

[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-112994-06]

RIN 1545-BF47

Guidance Under Section 7874 Regarding Surrogate Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking and notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS and the Treasury Department are issuing temporary regulations concerning the treatment of a foreign corporation as a surrogate foreign corporation under section 7874(a)(2)(B) of the Internal Revenue Code (Code). The temporary regulations primarily affect domestic corporations and partnerships (and certain parties related thereto), and certain foreign corporations that acquire substantially all of the properties of such domestic corporations or partnerships. The text of the temporary regulations serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-112994-06), room 5203, Internal Revenue Service, PO 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-112994-06), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, or sent electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-112994-06).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, S. James Hawes at (202) 622-3860; concerning submissions of comments and a request for a public hearing, contact Funmi Taylor at (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

### **Background and Explanation of Provisions**

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 7874 of the Code. The temporary regulations address certain issues relating to the treatment of a foreign corporation as a surrogate foreign corporation under section 7874(a)(2)(B). The text of the temporary regulations serves as the text of these proposed regulations, and the preamble to the temporary regulations explains these proposed regulations.

### **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 section 553(b) of the

Administrative Procedure Act (5 USC Chapter 5) does not apply to these regulations. These regulations do not impose a collection of information. Pursuant to the Regulatory Flexibility Act (5 USC chapter 6), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. The complexity and cost of a transaction to which section 7874 may apply make it unlikely that a substantial number of small entities will engage in such a transaction. In addition, any economic impact to entities affected by section 7874, large or small, is derived from the operation of the statute or its intended application, not the regulations in this notice of proposed rulemaking. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### **Comments and Request for a Public Hearing**

Before these 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 by any person who timely submits 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 proposed regulations is S. James Hawes of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

### **List of Subjects in 26 CFR Part 1**

Income Taxes, Reporting and Recordkeeping requirements.

### **Withdrawal of Notice of Proposed Rulemaking**

Accordingly, under the authority of 26 USC 7805, the notice of proposed rulemaking (E6-8698) that was published in the **Federal Register** on June 6, 2006 (71 FR 32495) is withdrawn.

### **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 \* \* \*

Section 1.7874-2 is also issued under 26 U.S.C. 7874(c)(6) and (g). \* \* \*

Par. 2. Section 1.7874-1 is amended by revising paragraphs (e) and (g) to read as follows:

#### **§1.7874-1 Disregard of affiliate-owned stock.**

\* \* \* \* \*

(e) [The text of the proposed amendments to §1.7874-1(e) is the same as the text of §1.7874-1T(e) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

(g) [The text of the proposed amendment to §1.7874-1(g) is the same as the text of §1.7874-1T(g) published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.7874-2 is added to read as follows:

§1.7874-2 Surrogate foreign corporation.

[The text of proposed §1.7874-2 is the same as the text of §1.7874-2T(a) through (o) published elsewhere in this issue of the **Federal Register**].

Linda E. Stiff  
Deputy Commissioner for Services and Enforcement.

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