

Part III - Administrative, Procedural, and Miscellaneous

Penalty Relief for Certain Taxpayers Affected by Section 571 of the Tax Relief Extension Act of 1999

Notice 2000-5

PURPOSE

This notice informs taxpayers of penalty relief available for certain corporate taxpayers whose December 15, 1999, estimated tax installment is affected by § 571 of the Tax Relief Extension Act of 1999, P.L. 106-170 (“the Act”). The notice provides specific procedures for these taxpayers to follow in order to qualify for the penalty relief.

BACKGROUND

Section 571 of the Act amends § 6655 of the Internal Revenue Code by adding new subsection (e)(5). This subsection provides that any dividend that is received from a closely-held real estate investment trust by any person that owns (after application of § 856(d)(5)) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust will be taken into account in computing annualized income tax installments under § 6655(e)(2) in a manner similar to the manner under which partnership income inclusions are taken into account. The statute also references attribution under § 856(l)(3)(B). This reference is erroneous and presumably will be the subject of a technical correction. For the purposes of § 6655(e)(5), the term “closely-held real estate investment trust” means a real estate investment trust with respect to which five or fewer persons own (after application of § 856(d)(5)) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust. The amendment made by § 571

of the Act applies to estimated tax payments due on or after December 15, 1999.

RETROACTIVE EFFECT OF SECTION 571 OF THE ACT

The President signed the Act into law on December 17, 1999. As a result, § 571 of the Act retroactively applies to estimated tax installment payments due on December 15, 1999, by those corporate taxpayers that employ the annualization method to calculate quarterly estimated tax installment payments. Those taxpayers may have used the law in effect on December 15, 1999, to calculate their estimated tax installment due on that date. The retroactive application of § 571 of the Act may result in those taxpayers underpaying their installment due on December 15, 1999. If so, those taxpayers may be subject to an addition to tax under § 6655 of the Code.

PENALTY RELIEF

In a situation in which the amendment made by § 571 of the Act creates or increases an underpayment for the quarterly estimated tax installment due on December 15, 1999, the Service will not assess or will abate any addition to tax resulting from the change in law to the extent that the taxpayer, on or before January 13, 2000, makes a deposit sufficient to satisfy such underpayment using either Form 8109, Federal Tax Deposit Coupon, or the Electronic Federal Tax Payment System (EFTPS) if the taxpayer is required to deposit electronically or chooses to do so voluntarily. The taxpayer must designate that the deposit is for the taxpayer's estimated tax installment due December 15, 1999. Further, the taxpayer's 1999 Form 2220, Underpayment of Estimated Tax by Corporations, should clearly state across the top "Penalty Relief Under Notice 2000-5."

If a taxpayer that makes a deposit as described above and receives a notice imposing an addition to tax based on an underpayment of the estimated tax for the installment due on December 15, 1999, and the underpayment relates to the change to the law by § 571 of the Act, the taxpayer should contact the IRS office issuing the notice and request abatement of the addition to tax based on the provisions in this notice.

DRAFTING INFORMATION

The principal author of this notice is Robert A. Desilets, Jr. of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice contact Robert A. Desilets, Jr. at (202) 622-4910 (not a toll-free call).