

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.201: Rulings and determination letters.

Rev. Proc. 98-56

SECTION 1. PURPOSE

This revenue procedure amplifies Rev. Proc. 98-3, 1998-1 I.R.B. 100, which sets forth areas of the Internal Revenue Code (Code) under the jurisdiction of the Associate Chief Counsel (Domestic) and the Associate Chief Counsel (Employee Benefits and Exempt Organizations) in which the Internal Revenue Service will not issue advance rulings or determination letters.

SECTION 2. BACKGROUND

Section 5 of Rev. Proc. 98-3 sets forth those areas under extensive study in which rulings or determination letters will not be issued until the Service resolves the issue through publication of a revenue ruling, revenue procedure, or otherwise. Section 631(a) of the Code provides that a taxpayer may elect to treat the cutting of certain timber as a sale or exchange of that timber. Sections 631(b) and (c) treat the specified gain or loss on the disposal of certain timber, coal, or domestic iron ore under a contract whereby the owner retains an economic interest

in the property as though it were a gain or loss on the sale of such property. Section 1374 imposes a tax on the recognized built-in gains of an S corporation. The Service intends to study further whether § 1374 applies to the situations described in section 3 of this revenue procedure.

SECTION 3. PROCEDURE

Rev. Proc. 98-3 is amplified by adding to section 5 the following:

Section 1374.--Tax Imposed on Certain Built-in Gains -- The tax consequences under § 1374 in the following situations: (1) an S corporation holds timber property on the date it converts from a C corporation to an S corporation (or acquires timber property from a C corporation in a transaction to which § 1374(d)(8) applies) and during the recognition period (a) cuts the timber and sells resulting wood products (including any unfinished or finished products derived, manufactured, or produced from such wood products) in a transaction to which § 631 does not apply, (b) recognizes gain or loss on cutting the timber pursuant to a § 631(a) election, or (c) recognizes gain or loss on the disposal of timber under a contract to which § 631(b) applies, and (2) an S corporation holds coal or domestic iron ore property on the date it converts from a C corporation to an S corporation (or acquires coal or domestic iron ore property from a C corporation in a transaction to which § 1374(d)(8) applies) and during the

recognition period recognizes gain or loss on the disposal of the coal or iron ore under a contract to which § 631(c) applies.

SECTION 4. EFFECTIVE DATE

This revenue procedure applies to all ruling requests, including any pending in, or received by, the National Office on or after October 30, 1998 (the date it is released to the public).

SECTION 5. REQUEST FOR PUBLIC COMMENTS

The Service requests comments on the extent to which § 1374 applies to the situations described in section 3 of this revenue procedure. Written comments must be received by January 28, 1999. Send comments to: CC:DOM:CORP:R (Revenue Procedure 98-56), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, D.C. 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (Revenue Procedure 98-56), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. Alternatively, taxpayers may submit comments electronically via the Service's Internet site at www.irs.ustreas.gov/prod/tax_regs/comments.html. All comments submitted will be available for public inspection and copying.

DRAFTING INFORMATION

The principal author of this revenue procedure is Marlene P. Oppenheim of the Office of the Assistant Chief Counsel (Corporate). For further information regarding this revenue

procedure contact Ms. Oppenheim at (202) 622-7750 (not a toll-free call).