

as a liability of P at the time of the Year 2 transfer. In this example, because P and S2 had no agreement regarding the satisfaction of the nonrecourse liability, S2 would be treated as assuming \$350 of the nonrecourse liability.

E. Requirements of an Agreement To Satisfy a Liability

The IRS and Treasury are considering whether proposed rules should set forth the requirements of an agreement between the transferor and the transferee regarding which party will satisfy a liability, and how such an agreement must be evidenced.

F. Acts Constituting Satisfaction of a Liability

The IRS and Treasury are also considering whether proposed rules should provide that, for purposes of determining whether a person is expected to satisfy a liability, such person's expected payment (of money or property, including property securing the liability) to the creditor or to a person indemnified with respect to the liability will be considered. The IRS and Treasury request comments regarding whether an agreement to indemnify a person with respect to a liability, and any other agreement, should be treated as an agreement to satisfy a liability.

G. Collateral Consequences of Satisfaction of a Liability

The IRS and Treasury believe that, if a liability is satisfied by a person other than the person that the rules of section 357(d) treat as having assumed the liability, the consequences of such satisfaction are determined under general Federal income tax principles. For example, the satisfaction may be treated as a deemed payment that is characterized as a capital contribution or a distribution. The IRS and Treasury are considering proposing regulations confirming this result in the context of section 357(d).

H. Application of Principles of Section 357(d) Regulations in Other Contexts

As described above, section 357(d) was designed to address the amount of a nonrecourse liability that is treated as assumed by a transferee of property when multiple properties secure the liability, but the transferor either retains or transfers to other transferees some of the property securing the liability. The regulations under section 1001 provide that the amount realized in connection with a sale or other disposition of property includes the amount of liabilities from which the transferor is discharged as a result of the sale or disposition. Section 1.1001-2(a)(1). The

IRS and Treasury request comments regarding whether any differences in the amount of liabilities treated as assumed are appropriate for exchanges under section 1001 as opposed to exchanges under sections 351 and 361, or, alternatively, whether the rules adopted under section 357 should also apply for purposes of computing amount realized in transactions governed by section 1001.

In addition, section 7701(g) provides that, for purposes of subtitle A of the Code, in determining the amount of gain or loss with respect to any property, the fair market value of such property is treated as being not less than the amount of any nonrecourse indebtedness to which such property is subject. Comments are requested regarding whether the rule of section 7701(g) should be consistent with those of section 357(d) and the regulations thereunder.

Furthermore, as described above, the rules of section 357(d) also apply to certain Code provisions that are not listed in section 357(d), including section 1031, which permits the nonrecognition of gain or loss on certain exchanges of property of like kind. The IRS and Treasury request comments concerning whether the rules described above should also apply for purposes of these other provisions that specifically invoke section 357(d) as well as other provisions that do not specifically invoke section 357(d).

Finally, certain provisions of the Code, including sections 304 and 336, continue to distinguish between a liability assumed and a liability to which property is subject. Given that the legislative history of section 357 reflects that Congress intended to eliminate the distinction between the assumption of a liability and the acquisition of an asset subject to a liability, the IRS and Treasury are considering whether the proposed rules should provide that, for purposes of sections 304 and 336, and certain other statutory provisions, property is transferred subject to a liability if and only if the liability is assumed under the rules proposed under section 357.

I. The Basis of Property Received in Exchange for the Assumption of a Liability

At this time, the IRS and Treasury are not considering modifying section 362(d) or displacing general Federal income tax principles that apply for purposes of determining basis under section 1012, including those principles set forth in *Estate of Franklin v. Commissioner*, 544 F.2d 1045 (9th Cir. 1976). Nonetheless, the IRS and

Treasury invite comments regarding the extent to which those rules or principles should be modified to reflect the proposal of rules governing the amount of liability treated as assumed in connection with a transfer of property.

Dated: February 24, 2003.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01-03-012]

RIN 1625-AA00 (Formerly RIN 2115-AA97)

Safety and Security Zones; New London Harbor, CT—Security Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the boundaries of the security zone in the waters adjacent to the General Dynamics Electric Boat Corporation (EB) facility in Groton, CT. The proposed rule is necessary to better protect the facility, U.S. Naval Vessels and other vessels located at the facility, material storage areas, and adjacent residential and industrial areas from sabotage or other subversive acts, accidents or incidents of a similar nature, and to specify the horizontal datum employed to describe the geographic coordinates that establish zone boundaries. This security zone would exclude all vessels from operating within the prescribed security zone without first obtaining authorization from the Captain of the Port, Long Island Sound.

DATES: Comments and related material must reach the Coast Guard on or before July 7, 2003.

ADDRESSES: You may mail comments and related material to Waterways Management, Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512. Coast Guard Group/MSO Long Island Sound maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Group/MSO Long Island Sound, New Haven, CT, between 9 a.m.