

Pursuant to the terms of the plan of reorganization, J surrenders”.

43. On page 3523, column 3, §1.358-2(i) *Example 10.*(ii), line 10 from the bottom of the column, the language “be recapitalized in a reorganization under” is corrected to read “be recapitalized in a reorganization described in”.

44. On page 3524, column 2, §1.358-2(i) *Example 13.*(i), line 9, the language “reorganization under section 368(a)(1)(A).” is corrected to read “reorganization described in section 368(a)(1)(A).”.

45. On page 3524, column 3, §1.358-2(i) *Example 14.*(i), line 9, the language “reorganization under section 368(a)(1)(A).” is corrected to read “reorganization described in section 368(a)(1)(A).”.

46. On page 3525, column 1, §1.358-2(i) *Example 15.*(ii), line 3 from the bottom of the paragraph, the language “each has a basis of \$6 and is treated as having” is corrected to read “each has a basis of \$5 and is treated as having”.

47. On page 3525, column 1, §1.358-2(i) *Example 16.*(i), line 4, the language “Shares of Corporation Y in an exchange to” is corrected to read “Shares of Corporation Y stock in an exchange to”.

48. On page 3525, column 1, §1.358-2(i) *Example 17.*(i), line 2, the language “*Facts.*The facts are the same as Example 1,” is corrected to read “*Facts.*The facts are the same as Example 16,”.

§1.358-6 [Corrected]

49. On page 3525, column 2, §1.358-6(f)(3), line 4 from the bottom of the paragraph, the language “1 revised April 1, 2008 for the year” is corrected to read “1 revised April 1 for the year”.

§1.861-12 [Corrected]

50. On page 3525, column 3, §1.861-12(c)(2)(vi), lines 1 through 3, the language “Adjustments in respect of redeemed stock for taxpayers using the tax book value method. Solely for” is corrected to read “*Adjustments in respect of redeemed stock for taxpayers using the tax book value method.* Solely for”.

51. On page 3525, column 3, §1.861-12(c)(2)(vi), lines 13 through 15, the language “taken into account under §1.302-5(a)(3) as of the close of the

redeemed shareholder’s taxable year (unrecovered)” is corrected to read “taken into account under §1.302-5 as of the close of the redeemed shareholder’s taxable year (deferred”.

52. On page 3525, column 3, §1.861-12(c)(2)(vi), line 4 from the bottom of the column, the language “unrecovered loss (and allocated among” is corrected to read “deferred loss (and allocated among”.

§1.1001-6 [Corrected]

53. On page 3526, column 2, §1.1001-6(c), line 10 from the top of the column, the language “still unliquidated. Solely for purposes of” is corrected to read “still unliquidated investment. Solely for purposes of”.

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Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2009-41

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had

knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on May 18, 2009, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Michael and Laura Gallop Family
Foundation
Agoura Hills, CA
Physician Directed Care
Southfield, MI
Winston County Community
Development Corporation
Louisville, MS
EMF Debt Management Inc.
Pittsburgh, PA
Lil Pals & Gals Daycare Center
Association
Tulsa, OK
Heartland Women’s Foundation, Inc.
Tribune, KS
CF Moore Charitable Foundation
Chicago, IL
Waimano Auxiliary a/k/a Kokua Mau
Work Center
Ewa Beach, HI
The American Dream
West Jordan, UT
Henry Jacobson Family Foundation
Ross, CA
Dreamkeepers of America Inc.
Memphis, TN
Community Workshop on Economic
Development
Pueblo, CO
Hope Alive, Inc.
Pueblo, CO
Building Successful Lifestyles, Inc.
Topeka, KS

Hummingbird Tribal Foundation
Woodside, CA
Diamond-A-CAT-A-ME, Inc.
Houston, TX
Constitutional Educational Research
Foundation
Rancho Cordova, CA
Family Home Providers, Inc.
Cumming, GA

Special Rules To Reduce Section 1446 Withholding; Correction

Announcement 2009-42

AGENCY: Internal Revenue Service
(IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (T.D. 9394, 2008-21 I.R.B. 988) that were published in the **Federal Register** on Tuesday, April 29, 2008 (73 FR 23069) regarding when a partnership may consider certain deductions and losses of a foreign partner to reduce or eliminate the partnership's obligation to pay withholding tax under section 1446 on effectively connected taxable income allocable under section 704 to such partner. The regulations will affect partnerships engaged in a trade or business in the United States that have one or more foreign partners.

DATES: This correction is effective on April 2, 2009, and is applicable on April 29, 2008.

FOR FURTHER INFORMATION CONTACT: Ronald M. Gootzeit at (202) 622-3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under sections 1446, 1464, 6071, 6091, 6151, 6302, and 6414 of the Internal Revenue Code.

Need for Correction

As published, final regulations (T.D. 9394) 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 1.1446-6 is amended as follows:

1. Paragraph (c)(2)(i) is revised.
2. The last sentence of paragraph (d)(3)(ii) is revised and a new sentence is added at the end of the paragraph.
3. Paragraphs (e)(1)(vi) second occurrence, (e)(1)(vii), and (e)(1)(viii) are redesignated as paragraphs (e)(1)(vii), (e)(1)(viii), and (e)(1)(ix), respectively.
4. The first sentence of paragraph (e)(2) *Example 2.(i)* is revised.
5. The third and fourth sentences of paragraph (e)(2) *Example 2.(ii)* are revised.
6. The fourth sentence of paragraph (e)(2) *Example 4.* is revised.
7. Paragraph (e)(2) *Example 6.(ii)* is revised.

The revisions and addition read as follows:

§1.1446-6 Special rules to reduce a partnership's 1446 tax with respect to a foreign partner's allocable share of effectively connected taxable income.

* * * * *

(c) * * *

(2) * * *

(i) *Form of certification.* A partner's certification to a partnership under paragraph (c)(1)(i) or (iii) of this section shall be made using Form 8804-C, "*Certificate Of Partner-Level Items to Reduce Section 1446 Withholding*," in accordance with the instructions of the form and the rules of this section.

* * * * *

(d) * * *

(3) * * *

(ii) * * * To permit the partnership to reasonably rely on such certificate, the partnership shall be considered to have satisfied the requirements of paragraph (d)(3)(i) of this section if the partnership

demonstrates that such failure was due to reasonable cause and not willful neglect and if once the partnership becomes aware of the failure, the partnership attaches the certificate and computation, as well as a written statement setting forth the reasons for the failure to comply with the requirements of paragraph (d)(3)(i) of this section, to an amended Form 8813 or amended Forms 8804 and 8805 for the relevant period. All such submissions should be sent to the address provided in the instructions to Form 8804-C.

* * * * *

(e) * * *

(2) * * *

Example 2. * * *

(i) Assume the same facts as in Example 1. * * *

(ii) * * * As described in Example 1, NRA's year 4 U.S. income tax return is a qualifying U.S. income tax return because it will report income or gain effectively connected with a U.S. trade or business and is described under paragraph (b)(2)(iii)(C) of this section. Although NRA's year 5 U.S. income tax return reports income or gain effectively connected with a U.S. trade or business or deductions or losses properly allocated and apportioned to such activities it is not a qualifying U.S. income tax return under paragraph (b)(2)(iii) of this section. * * *

* * * * *

Example 4. * * * NRA timely-filed (within the meaning of paragraph (b)(2) of this section) U.S. income tax returns for years 1 through 6 reporting its allocable share of ECTI (or loss) from XYZ (and timely paid all tax shown on such returns). * * *

* * * * *

Example 6. * * *

(ii) If PRS had considered only \$900 (or a lesser amount) of NRA's certified net operating loss when computing and paying its 1446 tax during year 4 then, under paragraph (d)(2)(iii) of this section, PRS would not be liable for 1446 tax because it did not consider a net operating loss greater than the amount actually available to NRA.

Par. 3. Section 1.1464-1 is amended by revising paragraph (c) to read as follows:

§1.1464-1 Refunds or credits.

* * * * *

(c) *Effective/Applicability date.* The last sentence in paragraph (a) of this section shall apply to partnership taxable years beginning after April 29, 2008.

Par. 4. Section 1.6151-1 is amended by revising paragraph (e) to read as follows:

§1.6151-1 Time and place for paying tax shown on returns.

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