

[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8949]

RIN 1545-AY80

Special Aggregate Stock Ownership Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the aggregation of stock ownership in a corporation of members of a consolidated group. These regulations reflect a technical correction enacted in section 311(c) of the Community Renewal Tax Relief Act of 2000 that, in substance, provides that the special aggregate stock ownership rules shall apply for purposes of section 732(f) of the Code. These final regulations may affect all consolidated groups.

DATES: Effective Date: June 19, 2001.

FOR FURTHER INFORMATION CONTACT: Frances L. Kelly or David H. Kessler,
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SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code of 1986 (Code). Section

1.1502-34 generally provides that, for purposes of the consolidated return regulations, the stock ownership of all members of a consolidated group in another corporation is aggregated in determining the application of certain Code provisions, including section 332(b)(1), in a consolidated return year.

Section 538 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170, 113 Stat. 1939) (the 1999 Act) enacted section 732(f) on December 17, 1999. With certain exceptions, section 732(f) generally provides that if (1) a corporate partner of a partnership receives a distribution from that partnership of stock in another corporation, (2) the corporate partner has control of the distributed corporation immediately after the distribution or at any time thereafter, and (3) the partnership's adjusted basis in such stock immediately before the distribution exceeded the corporate partner's adjusted basis in such stock immediately after the distribution, then an amount equal to such excess shall reduce the basis of the property held by the distributed corporation at such time.

On December 21, 2000, Congress enacted section 311(c) of the Community Renewal Tax Relief Act of 2000 (Public Law 106-554, 114 Stat. 2763) (the 2000 Act), a technical correction to section 538 of the 1999 Act. Section 311(c) of the 2000 Act states "[t]he reference to section 332(b)(1) of the Internal Revenue Code of 1986 in Treasury Regulation section 1.1502-34 shall be deemed to include a reference to section 732(f) of such Code." The Conference Report states that the rule in the consolidated return regulations (§1.1502-34) aggregating stock ownership for purposes of section 332 (relating to a complete liquidation of a subsidiary that is a controlled

corporation) also applies for purposes of section 732(f) (relating to basis adjustments to assets of a controlled corporation received in a partnership distribution). H.R. Conf. Rep. No. 1033, 106th Cong., 2d Sess. 1022 (2000).

Section 311(d) of the 2000 Act provides that section 311(c) of the 2000 Act takes effect as if included in the provisions of the 1999 Act to which it relates. Thus, the effective date of section 311(c) of the 2000 Act is the same as that for section 538(a) of the 1999 Act, which is contained in section 538(b) of the 1999 Act.

Explanation of Provisions

These final regulations conform §1.1502-34 to a technical correction enacted in section 311(c) of the 2000 Act and add a regulation under section 732 reflecting that correction. These regulations reflect this statutory provision clarifying that the stock aggregation rules under §1.1502-34 apply for purposes of section 732(f).

Because section 311(d) of the 2000 Act provides that section 311(c) of the 2000 Act shall take effect as if it had been included in the provisions of the 1999 Act, the effective date provisions of section 538(b) of the 1999 Act apply to these regulations. Section 538(b) generally provides that the amendments made by section 538(a) of the 1999 Act apply to distributions made after July 14, 1999. In the case of a corporation that was a partner in a partnership as of July 14, 1999, the amendments made by section 538(a) of the 1999 Act apply to distributions made (or treated as made) to that partner from that partnership after June 30, 2001. In the case of any such distribution made after December 17, 1999, and before July 1, 2001, the rule of the preceding sentence does not apply unless that partner makes an election to have the rule apply to

the distribution on the partner's income tax return for the year in which the distribution occurs.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Because no notice of proposed rulemaking is required for this final regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

This final rule merely conforms §1.1502-34 to the statutory amendment made by section 311(c) of the 2000 Act. Pursuant to 5 U.S.C. 553, it is determined that prior notice and comment are unnecessary and contrary to the public interest. For the same reason, good cause exists for not delaying the effective date of this final rule.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of 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 in part as follows:

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

Section 1.732-3 also issued under 26 U.S.C. 732(f). * * *

Section 1.1502-34 also issued under 26 U.S.C. 1502. * * *

Par. 2. Section 1.732-3 is added to read as follows:

§1.732-3 Corresponding adjustment to basis of assets of a distributed corporation controlled by a corporate partner.

The determination of whether a corporate partner has control of a distributed corporation for purposes of section 732(f) shall be made by applying the special aggregate stock ownership rules of §1.1502-34.

§1.1502-34 [Amended]

Par. 3. In §1.1502-34, the first sentence is amended by adding “732(f),” immediately after “351(a),”.

Robert E. Wenzel

Deputy Commissioner of Internal Revenue

Approved: June 8, 2001

Mark A. Weinberger

Assistant Secretary of the Treasury