

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 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. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, this Treasury decision will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Bernard P. Harvey, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.280F-6T also issued under 26 U.S.C. 280F. * * *

■ 2. Section 1.280F-6T is amended as follows:

■ 1. Paragraph (a)(1) is amended by removing the language “the amount of any credit allowable under section 38 to the employee or”.

■ 2. Paragraph (c)(3)(iii) is revised.

■ 3. Paragraph (d)(3) is amended by removing the language “investment tax credit or” and “the investment tax credit and”.

■ 4. The authority citation at the end of the section is removed.

The revision reads as follows:

§ 1.280F-6T Special rules and definitions (temporary).

* * * * *

(c) * * *

(3) * * *

(iii) Truck or van that is a qualified nonpersonal use vehicle as defined under § 1.274-5T(k).

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Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

Approved: June 27, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20 and 25

[TD 9068]

RIN 1545-A031

Definition of Guaranteed Annuity and Lead Unitrust Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document amends the income, estate, and gift tax regulations to conform to the Tax Court's decision in *Estate of Boeshore v. Commissioner*. In *Estate of Boeshore*, the Tax Court held a certain provision of the Estate Tax Regulations invalid to the extent that it disallows a deduction for the value of a charitable unitrust interest if the charitable interest is preceded by a noncharitable interest that is in the form of a unitrust interest. This action is necessary to conform the income, estate, and gift tax regulations to the Tax Court's decision in *Estate of Boeshore*. The effect of these regulations is to allow an income, estate, or gift tax charitable deduction for charitable annuity or unitrust interests that are preceded by a noncharitable unitrust or annuity interest.

DATES: The regulations are effective July 7, 2003.

FOR FURTHER INFORMATION CONTACT: Susan Hurwitz (202) 622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On July 23, 2002, the Treasury Department and the IRS published in the **Federal Register** (67 FR 48070) a notice of proposed rulemaking (REG-115781-01) conforming the income, gift, and estate tax regulations to the Tax Court's decision in *Estate of Boeshore v. Commissioner*, 78 T.C. 523 (1982), *acq. in result* (1987-2 C.B. 1). Specifically, the existing regulations under section 170, 2055, and 2522 governing

charitable guaranteed annuity and unitrust interests were proposed to be amended to eliminate the requirement that the charitable interest commence no later than the commencement of a noncharitable interest that is in the form of a guaranteed annuity or unitrust interest. The regulations will continue to require that any amounts payable for a private purpose before the expiration of the charitable annuity or unitrust interest either must be in the form of a guaranteed annuity or unitrust interest or must be payable from a separate group of assets devoted exclusively to private purposes.

No public hearing was requested or held, but one written comment was received. The commentator suggested that any charitable lead interest in a charitable remainder trust should be taken into account along with the remainder interest for purposes of satisfying the 10 percent test contained in sections 664(d)(1)(D) and (d)(2)(D) of the Internal Revenue Code. Among the requirements for a trust to qualify as a charitable remainder trust, sections 664(d)(1)(D) and (d)(2)(D) provide that the present value of the remainder interest must be equal to at least 10 percent of the initial fair market value of all property placed in the trust. Because the statutory requirement is based solely on the value of the remainder interest, it is not possible to take into account any lead interests that pass to charity for purposes of satisfying this requirement. Accordingly, this document adopts final regulations with respect to the notice of proposed rulemaking without any changes.

Effect on Other Documents

The following publication is revoked as of July 7, 2003. Rev. Rul. 76-225 (1976-1 C.B. 281).

Special Analyses

It has been determined that this Treasury decision 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 Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information requirement on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

Drafting Information

The principal author of these proposed regulations is Susan Hurwitz of the Office of the Associate Chief Counsel (Passthroughs and Special