

the general partners and any person related to the general partners (within the meaning of section 267(b) or section 707(b)(1)) own, in the aggregate, more than 10 percent of the outstanding interests in partnership capital or profits at any one time during the taxable year of the partnership, the total interests in partnership capital or profits are determined without reference to the interests owned by such persons.

(B) *Derivative interests.* Any partnership interests described in paragraph (a)(2)(ii) of this section are taken into account for purposes of determining the total interest in partnership capital or profits only as and to the extent that the transfer of the interest is taken into account under paragraph (a)(4) of this section.

(2) *Monthly determination.* For purposes of this section, except in the case of block transfers (as defined in paragraph (d)(2) of this section), the percentage interests in partnership capital or profits represented by partnership interests that are transferred during a taxable year of the partnership is equal to the sum of the percentage interests transferred for each calendar month during the taxable year of the partnership in which a transfer of a partnership interest occurs (other than a private transfer as described in paragraph (d) of this section). The percentage interests in capital or profits of interests transferred during a calendar month is determined by reference to the partnership interests outstanding during that month.

(3) *Monthly conventions.* For purposes of paragraph (j)(2) of this section, a partnership may use any reasonable convention in determining the interests outstanding for a month, provided the convention is consistently used by the partnership from month to month during a taxable year and from year to year. Reasonable conventions include, but are not limited to, a determination by reference to the interests outstanding at the beginning of the month, on the 15th day of the month, or at the end of the month.

(4) *Block transfers.* For purposes of paragraph (d)(2) of this section (defining block transfers), the partnership must determine the percentage interests in capital or profits for each transfer of an interest during the 30 calendar day period by reference to the partnership interests outstanding immediately prior to such transfer.

(5) *Example.* The following example illustrates the rules of this paragraph (j).

Example. Conventions. (i) ABC limited partnership, a calendar year partnership formed in 1995, has 1,000 units of limited partnership interests outstanding on January

1, 1996, representing in the aggregate 95 percent of the total interests in capital and profits of ABC. The remaining 5 percent is held by the general partner.

(ii) The following transfers take place during 1996—

(A) On January 15, 10 units of limited partnership interests are sold in a transaction that is not a private transfer;

(B) On July 10, 1,000 additional units of limited partnership interests are issued by the partnership (the general partner's percentage interest is unchanged); and

(C) On July 20, 15 units of limited partnership interests are sold in a transaction that is not a private transfer.

(iii) For purposes of determining the sum of the percentage interests in partnership capital or profits transferred, ABC chooses to use the end of the month convention. The percentage interests in partnership capital and profits transferred during January is .95 percent ($[(15/2,000) \times .95]$). ABC is not required to make determinations for the other months during the year because no transfers of partnership interests occurred during such months. ABC may qualify for the 2 percent rule for its 1996 taxable year because less than 2 percent (.95 percent + .7125 percent = 1.6625 percent) of its total interests in partnership capital and profits was transferred during that year.

(iv) If ABC had chosen to use the beginning of the month convention, the interests in capital or profits sold during July would have been 1.425 percent ($[(15/1,000) \times .95]$) and ABC would not have satisfied the 2 percent rule for its 1996 taxable year because 2.375 percent (.95 + 1.425) of ABC's interests in partnership capital and profits was transferred during that year.

(k) *Effective date.* This section applies for taxable years of a partnership beginning on or after the date final regulations are published in the **Federal Register**.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

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[FI-21-95]

RIN 1545-AT46

Definition of Personal Property for Purposes of the Straddle Rules

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 definition of personal property for purposes of the straddle rules. This action is necessary to reflect changes in the law made by the Tax Reform Act of 1984. The regulations provide guidance to persons who enter into straddle transactions.

DATES: Written comments must be received by July 31, 1995. Requests to appear and outlines of topics to be discussed at the public hearing scheduled for August 30, 1995, must be submitted by August 9, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (FI-21-95), 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:T:R (FI-21-95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. A public hearing has been scheduled for Wednesday, August 30, 1995, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Robert B. Williams, (202) 622-3960; concerning submissions and the hearing, Michael Slaughter, (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 1092(d) of the Internal Revenue Code provides definitions and special rules relating to straddles. Under section 1092(d)(3)(B)(i)(II), an ownership interest in stock, which generally is not treated as personal property subject to the straddle rules, may be personal property if it is part of a straddle at least one of the offsetting positions of which is, under regulations, a position with respect to substantially similar or related property (other than stock). On March 20, 1995, the IRS published final regulations (§ 1.1092(d)-2) under section 1092(d)(3)(B). Those regulations generally apply the rules of § 1.246-5 to determine whether an offsetting position is a position with respect to substantially similar or related property (other than stock) within the meaning of section 1092(d)(3)(B)(i)(II).

Explanation of Provisions

The proposed regulations clarify the definition of the term "personal property" under section 1092(d)(1) as it applies to stock. The proposed