



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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PLR-103278-00

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MEMORANDUM FOR DISTRICT DIRECTOR,
Attn: Chief, Examination Division

FROM: David B. Auclair /s/
Senior Technician Reviewer, Branch 1
(Income Tax & Accounting)

SUBJECT: Letter Ruling Request Withdrawn

Pursuant to section 8.07(2)(b) of Revenue Procedure 2000-1, 2000-1 I.R.B. 4, at 83-4, we are writing to inform you that a taxpayer located within your district has withdrawn a request for a private letter ruling.

The taxpayer, _____, and the taxpayer's spouse proposed forming a limited partnership for purposes of holding their residence. The owners of the partnership would be the taxpayer and the taxpayer's spouse and a newly formed limited liability company (LLC). The taxpayer and the taxpayer's spouse would each own a 49 percent interest, as limited partners of the partnership. The LLC would own a 2 percent interest, as the general partner of the partnership. The LLC would be owned by the taxpayer and the taxpayer's spouse, each with a 49 percent interest, and their child, with a 2 percent interest. The taxpayer planned to hold the residence in the partnership for at least 2 years prior to any sale of the property.

The taxpayer requested a ruling regarding whether the taxpayer and the taxpayer's spouse will be considered the owner of the residence for purposes of satisfying the 2-year ownership requirement of section 121(a) of the Internal Revenue Code for the period that the residence is held by the partnership.

Section 121(a) of the Code provides that a taxpayer's gross income will not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating two years or more.

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We concluded that section 121(a) of the Code is not applicable to the situation described in the ruling request because the residence would be owned by the partnership, not the taxpayer.

In addition, the taxpayer requested a ruling that (1) amounts paid by the taxpayer for mortgage interest during the period of time the residence was owned by the partnership would be deductible to the taxpayer under section 163(h), and (2) that amounts paid by the taxpayer for property taxes during the period of time the residence was owned by the partnership would be deductible to the taxpayer under section 164(a)(1). In accordance with Rev. Proc. 2000-3, section 4.01(3), 2000-1 I.R.B. 103, at 109, we decided not to rule on these issues.

Upon informing the taxpayer of our position, the taxpayer withdrew the letter ruling request.

If you need further information, please contact
, at (202) 622-4910.