Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at *Richard.A.Hurst@irscounsel.treas.gov.*

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking by cross-reference to temporary regulations and a notice of public hearing that appeared in the **Federal Register** on Friday, July 22, 2011 (76 FR 43957), announced that a public hearing was scheduled for October 27, 2011, beginning at 10 a.m. in the auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is under section 1001 of the Internal Revenue Code.

The public comment period for a notice of proposed rulemaking by cross-reference to temporary regulations expired on October 20, 2011. Outlines of topics to be discussed at the hearing were due on October 20, 2011. A notice of propose rulemaking by cross-reference to temporary regulations and notice of public hearing instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Friday, October 21, 2011, no one has requested to speak. Therefore, the public hearing scheduled for October 27, 2011 is cancelled.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, Procedure and Administration.

[FR Doc. 2011–27573 Filed 10–24–11; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–109564–10]

RIN 1545–BJ37

Partner's Distributive Share

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations removing § 1.704–1(b)(2)(iii)(e) (the de minimis partner rule) because the rule may have resulted in unintended tax consequences. The proposed regulations affect partnerships and their partners.

DATES: Written or electronic comments and requests for a public hearing must be received by January 23, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–109564–10), 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–109564–10), 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–109564–10).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Michala Irons, at (202) 622–3050; concerning submission of comments, or requests for a public hearing, Richard Hurst, at (202) 622–2949 (TDD Telephone) (not toll free numbers) and his e-mail address is *Richard.A.Hurst@irscounsel.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

Subchapter K is intended to permit taxpayers to conduct joint business activities through a flexible economic arrangement without incurring an entity-level tax. To achieve this goal of a flexible economic arrangement, partners are generally permitted to decide among themselves how a partnership's items will be allocated. Section 704(a) of the Internal Revenue Code provides that a partner's distributive share of income, gain, loss, deduction, or credit shall, except as otherwise provided, be determined by the partnership agreement.

Section 704(b) places a significant limitation on the general flexibility of section 704(a). Specifically, section 704(b) provides that a partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances) if the allocation to a partner under the partnership agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect. Thus, the statute provides that partnership allocations either must have substantial economic effect or must be in accordance with the partners' interests in the partnership.

Section 1.704–1(b)(2)(i) provides that the determination of whether an allocation of income, gain, loss, or deduction to a partner has substantial economic effect involves a two-part analysis that is made as of the end of the partnership taxable year to which the allocation relates. First, the allocation must have economic effect within the meaning of § 1.704–1(b)(2)(ii). Second, the economic effect of the allocation must be substantial within the meaning of § 1.704–1(b)(2)(iii).

For an allocation to have economic effect, it must be consistent with the underlying economic arrangement of the partners. This means that, in the event that there is an economic benefit or burden that corresponds to the allocation, the partner to whom the allocation is made must receive such economic benefit or bear such economic burden. See § 1.704–1(b)(2)(ii). Generally, an allocation of income, gain, loss, or deduction (or item thereof) to a partner will have economic effect if, and only if, throughout the full term of the partnership, the partnership agreement provides: (1) for the determination and maintenance of the partners' capital accounts in accordance with § 1.704–1(b)(2)(iv); (2) for liquidating distributions to the partners to be made in accordance with the positive capital account balances of the partners; and (3) for each partner to be unconditionally obligated to restore the deficit balance in the partner's capital account following the liquidation of the partner's partnership interest. In lieu of satisfying the third criterion, the partnership may satisfy the qualified income offset rules set forth in § 1.704–1(b)(2)(ii)(d).

Section 1.704–1(b)(2)(iii)(a) provides as a general rule that the economic effect of an allocation (or allocations) is substantial if there is a reasonable possibility that the allocation (or allocations) will affect substantially the dollar amounts to be received by the partners from the partnership, independent of tax consequences. This section further provides that, even if the allocation affects substantially the dollar amounts, the economic effect of the allocation (or allocations) is not substantial if, at the time the allocation (or allocations) becomes part of the partnership agreement: (1) The after-tax economic consequences of at least one partner may, in present value terms, be enhanced compared to such consequences if the allocation (or allocations) were not contained in the partnership agreement, and (2) there is a strong likelihood that the after-tax economic consequences of no partner will, in present value terms, be substantially diminished compared to such consequences if the allocation (or allocations) were not contained in the partnership agreement.

Explanation of Provisions

Removal of De Minimis Partner Rule in § 1.704–1(b)(2)(iii)(e)

The de minimis partner rule in § 1.704–1(b)(2)(iii)(e) (TD 9398, 73 FR 28699–01) was promulgated on May 19, 2008, as part of final regulations with respect to partners that are look-through entities. The de minimis partner rule provides that for purposes of applying the substantiality rules, the tax attributes of de minimis partners need not be taken into account and defines a de minimis partner as any partner, including a look-through entity that owns, directly or indirectly, less than 10 percent of the capital and profits of a partnership, and who is allocated less than 10 percent of each partnership item of income, gain, loss, deduction, and credit. The intent of the de minimis partner rule was to allow partnerships to avoid the complexity of testing the substantiality of insignificant allocations to partners owning very small interests in the partnership. It was not intended to allow partnerships to entirely avoid the application of the substantiality regulations if the partnership is owned by partners each of whom owns less than 10 percent of the capital or profits, and who are allocated less than 10 percent of each partnership item of income, gain, loss, deduction, and credit. The IRS and the Treasury Department have determined that the de minimis partner rule should be removed in order to prevent unintended tax consequences. The IRS and the Treasury Department request comments on how to reduce the burden of complying with the substantial economic effect rules, with respect to look-through partners, without diminishing the safeguards the rules provide.

Proposed Effective Date

These regulations are proposed to be effective the date final regulations are published in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that § 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to § 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has 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 the proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may 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 author of these regulations is Michala Irons, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.704–1 paragraph (b)(2)(iii)(e) is removed.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2011–27575 Filed 10–24–11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2011–0859; FRL–9482–8]

Approval and Promulgation of Air Quality Implementation Plans; Missouri; Reasonably Available Control Technology (RACT) for the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to conditionally approve a State Implementation Plan (SIP) revision submitted by the State of Missouri to EPA on January 17, 2007, with a supplemental revision submitted to EPA on June 1, 2011. The purpose of these SIP revisions is to satisfy the RACT requirements for volatile organic compounds (VOCs) set forth by the Clean Air Act (CAA or Act) with respect to the 8-hour ozone NAAQS. In addition to proposing approval on the 2007 submission, EPA is also proposing to approve several VOC rules adopted by Missouri and submitted to EPA in a letter dated August 16, 2011 for approval into its SIP. We are approving these revisions because they enhance the Missouri SIP by improving VOC emission controls in Missouri. EPA's proposal to conditionally approve the SIP submittal is consistent with section 110(k)(4) of the CAA. As part of the conditional approval, Missouri would have up to twelve months from the date of EPA's final conditional approval of the SIP revisions in which to revise its rules to be consistent with the CAA.

DATES: Comments must be received on or before November 25, 2011.

ADDRESSES: Submit your comments identified by Docket ID No. EPA–R07–OAR–2011–0589, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: kemp.lachala@epa.gov.*

3. *Mail or Hand Delivery or Courier:* Lachala Kemp, Air Planning and Development Branch, Environmental Protection Agency Region 7, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2011–0859. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any