

large components and material stored in robust structures be expanded to include waste materials. One of the commenters suggested the inclusion of a dose rate criterion in the exemption.

The NRC considered the public comments in its analysis of the petition.

### III. NRC Analysis

This section presents the three issues raised by the petitioner followed by the NRC's analysis of the issues.

#### *Issue 1: Revise the Exemption in 10 CFR 37.11(b)*

The petitioner requests that 10 CFR 37.11(b) be amended to allow for byproduct material kept within any area for which 10 CFR part 73 requires access control to be exempted from 10 CFR part 37 requirements regardless of whether the byproduct material "activities" are specifically "included in" a 10 CFR part 73 security plan. The petitioner states that the exemption should recognize the extent to which the physical protection requirements in 10 CFR part 73 meet or exceed the requirements of 10 CFR part 37, so there is no need for any additional security measures or documentation in the 10 CFR part 73 security plan. The petitioner asserts that 10 CFR part 37 currently imposes undue burden on licensees that should be alleviated through a rulemaking.

*NRC Response to Issue 1:* The NRC will consider Issue 1 in the rulemaking process. The NRC agrees that the language in 10 CFR 37.11(b) and the accompanying guidance in NUREG-2155, "Implementation Guidance for 10 CFR part 37 Physical Protection of Category I and Category 2 Quantities of Radioactive Material" (ADAMS Accession No. ML13053A061), could be clarified as to what is being exempted and what action, if any, a licensee with a 10 CFR part 73 security plan needs to take to use the exemption. The exact wording of a revision to paragraph (b), if any, and the associated implications for the guidance document (NUREG-2155), would be determined during the rulemaking process.

#### *Issue 2: Revise the Exemption in 10 CFR 37.11(c)*

The petitioner requests that 10 CFR 37.11(c) be modified to remove any ambiguity as to what type of wastes the exemption applies. The petitioner states that the language is difficult to understand and has prompted numerous inquiries and many discussions among NRC and the nuclear industry. The petitioner notes that the NRC's guidance document, NUREG-2155, does clarify the ambiguity;

however, the petitioner states that the NRC should provide licensees and the public with greater regulatory certainty by clarifying the provision in the regulations.

*NRC Response to Issue 2:* The NRC will consider Issue 2 in the rulemaking process. The petitioner raises regulatory stability and predictability concerns with respect to the language of the exemption provision. The NRC notes that the guidance in NUREG-2155 does clarify the intent of the exemption provision; however, the NRC agrees that the regulatory language should be clear.

#### *Issue 3: Add an Exemption To Address Large Components and Storage in Robust Structures*

The petitioner requests that 10 CFR 37.11 be revised to include a new paragraph (d) that would address large components and storage of radioactive material in robust structures. The petitioner states that the exemption in 10 CFR 37.11(c) only addresses waste material, and therefore, large components and non-waste material stored in robust structures that present a similar or lower risk for theft or diversion are not exempt from the 10 CFR part 37 requirements. The petitioner notes that as part of the 10 CFR part 37 implementation process, the NRC recognized this material as low risk and issued EGM-14-001 to address large components and storage of material in robust structures. The petitioner states that a rulemaking to codify the EGM's rationale would recognize the practicalities militating against theft or diversion and would avoid the long-term use of enforcement discretion and case-by-case exemption in this area. The petitioner also states that definitions for "large component" and "robust structure" should be added to the regulations.

*NRC Response to Issue 3:* The NRC will consider Issue 3 in the rulemaking process. The NRC has issued enforcement guidance (EGM-14-001) to address large components and storage of radioactive material in robust structures. The EGM states that it will remain effective until the underlying technical issue is dispositioned through rulemaking or other regulatory action.

### IV. Determination of Petition

The NRC has reviewed the petition and related public comments. Based on its review, the NRC will consider the three issues raised in the petition in the rulemaking process. The docket for the petition, PRM-37-1, is closed.

Further NRC action on the issues raised in PRM-37-1 can be monitored on the Federal rulemaking Web site,

<http://www.regulations.gov>, by searching on Docket ID NRC-2015-0094, which is the Docket ID for the potential future rulemaking. In addition, the Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe to alerts: (1) Navigate to the docket folder (NRC-2015-0094); (2) click the "Sign up for Email Alerts" link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly). The NRC also tracks all PRMs and rulemaking actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/petitions-by-year.html> and on the Federal rulemaking Web site, <http://www.regulations.gov>.

Dated at Rockville, Maryland, this 2nd day June, 2015.

For the Nuclear Regulatory Commission.

**Michael R. Johnson,**

*Acting Executive Director for Operations.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-149518-03]

RIN 1545-BM34

#### Partnership Transactions Involving Equity Interests of a Partner

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Withdrawal of notice of proposed rulemaking and notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS and the Treasury Department are issuing temporary regulations that prevent a corporate partner from using a partnership to avoid corporate level gain required to be recognized. These regulations affect partnerships and their partners. The text of the temporary regulations in this issue of the **Federal Register** also serves as the text of these proposed regulations.

**DATES:** Comments and requests for a public hearing must be received by September 10, 2015.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-149518-03), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station,

Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-149518-03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-149518-03).

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Kevin I. Babitz, (202) 317-6852; concerning submission of comments or to request a public hearing, Oluwafunmilayo Taylor at (202) 317-6901.

**SUPPLEMENTARY INFORMATION:**

**Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 337(d). The temporary regulations set forth rules for applying section 337(d) to partnerships and S corporations. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. These proposed regulations do not impose a collection of information on small entities. Further, pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations would not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these proposed regulations would primarily affect sophisticated ownership structures with interlocking ownership of corporations, partnerships and corporate stock. Additionally, these proposed regulations contain a number of de minimis provisions that render the regulations inapplicable to most small businesses. Accordingly, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been 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 comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at [www.regulations.gov](http://www.regulations.gov) or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written or electronic comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal authors of these regulations are Joseph R. Worst and Kevin I. Babitz, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

**Withdrawal of Notice of Proposed Rulemaking**

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (PS-91-90; REG-208989-90) that was published in the **Federal Register** on December 15, 1992 (57 FR 59324), is withdrawn.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendment to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**PART I—INCOME TAXES**

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.337(d)-3 also issued under 26 U.S.C. 337(d). \* \* \*

■ **Par. 2.** Section 1.337(d)-3 is added to read as follows:

**§ 1.337(d)-3 Gain recognition upon certain partnership transactions involving a partner's stock.**

[The text of proposed § 1.337(d)-3 is the same as the text of § 1.337(d)-3T(a) through (i) published elsewhere in this issue of the **Federal Register**].

■ **Par. 3.** Section 1.732-1 is amended by revising paragraphs (c)(1) and (c)(5)(ii) to read as follows:

**§ 1.732-1 Basis of distributed property other than money.**

\* \* \* \* \*  
(c)(1) [The text of proposed § 1.732-1(c)(1) is the same as the text of § 1.732-1T(c)(1) published elsewhere in this issue of the **Federal Register**].  
\* \* \* \* \*

(5) \* \* \*  
(ii) [The text of proposed § 1.732-1(c)(5)(ii) is the same as the text of § 1.732-1T(c)(5)(ii) published elsewhere in this issue of the **Federal Register**].  
\* \* \* \* \*

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG-138759-14]

**RIN 1545-BM48**

**Aggregation of Basis for Partnership Distributions Involving Equity Interests of a Partner**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations that would allow consolidated group members that are partners in the same partnership to aggregate their bases in stock distributed by the partnership for the purpose of limiting the application of rules that might otherwise cause basis reduction or gain recognition. The proposed regulations would also require certain corporations that engage in gain elimination transactions to reduce the basis of corporate assets or to recognize gain. The proposed regulations affect partnerships and their partners.

**DATES:** Comments and requests for a public hearing must be received by September 10, 2015.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-138759-14), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-138759-