

applicable contract, inclusive of option or renewal periods, to represent any RUS Borrower on the same or other matters, without the express written consent of RUS.

(f) Consultant Contracts with all Legal Consultants, all Financial Consultants and selected other Consultants shall provide that such Consultants agree not to undertake, for a period of not less than four years from the contract expiration date, to represent any RUS Borrower or G&T affiliate thereof, including a Borrower which may prepay outstanding RUS indebtedness subsequent to the Consultant undertaking to represent RUS, on any matter in which RUS has a significant interest in the outcome, where such Borrower(s) were the subject of consulting services rendered by that Consultant during the tenure of the applicable contract, without the express written consent of RUS. G&T affiliate in this context shall refer to all members of the applicable generation and transmission cooperative and the cooperative(s) in which the Borrower was itself a member. Representation includes any retainer or advisory contract and is not limited to representation relating to negotiations with or Applications before RUS.

§ 1789.162 Indemnification agreement.

As a condition of approving Borrower funding, RUS will require the Borrower to enter into an Indemnification Agreement, in form and substance satisfactory to RUS, providing that the Borrower will indemnify and hold harmless the government and any officers, agents or employees of the government from any and all liability, including costs, fees, and settlements arising out of, or in any way connected with the administration and supervision of, the contract funded by the Borrower for consultant services relating to the Borrower's Application.

§ 1789.163 Waiver

RUS may waive any requirement or procedure of this subpart by determining that its application in a particular situation would not be in the government's interest.

§§ 1789.164–1789.165 [Reserved]

Subpart B—Escrow Account Funding and Payments

§ 1789.166 Terms and conditions of funding agreement.

Funding Agreements between the Borrower and a Consultant shall be in form and substance satisfactory to RUS and provide for, among other matters, the following:

(a) Specific reference by number to the applicable Consulting Contract entered into between RUS and the Consultant;

(b) Specific reference by number to the applicable Task Order (where applicable);

(c) A brief description of the Application;

(d) A requirement that Invoices make specific reference to:

(1) The applicable contract and Task Order(s); and

(2) The Escrow Account from which payment is to be made;

(e) A requirement that the Final Invoice for a Task Order be clearly identified as such;

(f) A description of the services to be provided by the Consultant to RUS and the applicable time frames for the provision of such services;

(g) Agreement that the Borrower shall pay for the Consultant services provided to RUS under the applicable contract through an Escrow Account established pursuant to an Escrow Agreement, the Consultant shall not provide services to RUS under the applicable contract unless there are sufficient funds in the Escrow Account to pay for such services, the Consultant shall seek compensation for services provided under the applicable contract from, and only from, funds made available through the Escrow Account, and the Consultant must submit all Invoices to RUS for approval.

(h) A form of Escrow Agreement satisfactory to the Borrower, Consultant and the designated Third-party Commercial Institution;

(i) A schedule setting forth when and in what amounts the Borrower shall fund the Escrow Account;

(j) Acknowledgment by the Consultant of the Indemnification Agreement provided by the Borrower to the government; and

(k) The Funding Agreement shall not be effective unless and until approved in writing by RUS.

§ 1789.167 Terms and conditions of escrow agreement.

Escrow Agreements between and among the Borrower, Consultant and Third-party Commercial Institution shall be in form and substance satisfactory to RUS and provide for, among other matters, the following:

(a) Specific reference by number to the applicable contract for services entered into between RUS and the Consultant;

(b) Specific reference by number to the applicable Task Order;

(c) Specific reference by number to the Escrow Account into which funds are to be deposited;

(d) Invoices to specifically identify the applicable contract and Task Order(s);

(e) Funds to be held in the Escrow Account by the escrow agent until paid to the Consultant pursuant to RUS direction;

(f) The Escrow Account to be closed and all remaining funds remitted to the Borrower after payment of the Final Invoice, or upon notice from RUS to the escrow agent that RUS is satisfied no further payments are required under the Funding Agreement; and

(g) RUS, the Consultant and the Borrower to have the right to be informed, in a timely manner and in such form as they may reasonably request, as to the status of and activity in the Escrow Account.

§§ 1789.168–1789.175 [Reserved]

Dated: December 21, 1995.

Jill Long Thompson,

Under Secretary, Rural Economic and Community Development.

[FR Doc. 95–31452 Filed 12–29–95; 8:45 am]

BILLING CODE 3410–15–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

Meeting Regarding Onsite Fitness-for-Duty Testing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Open Meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will conduct an open meeting to discuss regulatory options under the provisions of 10 CFR Part 26 for performing onsite screening tests by the Washington Public Power Supply System (WPPS) of urine specimens collected by the Utilities Service Alliance (USA) members. The WPPS requested the meeting to discuss its proposed approach to conduct initial screening tests of urine specimens sent to them by USA members to determine which specimens are negative and need no further testing at an HHS-certified laboratory. A summary of the meeting will be prepared and will be available upon request.

DATES: The meeting will be held at 9:30 a.m. on January 11, 1996.

ADDRESSES: The meeting will be in Room 1–F5 at NRC Headquarters, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Dated at Rockville, Maryland this 26th day of December 1995.

For the Nuclear Regulatory Commission.
Robert J. Dube,
*Deputy Chief, Safeguards Branch, Division
of Reactor Program Management, Office of
Nuclear Reactor Regulation.*
[FR Doc. 95-31546 Filed 12-29-95; 8:45 am]
BILLING CODE 7590-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-2-95]

RIN 1545-AT19

Distribution of Marketable Securities by a Partnership

AGENCY: Internal Revenue Service (IRS),
Treasury.

ACTION: Notice of proposed rulemaking
and notice of public hearing.

SUMMARY: This document contains
proposed regulations relating to the
treatment of a distribution of marketable
securities by a partnership under
section 731(c) of the Internal Revenue
Code of 1986, as amended (Code). These
proposed regulations provide taxpayers
with guidance needed to comply with
certain changes made by the Uruguay
Round Agreements Act of 1994 (Pub. L.
No. 103-465). This document also
provides notice of a public hearing on
these proposed regulations.

DATES: Written comments and requests
to speak (with outlines of oral
comments) at a public hearing
scheduled for 10 a.m. on Wednesday,
April 3, 1996 must be received by
Wednesday, March 13, 1996.

ADDRESSES: Send submissions to:
CC:DOM:CORP:R (PS-2-95), 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 (PS-2-95), Courier's
Desk, Internal Revenue Service, 1111
Constitution Avenue NW., Washington,
DC. The public hearing will be held in
the IRS Auditorium.

FOR FURTHER INFORMATION CONTACT:
Concerning the regulations, Terri A.
Belanger or William M. Kostak, (202)
622-3080; concerning submissions and
the hearing, Christina Vasquez, (202)
622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Introduction

This document proposes to add
§ 1.731-2 to the Income Tax Regulations

(26 CFR part 1) under section 731(c) of
the Code. Section 731(c) was amended
by section 741(a) of the Uruguay Round
Agreements Act of 1994 (Public Law
103-465).

Background

Section 731(a)(1) of the Code provides
that a partner must recognize gain on a
distribution from a partnership to the
extent that any money distributed
exceeds the adjusted basis of the
partner's interest in the partnership
immediately before the distribution.
Section 737 provides that a partner must
recognize gain on a distribution of
property other than money in an
amount equal to the lesser of (i) the
partner's net precontribution gain or (ii)
the excess of the fair market value of the
distributed property over the partner's
basis in the partnership interest.

Section 731(c) provides that the term
money includes marketable securities
for purposes of section 731(a)(1) and
section 737. As discussed in the
legislative history accompanying section
731(c), treating marketable securities as
money for this purpose is appropriate
because marketable securities are
economically equivalent to money.
Section 731(c) affects only the tax
consequences to the distributee partner;
section 731(c) does not require the
partnership or any partner other than
the distributee partner to recognize gain
on a distribution of marketable
securities.

Explanation of Provisions

Marketable Securities Treated as Money

Distributions of marketable securities
are treated as distributions of money
under section 731(c) only for purposes
of sections 731(a)(1) and 737. For
example, a distribution of marketable
securities is not treated as a distribution
of money to the extent it is subject to
section 707 or section 751(b) because
the distribution is not subject to section
731(a)(1) or section 737. In addition,
marketable securities are not treated as
money for purposes of section 731(a)(2),
so that a partner does not recognize a
loss on a distribution of marketable
securities. Finally, marketable securities
contributed by a partner are treated as
property other than money for purposes
of determining the partner's net
precontribution gain under section
737(b).

Reduction of Amount Treated as Money

Under section 731(c)(3)(B), the
amount of marketable securities that is
treated as money is reduced by the
excess of (i) the partner's share of the
net gain of the partnership's securities

of the same class and issuer as the
distributed securities immediately
before the distribution over (ii) the
partner's share of such net gain
immediately after the distribution. This
provision allows a partner to withdraw
the partner's share of appreciation in the
partnership's marketable securities
without recognizing gain on the
distribution. As a result, section 731(c)
generally applies only when a partner
receives a distribution of marketable
securities in exchange for the partner's
share of appreciated assets other than
marketable securities.

Under the authority of section
731(c)(3)(B), the proposed regulations
provide that all marketable securities
held by a partnership are treated as
marketable securities of the same class
and issuer as the distributed securities.
Treating all marketable securities as a
single asset for this purpose is
consistent with the basic rationale of
section 731(c) that marketable securities
are the economic equivalent of money.
As a result, the amount of the
distribution that is not treated as money
will depend on the partner's share of the
net appreciation in all partnership
securities, not on the partner's share of
the appreciation in the type of securities
distributed.

Definition of Marketable Securities

In general, the term *marketable
securities* includes any financial
instruments—such as stocks, options,
and derivatives—that are actively traded
within the meaning of section
1092(d)(1). In addition, section
731(c)(2)(B)(v) provides that an interest
in an entity is a marketable security if
substantially all of the assets of the
entity consist of marketable securities or
money. The proposed regulations
provide that substantially all of the
assets of an entity consist of marketable
securities or money only if 90 percent
or more of the assets of the entity at the
time of the distribution consist of such
assets.

Section 731(c)(2)(B)(vi) provides that,
to the extent provided in regulations, an
interest in an entity not described in
section 731(c)(2)(B)(v) is a marketable
security to the extent that the value of
such interest is attributable to
marketable securities or money. The
proposed regulations provide that an
interest in an entity is a marketable
security to the extent that the value of
the interest is attributable to marketable
securities or money that constitute less
than 90 percent but 20 percent or more
of the assets of the entity. The 20
percent threshold means that an interest
in an entity holding only a small