.m. in the Auditorium of the Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. 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 30 minutes before the hearing starts. For information about having your name placed on the building 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 by October 31, 2013. Submit a signed paper original and eight (8) copies or an electronic copy. 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 Elizabeth M. Bouzis, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the Treasury Department and the IRS participated in their development.

* * * * *

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 part 1 is amended by adding entries in numerical order to read as follows:

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

Section 1.1092(b)–6 also issued under 26 U.S.C. 1092(b)(1).

Section 1.1092(b)–6 also issued under 26 U.S.C. 1092(b)(2).* * *

Par. 2. Section 1.1092(b)–3 is added to read as follows:

§1.1092(b)–3 Mixed straddles; straddle-by-straddle identification under section 1092(b)(2)(A)(i)(I).

[The text of the proposed amendments to §1.1092(b)–3(b)(6) is the same as the text for the amendments to §1.1092(b)–3T(b)(6) published elsewhere in this issue of the Bulletin].

Par. 3. Section 1.1092(b)–6 is added to read as follows:

§1.1092(b)–6 Mixed straddles; accrued gain and loss associated with a position that becomes part of a section 1092(b)(2) identified mixed straddle that is established after August 1, 2013.

[The text of §1.1092(b)–6 is the same as the text for §1.1092(b)–6T published elsewhere in this issue of the Bulletin].

Beth Tucker,
Deputy Commissioner for
Operations Support.

(Filed by the Office of the Federal Register on August 1, 2013, 8:45 a.m., and published in the issue of the Federal Register for August 2, 2013, 78 F.R. 46854)

Notice of Proposed Rulemaking and Notice of Public Hearing

Controlled Group Regulation Examples

REG-114122-12

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document proposes revisions to examples that illustrate the controlled group rules related to regulated investment companies (RICs). These proposed revisions resolve an issue with how the controlled group rules should be applied in connection with the RIC “asset diversification” test. This document also provides notice of a public hearing on the proposed regulations.

DATES: Written or electronic comments must be received by October 31, 2013. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for December 9, 2013, at 10 a.m., must be received by October 31, 2013.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-114122-12), room 5203, Internal Revenue Service, PO Box 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:PA:LPD:PR (REG-114122-12), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at www.regulations.gov (indicate IRS and REG-114122-12). The public hearing will be held in the Auditorium, beginning at 10 a.m., at the Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulation, Julianne Allen at (202) 622-3920; concerning submissions of comments, the public hearing, and/or to be placed on the building access list to attend the public

hearing, Oluwafunmilayo (Funmi) Taylor at (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) relating to the application of the “controlled group” rules found in section 851(c) of the Internal Revenue Code of 1986, as amended (Code).

Section 851(b)(3)(B) provides that, to qualify as a RIC, a taxpayer must meet an asset diversification test pursuant to which not more than 25 percent of the value of the taxpayer’s total assets may be invested in (i) the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer, (ii) the securities (other than the securities of other regulated investment companies) of two or more issuers which the taxpayer controls and which are determined, under regulations prescribed by the Secretary, to be engaged in the same or similar trades or businesses or related trades or businesses, or (iii) the securities of one or more qualified publicly traded partnerships (as defined in section 851(h)).

The controlled group rules in section 851(c) provide that, when ascertaining the value of a taxpayer’s investment in the securities of a particular issuer for purposes of determining whether the asset diversification test has been met, the proportion of any investment in the securities of such issuer by a member of the taxpayer’s “controlled group” should be aggregated with the taxpayer’s investment in such issuer, as determined under regulations. Section 851(c)(3) defines a controlled group as one or more chains of corporations connected through stock ownership with the taxpayer if—(i) 20 percent or more of the total combined voting power of all classes of stock entitled to vote of each of the corporations (except the taxpayer) is owned directly by one or more of the other corporations; and (ii) the taxpayer owns directly at least 20 percent or more of the total combined voting power of all classes of stock entitled to vote of at least one of the other corporations. Clarification is needed regarding whether a RIC and its controlled subsidiary are a controlled group if the subsidiary does not control (within the mean-

ing of section 851(c)(2)) at least one other corporation.

The definition of a controlled group for purposes of the RIC rules was first enacted in 1942 and appears to have been modeled on the definition of an “affiliated group” in the predecessor to current section 1504(a). The predecessor to current section 1504(a) used language nearly identical, save for different ownership thresholds, to the definition of controlled group for purposes of the RIC rules. See HR Rep. No. 2333, 77th Cong., 2nd Sess. 122 (1942), 1942–2 C.B. 372, 462–63; see also The Revenue Act of 1928, ch. 852, sec. 141(d), 45 Stat. 791, 831 (1928) (enacting the predecessor to section 1504(a)). The current regulations under section 851 include a series of examples, two of which reproduce, nearly verbatim, examples contained in the 1942 legislative history. See §1.851–5, *Examples 3 and 4*. Some practitioners have interpreted section 851(c)(3) to require the presence of two levels of controlled entities for a controlled group to exist, and have relied on certain of the examples in the regulations, and the 1942 legislative history, to support this interpretation. The IRS and the Treasury Department believe that this interpretation is unwarranted. Accordingly, through revisions to the existing examples, these proposed regulations clarify that two corporations constitute a controlled group if the ownership requirements of section 851(c)(3) are met.

The IRS and the Treasury Department believe that the interpretation of the controlled group rules reflected in these proposed regulations is consistent both with the statutory language of section 851(c)(3) and the interpretation of analogous Code provisions. For example, for purposes of the consolidated return rules, the IRS has consistently treated a parent and its directly owned subsidiary as “affiliated” within the meaning of section 1504(a)(1) regardless of whether the subsidiary controlled another subsidiary. Likewise, in limiting certain tax benefits for affiliated corporations, the IRS treats a parent and its subsidiary as a “controlled group” under section 1563, which uses language similar to section 1504(a), regardless of whether the subsidiary controls another entity. See section 1563(a)(1) and §1.1563–1(a)(2)(ii), Example 1. The interpretation reflected in these proposed regulations is also consistent with the

purpose of section 851(c)(3), which is to aggregate the investments of related corporations for purposes of the asset diversification test.

The IRS and the Treasury Department believe that the language in the examples in the existing regulations and in the 1942 legislative history was intended merely to simplify the description of certain fact patterns, and not to articulate a legal interpretation that is inconsistent with the construction of substantially similar language elsewhere in the Code and that is unsupported by practical or policy considerations grounded in the statutory scheme.

Explanation of Provisions

The proposed regulations update examples in existing §1.851–5. The controlled group rules of section 851(c) prevent a RIC from exceeding the limitations set forth in section 851(b)(3) by indirectly investing in the securities of an issuer through a subsidiary. This update clarifies the controlled group rules and confirms that they are applied in a manner consistent with sections 1504 and 1563.

First, the proposed changes to the regulations clarify the two examples that have caused confusion. In Example 1, additional language would clarify which entities in the example are members of a controlled group. Currently, the example states that none of the subsidiaries of the RIC in the example is a member of a controlled group. The IRS and the Treasury Department believe that this statement was intended merely to indicate that none of the wholly owned subsidiaries in the example controlled another subsidiary. Consistent with the statutory language of section 851(c)(3), the proposed regulations would clarify that each of the RIC’s wholly owned subsidiaries is a member of a controlled group with the RIC.

Example 4, which is derived from the legislative history of section 851(c)(3), is revised to remove references to ownership by controlled group members of greater than 20 percent interests in an issuer. The existing language has sometimes been misinterpreted to mean that in order for a subsidiary’s holdings in an issuer to be aggregated with the holdings of the parent RIC, the subsidiary must have a controlling interest in the issuer. The proposed revision to Example 4 would ensure that

Example 4 is applied in a manner consistent with the statutory language of section 851(c)(3).

Second, the proposed changes would add a new example to illustrate both the mechanics of the controlled group rules as applied to wholly owned subsidiaries and the application of section 851(b)(3)(B)(iii)’s rule with respect to securities of qualified publicly traded partnerships.

Third, the proposed changes would update the dates used in the examples (1955) to the current year (2013 or 2014, where appropriate) and would update references from section 851(b)(4) to refer instead to section 851(b)(3). Section 1271(b)(1) of The Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788, 1063 (1997)), redesignated section 851(b)(4) as section 851(b)(3).

Finally, for additional clarity, these proposed regulations would add citations to section 851(d)(1) in *Examples 5 and 6*.

Proposed Effective Date

The proposed changes apply to quarters that begin at least 90 days after the date of publication in the **Federal Register** of a Treasury decision adopting these rules as final 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, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before this proposed regulation is adopted as a final regulation, consideration will be given to any written (a signed

original and eight (8) copies) or electronic comments that are submitted to the IRS. The IRS and the Treasury Department request comments on all aspects of the proposed examples. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 9, 2013, beginning at 10:00 a.m. in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. 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 building 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 or electronic comments by October 31, 2013 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 October 31, 2013. 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 this notice is Julanne Allen of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this notice contact Julanne Allen at (202) 622-3920 (not a toll-free call).

* * * * *

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 part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.851-5 also issued under 26 U.S.C. 851(c)

Par. 2. Section 1.851-5 is revised to read as follows:

§1.851-5 Examples.—The provisions of section 851 may be illustrated by the following examples:

(a) *Example 1.* Investment Company W at the close of its first quarter of its taxable year has its assets invested as follows:

	Percent
Cash	5
Government securities	10
Securities of regulated investment companies	20
Securities of Corporation A	10
Securities of Corporation B	15
Securities of Corporation C	20
Securities of various corporations (not exceeding 5 percent of its assets in any one company)	<u>20</u>
Total	100

Investment Company W owns all of the voting stock of Corporations A and B, 15 percent of the voting stock of Corporation C, and less than 10 percent of the voting stock of regulated investment companies and various other corporations. Neither Corporation A nor Corporation B owns (i) 20 percent or more of the voting stock of any other corporation, (ii) securities issued by Corporation C, or (iii) securities issued by any of the regulated investment companies or various corporations whose securities are owned by In-

vestment Company W. Except for Corporation A and Corporation B, none of the corporations (including the regulated investment companies) is a member of a controlled group with Investment Company W.

Investment Company W meets the requirements under section 851(b)(3) at the end of its first quarter. It complies with subparagraph (A) of section 851(b)(3) because it has 55 percent of its assets invested as provided in that subparagraph. It complies with subparagraph (B) of section 851(b)(3) because

it does not have more than 25 percent of its assets invested in the securities of any one issuer, of two or more issuers that it controls, or of one or more qualified publicly traded partnerships (as defined in section 851(h)).

Example 2. Investment Company V at the close of a particular quarter of the taxable year has its assets invested as follows:

	Percent
Cash	10
Government securities	35
Securities of Corporation A	7
Securities of Corporation B	12
Securities of Corporation C	15
Securities of Corporation D	<u>21</u>
Total	100

Investment Company V fails to meet the requirements of subparagraph (A) of section 851(b)(3) since its assets invested in Corporations A, B, C, and D ex-

ceed in each case 5 percent of the value of the total assets of the company at the close of the particular quarter.

Example 3. Investment Company X at the close of the particular quarter of the taxable year has its assets invested as follows:

	Percent
Cash and Government securities	20
Securities of Corporation A	5
Securities of Corporation B	10
Securities of Corporation C	25
Securities of various corporations (not exceeding 5 percent of its assets in any one company)	<u>40</u>
Total	100

Investment Company X owns more than 20 percent of the voting power of Corporations B and C and less than 10 percent of the voting power of all of the other corporations. Corporation B manufactures radios and Corporation C acts as its distributor

and also distributes radios for other companies. Investment Company X fails to meet the requirements of subparagraph (B) of section 851(b)(3) since it has 35 percent of its assets invested in the securities of

two issuers which it controls and which are engaged in related trades or businesses.

Example 4. Investment Company Y at the close of a particular quarter of its taxable year has its assets invested as follows:

	Percent
Cash and Government securities	15
Securities of Corporation K (a regulated investment company)	30
Securities of Corporation A	10
Securities of Corporation B	20
Securities of various corporations (not exceeding 5 percent of its assets in any one company)	<u>25</u>
Total	100

Corporation K has 20 percent of its assets invested in Corporation L, and Corporation L has 40 percent of its assets invested in Corporation B. Corporation A also has 30 percent of its assets invested in Corporation B. Investment Company Y owns more

than 20 percent of the voting power of Corporations A and K. Corporation K owns more than 20 percent of the voting power of Corporation L.

851(b)(3) because, after applying section 851(c)(1), more than 25 percent of the value of Investment Company Y's total assets is invested in the securities of Corporation B. This result is shown by the following calculation:

	Percent
Percentage of assets invested directly in Corporation B	20.0
Percentage invested through K and L (30% x 20% x 40%)	2.4
Percentage invested indirectly through A (10% x 30%)	<u>3.0</u>
Total percentage of assets of Investment Company Y invested in Corporation B	25.4

Example 5. Investment Company Z, which keeps its books and makes its returns on the basis of the calendar year, at the close of the first quarter of 2013 meets the requirements of section 851(b)(3) and has 20 percent of its assets invested in Corporation A. Later during the taxable year it makes distributions to its shareholders and because of such distributions, it finds at the close of the taxable year that it has more than 25 percent of its remaining assets invested in Corporation A. Investment Company Z does not lose its status as a regulated investment company for the taxable year 2013 because of such distributions, nor

will it lose its status as a regulated investment company for 2014 or any subsequent year solely as a result of such distributions. See section 851(d)(1).

Investment Company Q's portfolio and is not due in whole or in part to the acquisition of any security or other property. Corporation Q does not lose its status as a regulated investment company for the taxable year 2013 because of such fluctuations in the market values of the securities in its portfolio, nor will it lose its status as a regulated investment company for 2014 or any subsequent year solely as a result of such market value fluctuations. See section 851(d)(1).

Example 6. Investment Company Q, which keeps its books and makes its returns on the basis of a calendar year, at the close of the first quarter of 2013, meets the requirements of section 851(b)(3) and has 20 percent of its assets invested in Corporation P. At the close of the taxable year 2013, it finds that it has more than 25 percent of its assets invested in Corporation P. This situation results entirely from fluctuations in the market values of the securities in Invest-

Example 7. Investment Company T at the close of a particular quarter of its taxable year has its assets invested as follows:

	Percent
Cash and Government securities	40
Securities of Corporation A	20
Securities of various qualified publicly traded partnerships (within the meaning of sections 851(b)(3) and 851(h))	15
Securities of various corporations (not exceeding 5 percent of its assets in any one company)	<u>25</u>
Total	100

Investment Company T owns more than 20 percent of the voting power of Corporation A and less than 10 percent of the voting power of all of the other corporations. Corporation A has 80 percent of its assets invested in qualified publicly traded partnerships.

Investment Company T is disqualified under subparagraph (B)(iii) of section 851(b)(3), because, after applying section 851(c)(1), more than 25 percent of the value of Investment Company T's total assets is invested in the securities of one or more qualified

publicly traded partnerships. This result is shown by the following calculation:

Percentage of assets invested directly in qualified publicly traded partnerships
 Percentage invested in qualified publicly traded partnerships indirectly through A (20% x 80%)
 Total percentage of assets of Investment Company T invested in qualified publicly traded partnerships

Percent
 15.0
 16.0
 31.0

(b) *Effective/applicability date.* The proposed revisions apply to quarters that begin at least 90 days after the date of publication of the Treasury decision adopting these rules as a final regulation in the **Federal Register**.

Beth Tucker,
 Deputy Commissioner for
 Operations Support.

(Filed by the Office of the Federal Register on August 1, 2013, 8:45 a.m., and published in the issue of the Federal Register for August 2, 2013, 78 F.R. 46851)

Guidance Regarding Deferred Discharge of Indebtedness Income of Corporations and Deferred Original Issue Discount Deductions; Correction

Announcement 2013-39

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations and removal of temporary regulations (TD 9622) that were published in the **Federal Register** on Wednesday, July 3, 2013 (78 FR 39984). The final regulations provide necessary guidance regarding the accelerated inclusion of deferred discharge of indebtedness (also known as cancellation of debt (COD)) income (deferred COD income) and the accelerated deduction of deferred original issue discount (OID) (deferred OID deductions) under section 108(i)(5)(D) (acceleration rules), and the calculation of earnings and profits as a result of an election under section 108(i). In addition, these regulations provide rules applicable to all taxpayers regarding deferred OID deductions under section 108(i) as a result of a reacquisition of an applicable debt instrument by an issuer or related party.

DATES: This correction is effective on August 9, 2013, and is applicable on or after July 2, 2013.

FOR FURTHER INFORMATION CONTACT: Robert M. Rhyne, at (202) 622-7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations and removal of temporary regulations (TD 9622) that are the subject of this correction are under section 108(i) of the Internal Revenue Code.

Need for Correction

As published, the final regulations and removal of temporary regulations (TD 9622) contains errors that may prove to be misleading and are in need of clarification.

* * * * *

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:
 Authority: 26 U.S.C. 7805***

Par. 2. Section 1.108(i)-0 is amended by revising paragraph (b) to read as follows:

§ 1.108(i)-0 Definitions and effective/applicability dates.

* * * * *

(b) *Effective/Applicability dates—(1) In general.* The rules of this section, § 1.108(i)-1, and § 1.108(i)-2, apply on or after July 2, 2013, to reacquisitions of applicable debt instruments in taxable years ending after December 31, 2008. In addition, the rules of § 1.108(i)-3 apply on

or after July 2, 2013, to debt instruments issued after December 31, 2008, in connection with reacquisitions of applicable debt instruments in taxable years ending after December 31, 2008.

(2) *Prior periods.* For rules applying before July 2, 2013, see § 1.108(i)-0T, § 1.108(i)-1T, § 1.108(i)-2T, and § 1.108(i)-3T, as contained in 26 CFR part 1, revised April 1, 2013.

Par. 3. Section 1.108(i)-1 is amended by revising the third and fourth sentences of paragraph (b)(2)(iii)(D), and the fifth and seventh sentences of paragraph (c) *Example 3* (ii) to read as follows:

§ 1.108(i)-1 Deferred discharge of indebtedness income and deferred original issue discount deductions of C corporations.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(D) * * * Appropriate adjustments must be made to take into account any issuances or redemptions of stock, or similar transactions, occurring during the taxable year of distribution or any of the preceding three taxable years. If the electing corporation has a short taxable year for the year of the distribution or for any of the preceding three taxable years, the amounts are determined on an annualized basis. * * *

* * * * *

(c) * * *

Example 3. * * *

(ii) * * * However, under paragraph (b)(2)(iii)(A) of this section, S's distribution to P is an impairment transaction and the net value acceleration rule is applied with respect to the assets, liabilities, and deferred items of P (S's successor). Immediately following the distribution, P's gross asset value of \$100 is less than the net value floor of \$220 [110% x (\$60 + \$140)]. Accordingly, under the net value acceleration rule of paragraph (b)(2)(iii)(A) of this section, S is required to take into account its \$400 of deferred COD income immediately before the distribution, unless value is restored to P pursuant to paragraph (b)(2)(iii)(C) of this section.

* * * * *

Martin V. Franks,
Chief,
Publications & Regulations Branch,
Legal Processing Division,
Associate Chief Counsel
(Procedure & Administration).

(Filed by the Office of the Federal Register on August 8, 2013, 8:45 a.m., and published in the issue of the Federal Register for August 9, 2013, 78 F.R. 48606)

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as “rulings”) that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A

and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance

of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.

ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.

PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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Key to Abbreviations:

Ann	Announcement
CD	Court Decision
DO	Delegation Order
EO	Executive Order
PL	Public Law
PTE	Prohibited Transaction Exemption
RP	Revenue Procedure
RR	Revenue Ruling
SPR	Statement of Procedural Rules
TC	Tax Convention
TD	Treasury Decision
TDO	Treasury Department Order

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