

Announcement 99-116

This document corrects the Actions on Decisions published in 1999-35 I.R.B. 314. All 7 footnotes describing the “Acquiescence” or “Nonacquiescence” in each decision included the words “in result

only,” which were erroneous. The court cases are listed below, followed by the footnotes with the correct text.

The Commissioner ACQUIESCES in the following decisions:

Internal Revenue Service v. Waldschmidt (In re Bradley),¹

(M.D. Tenn 1999)

Estate of Mellinger v. Commissioner,²
112 T.C. 4 (1999)

Hospital Corp. of America and Subsidiaries v. Commissioner,³

109 T.C. 21 (1997)

Boyd Gaming Corporation v. Commissioner,⁴

F.3d (9th Cir. 1999)

The Commissioner NONACQUIESCES in the following decisions:

Vulcan Materials Company and Subsidiaries v. Commissioner,⁵

96 T.C. 410 (1991)

St. Jude Medical, Inc. v. Commissioner,⁶

34 F.3d 1394 (8th Cir. 1994)

Hospital Corp. of America and Subsidiaries v. Commissioner,⁷

¹Acquiescence relating to whether gain on the sale of the debtor's residence is excluded from gross income of the bankruptcy estate to the extent provided by I.R.C. §121 and in accord with section 1398.

²Acquiescence relating to whether, for estate tax valuation purposes, a minority interest in a closely held corporation held in a Qualified Terminable Interest Property (QTIP) trust, which is includible in the gross estate under I.R.C. §2044, is aggregated with a minority interest in the same corporation that is includible in a decedent's gross estate under other provisions of the Code.

³Acquiescence relating to whether the tests developed under the investment tax credit (ITC) prior to the 1981

adoption of the cost recovery system are applicable in determining a structural component for the purposes of Accelerated Cost Recovery System (ACRS) and Modified Accelerated Cost Recovery System (MACRS).

⁴Acquiescence relating to whether a meal furnished by the taxpayer/employer on its business premises to an employee is furnished for "the convenience of the employer" within the meaning of that phrase in section 119 of the Internal Revenue Code.

⁵Nonacquiescence relating to whether the term "accumulated profits" as used in the denominator of the section 902 deemed paid credit fraction before the Tax Reform Act of 1986 means all of a foreign corporation's accumulated profits for the taxable year. This

revised action on decision clarifies the Service's position on this issue in cases appealable to the 11th Circuit.

⁶Nonacquiescence relating to whether section 1.861-8(e)(3) of the Income Tax Regulations is invalid as applied to DISC combined taxable income (CTI) calculations.

⁷Nonacquiescence relating to whether certain items treated as tangible personal property and depreciated over a 5-year recovery period were in fact structural components of the buildings to which they relate which must be depreciated over the same recovery period as the buildings, pursuant to I.R.C. §168.