

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability
(Also Part I, §§ 61, 108; 1.61-12, 1.108-2)

Rev. Proc. 2000-33

SECTION 1. PURPOSE

This revenue procedure provides guidance on whether an acquisition of corporate debt by a beneficiary of the decedent creditor's estate or by a beneficiary of a revocable trust that became irrevocable upon the creditor's death is a direct acquisition within the meaning of § 1.108-2(b) of the Income Tax Regulations.

SECTION 2. BACKGROUND

Section 61(a)(12) of the Internal Revenue Code provides that gross income includes income from the discharge of indebtedness.

Section 108(e)(4) provides that for purposes of determining the income of the debtor from discharge of indebtedness, to the extent provided in regulations prescribed by the Secretary, the acquisition of outstanding indebtedness by a person bearing a relationship to the debtor specified in § 267(b) or § 707(b)(1) from a person who does not bear such a relationship to the debtor shall be treated as the acquisition of such indebtedness by the debtor.

Section 1.108-2(a) provides that the acquisition of outstanding indebtedness by a

person related to the debtor from a person who is not related to the debtor results in the realization by the debtor of income from discharge of indebtedness. The rules of that paragraph apply if indebtedness is acquired directly by a person related to the debtor in a direct acquisition or if a holder of indebtedness becomes related to the debtor in an indirect acquisition.

Section 1.108-2(b) provides in part that an acquisition of outstanding indebtedness is a direct acquisition if a person related to the debtor acquires the indebtedness from a person who is not related to the debtor. That paragraph further provides that notwithstanding the foregoing, the Commissioner may provide by Revenue Procedure or other published guidance that certain acquisitions of indebtedness described in the preceding sentence are not direct acquisitions for purposes of this section.

SECTION 3. SCOPE

This revenue procedure applies to any acquisition of corporate debt by a beneficiary of a decedent creditor's estate or by a beneficiary of a revocable trust that became irrevocable upon the creditor's death where the beneficiary of the estate is related to the corporate debtor, the decedent creditor was also related to the corporate debtor, but the estate or trust is not related to the corporate debtor.

SECTION 4. APPLICATION

The acquisition of a debt in the situation described in section 3 is not a direct acquisition within the meaning of § 1.108-2(b).

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective August 16, 2000. However, the Service will not challenge a taxpayer's application of the rule provided in section 4 of this revenue

procedure in prior years to an acquisition of an indebtedness, provided the rule is applied consistently with respect to that indebtedness by the taxpayer and any relevant related parties in all affected years.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Vincent Daly of the Office of the Associate Chief Counsel (Corporate). For further information regarding this revenue procedure contact Mr. Daly on (202) 622-7770 (not a toll free call).