

Notice of Proposed Rulemaking

Modifications of Bad Debts and Dealer Assignments of Notional Principal Contracts

FI-59-94

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In TD 8676 on page 4 of this issue of the Bulletin, the IRS is issuing temporary regulations relating to the allowance of a deduction for a partially worthless debt when the terms of a debt instrument have been modified. The temporary regulations provide relief to certain taxpayers that are required to recognize gain as the result of modifying a debt instrument, when a portion of the gain is in part caused by a reduction of the debt's basis attributable to a bad debt deduction claimed in a prior taxable year. The temporary regulations provide guidance to taxpayers that modify the terms of a debt instrument after deducting an amount for partial worthlessness.

In TD 8676 the IRS is also issuing temporary regulations relating to certain assignments of notional principal contracts by dealers in those contracts. The temporary regulations provide guidance to taxpayers relating to consequences of these assignments.

The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by September 23, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (FI-59-94), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (FI-59-94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224

FOR FURTHER INFORMATION CONTACT: Craig R. Wojay, Office of Assistant Chief Counsel, Financial Institutions and Products, (202) 622-3920 (not a toll-free number) concerning the modifications of bad debts, and Thomas J. Kelly, Office of Assistant Chief Counsel, Financial Institutions and Products, (202) 622-3940 (not a toll-free number) concerning dealer assignments of notional principal contracts.

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in TD 8676 amend the Income Tax Regulations (26 CFR part 1) relating to section 166. The temporary regulations contain rules relating to the requirement that a debt be charged off before a deduction on account of partial worthlessness is allowed. The rules apply to certain taxpayers who are required to recognize gain as the result of a significant modification of a debt instrument.

Temporary regulations in TD 8676 amend the Income Tax Regulations (26 CFR part 1) relating to section 1001. The temporary regulations contain rules relating to certain assignments of notional principal contracts by dealers in those contracts.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO

12866. 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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a 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) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of the regulations concerning the modifications of bad debts is Craig R. Wojay, Office of Assistant Chief Counsel (Financial Institutions and Products), IRS. The principal author of the regulations concerning dealer assignments of notional principal contracts is Thomas J. Kelly, Office of Assistant Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

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 continues to read in part as follows:

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

Par. 2. Section 1.166-3 is amended by adding paragraph (a)(3) to read as follows:

§ 1.166-3 Partial or total worthlessness.

[The text of proposed paragraph (a)(3) is the same as the text of § 1.166-3T(a)(3) published elsewhere in this issue of the Bulletin].

Par. 3. Section 1.1001-4 is added to read as follows:

§ 1.1001-4 Modifications of notional principal contracts.

[The text of proposed section 1.1001-4 is the same as the text of § 1.1001-4T published elsewhere in this issue of the Bulletin].

Margaret Milner Richardson,
Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on June 24, 1996, 8:45 a.m., and published in the issue of the Federal Register for June 25, 1996, 61 F.R. 32728)