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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9353]
RIN 1545-BC67

Section 1045 Application to Partnerships; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9353) that were published in the Federal Register on Tuesday, August 14, 2007 (72 FR 45346) relating to the application of section 1045 of the Internal Revenue Code to partnerships and their partners.

DATES: This correction is effective October 10, 2007.

FOR FURTHER INFORMATION CONTACT: Jian H. Grant at (202) 622-3050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 1045 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9353) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

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Accordingly, 26 CFR part 1 is corrected by making the following amendments:

PART 1--INCOME TAXES

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

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

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Par. 2. Section 1.1045-1 is amended by revising the last sentence of paragraph (c)(1)(i), the subtitle of paragraph (c)(2)(i), the first five sentences of paragraph (h)(3)(i) Example 3.(i), the fourth sentence of (h)(3)(i) Example 5.(v), and the first sentence of (h)(3)(i) Example 12.(ii) to read as follows:

Sec. 1.1045-1 Application to partnerships.

* * * * *

(c) * * *

(1) * * *

(i) * * * A taxpayer other than a C corporation that sells QSB stock held for more than 6 months at the time of the sale may elect in accordance with paragraph (h) of this section to apply section 1045 if replacement QSB stock is purchased by a purchasing partnership (including a selling partnership).

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(2) * * *

(i) General rule.

* * * * *

(h) * * *

(3) * * *

(i) * * *

Example 3. * * *

(i) On January 1, 2008, A, an individual, and B, an individual, each contribute \$500 to UTP (upper-tier partnership) for equal partnership interests. On February 1, 2008, UTP and C, an individual, each contribute \$1,000 to LTP (lower-tier partnership) for equal partnership interests. On March 1, 2008, LTP purchases QSB stock for \$500. On April 1, 2008, D, an individual, joins UTP by contributing \$500 to UTP for a 1/3 interest in UTP. On December 1, 2008, LTP sells the QSB stock for \$2,000. * * *

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Example 5. * * *

(v) * * * In accordance with the principles of Sec. 1.743-1(j)(3), the amount of A's gain from the March 30, 2009, sale of replacement QSB1 stock in which A has a \$200 negative basis adjustment equals \$300 (A's share of PRS' gain from the sale of replacement QSB1 stock (\$100), increased by the amount of A's negative basis adjustment for replacement QSB1 stock (\$200)). * * *

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Example 12. * * *

(ii) Because A purchased within 60 days of PRS' sale of the QSB stock, replacement QSB stock for a cost equal to A's share of the partnership's amount realized on the sale of the QSB stock, and

because A made a valid election to apply section 1045 with respect to A's share of the gain from PRS' sale of the QSB stock, A does not recognize A's \$100 distributive share of the gain from PRS' sale of the QSB stock. * * *
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LaNita Van Dyke,
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Associate Chief Counsel (Procedure and Administration).
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