

Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations and Notice of Public Hearing

Guidance on Filing an Application for a Tentative Carryback Adjustment in a Consolidated Return Context

REG-119352-00

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: In T.D. 8919 on page 505 of this Bulletin, the IRS is issuing temporary regulations relating to the filing of an application for a tentative carryback adjustment by a consolidated group and by certain new members of a consolidated group. The text of those temporary regulations also serves as the text of these proposed regulations. In addition, this document provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by April 5, 2001. The public hearing has been scheduled for April 26, 2001. Outlines of topics to be discussed at the public hearing scheduled for April 26, 2001, at 10 a.m. must be received by April 5, 2001.

ADDRESSES: Send submissions to: Regulations Unit CC, room 5226 (REG-119352-00), Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 2044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to Regulations Unit CC, room 5226 (REG-119352-00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet directly to the IRS Internet site at http://www.irs.gov/tax_regs/regslst.html. The public hearing is scheduled for April

26, 2001, and will be held in room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, Christopher M. Bass or Frances L. Kelly, (202) 622-7770; concerning submissions, the hearing, and/or to be placed on the building access list to attend the hearing, Guy Traynor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in T.D. 8919 amend the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code of 1986 (Code). The temporary regulations provide guidance as to the time for filing an application for a tentative carryback adjustment by a consolidated group. The amendments also extend the time for filing an application for a tentative carryback adjustment by certain corporations for the separate return year created by their becoming new members of a consolidated group. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

It has been determined that this notice of proposed rule making is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that these regulations will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses, and, moreover, that any burden on taxpayers is minimal. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are timely submitted to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be made available for public inspection and copying.

A public hearing has been scheduled for April 26, 2001, beginning at 10 a.m., in room 4718, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. 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 request to speak, and submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by April 5, 2001. A period of ten minutes will be allocated 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 authors of these proposed regulations are Christopher M. Bass and Frances L. Kelly, Office of the Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

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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 the following entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.1502-78 also issued under 26 U.S.C. 1502 and 6411(c). * * *

Par. 2. Section 1.1502-78, as proposed to be amended, reads as follows:

§1.1502-78 Tentative carryback adjustments.

[The text of the amendments to this proposed section is the same as the text of the amendments to §1.1502-78T published in T.D. 8919.]

Robert E. Wenzel,
*Deputy Commissioner
of Internal Revenue.*

(Filed by the Office of the Federal Register on January 3, 2001, 8:45 a.m., and published in the issue of the Federal Register for January 4, 2001, 66 F.R. 747)