

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

Guidance Regarding Claims for Income Tax Convention Benefits

REG-104893-97

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rule-making by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In T.D. 8722, page 4, the IRS is issuing temporary regulations regarding rules for determining whether U.S. source payments made to entities, including entities that are fiscally transparent in the United States and/or the applicable treaty jurisdiction, are eligible for treaty-reduced tax rates. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Comments and outlines of topics to be discussed at the public hearing scheduled for September 24, 1997, at 10 a.m. must be received by September 3, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-104893-97), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-104893-97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html. The public hearing will be held in the Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Elizabeth Karzon, (202) 622-3860; concerning submissions and the hearing, Evangelista Lee, (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

T.D. 8722 amends the Income Tax Regulations (26 CFR part 1) relating to section 894. The temporary regulations contain rules relating to eligibility for benefits under income tax conventions for payments to flow-through entities or arrangements.

The text of T.D. 8722 also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for September 24, 1997, at 10 a.m. in the Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit comments and an outline of the topics to be dis-

cussed and the time to be devoted to each topic by September 3, 1997.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Proposed Effective Date

This amendment is proposed to apply to payments received by an entity on or after January 1, 1998.

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Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. In §1.894-1, paragraph (d) is added to read as follows:

§1.894-1 *Income affected by treaty.*

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[The text of proposed paragraph (d) is the same as the text of §1.894-1T(d) published in T.D. 8722, page 4.

Michael P. Dolan,
*Acting Commissioner of
Internal Revenue.*

(Filed by the Office of the Federal Register on June 30, 1997, 12:19 p.m., and published in the issue of the Federal Register for July 2, 1997, 62 F.R. 35755).