(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following example:

Example: Corporation X files a consent under section 341(f)(1) on November 1, 1965. On January 1, 1966, the date on which a shareholder of corporation X sells stock of X. X owns 80 percent in value of the outstanding stock of corporation Y. In order for the consent filed by corporation X to be valid with respect to the sale of its stock on January 1, 1966, corporation Y must have filed, during the 6-month period ending on January 1, 1966, a valid consent under section 341(f)(1) with respect to sales of its stock.

(3) For purposes of applying section 341(f)(4) (relating to the definition of a subsection (f) asset) to a corporation 5 percent or more in value of the outstanding stock of which is owned by the consenting corporation, a sale of an asset of the consenting corporation, a sale of the stock of the consenting corporation to which section 341(f)(1) applies shall be treated as a sale of stock of such other corporation. Thus, in the example in subparagraph (2) of this paragraph, the subsection (f) assets of corporation Y would include property described in section 341(f)(4) owned by or held under an option by corporation Y on January 1, 1966.

(4) In the case of a chain of corporations connected by the 5-percent ownership requirement described in subparagraph (1) of this paragraph, rules similar to the rules described in subparagraphs (2) and (3) of this paragraph shall apply. Thus, in the example in subparagraph (2) of this paragraph, if corporation Y owned 5 percent or more of the stock of corporation Z on January 1, 1966, then Z must have filed a valid consent during the 6-month period ending January 1, 1966, in order for the consent filed by X to be valid with respect to the sale of its stock on January 1, 1966. In such case any of stock of either X or Y is treated as a sale of stock of Z for purposes of applying section 341(f)(4) to Z.

(5) If a corporation is a member of an affiliated group (as defined in section 1504(a)) that files a consolidated return, a corporation will be considered to have filed a consent if a consent is filed on its behalf by the common parent under §1.1502-7(a).

(k) Effective date. Paragraphs (b), (c), (e)(3), and (f)(3) of this section apply only with respect to statements and notifications filed more than 30 days after July 6, 1977. Paragraph (d) applies only with respect to sales of stock made more than 30 days after July 6, 1977. All other provisions of this section apply with respect to transactions after August 22, 1964.


DEFINITION

§ 1.346–1 Partial liquidation

(a) General. This section defines a partial liquidation. If amounts are distributed in partial liquidation such amounts are treated under section 331(a)(2) as received in part or full payment in exchange for the stock. A distribution is treated as in partial liquidation of a corporation if:

(1) The distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan of complete liquidation,

(2) The distribution:

(i) Is not essentially equivalent to a dividend,

(ii) Is in redemption of a part of the stock of the corporation pursuant to a plan, and

(iii) Occurs within the taxable year in which the plan is adopted or within the succeeding taxable year.

An example of a distribution which will qualify as a partial liquidation under subparagraph (2) of this paragraph and section 346(a) is a distribution resulting from a genuine contraction of the corporate business such as the distribution of unused insurance proceeds recovered as a result of a fire which destroyed part of the business causing a cessation of a part of its activities. On the other hand, the distribution of funds attributable to a reserve for an expansion program which has been abandoned does not qualify as a partial liquidation within the meaning of section 346(a). A distribution to which section 355 applies (or so much of section 356 as relates to section 355) is not a distribution in partial liquidation within the meaning of section 346(a).

(b) Special requirements on termination of business. A distribution which occurs within the taxable year in which the
plan is adopted or within the suc-
ceeding taxable year and which meets
the requirements of subsection (b) of
section 346 falls within paragraph (a)(2)
of this section and within section
346(a)(2). The requirements which a dis-
tribution must meet to fall within sub-
section (b) of section 346 are:
(1) Such distribution is attributable
to the corporation’s ceasing to con-
duct, or consists of assets of, a trade or
business which has been actively con-
ducted throughout the five-year period
immediately before the distribution,
which trade or business was not ac-
quired by the corporation within such
period in a transaction in which gain
or loss was recognized in whole or in part;
and
(2) Immediately after such distribu-
tion by the corporation it is actively
engaged in the conduct of a trade or
business, which trade or business was
actively conducted throughout the five-year period ending on the date of
such distribution and was not acquired
by the corporation within such period
in a transaction in which gain or loss
was recognized in whole or in part.

A distribution shall be treated as hav-
ing been made in partial liquidation
pursuant to section 346(b) if it consists
of the proceeds of the sale of the assets
of a trade or business which has been
actively conducted for the five-year pe-
riod and has been terminated, or if it is
a distribution in kind of the assets of
such a business, or if it is a distribu-
tion in kind of some of the assets of
such a business and of the proceeds of
the sale of the remainder of the assets
of such a business. In general, a dis-
tribution which will qualify under sec-
tion 346(b) may consist of, but is not
limited to:
(i) Assets (other than inventory or
property described in subdivision (ii) of
this subparagraph) used in the trade or
business throughout the five-year pe-
riod immediately before the distribu-
tion (for this purpose an asset shall be
considered used in the trade or busi-
ness during the period of time the asset
which it replaced was so used), or
(ii) Proceeds from the sale of assets
described in subdivision (i) of this sub-
paragraph, and, in addition,
(iii) The inventory of such trade or
business or property held primarily for
sale to customers in the ordinary
course of business, if:
(a) The items constituting such in-
ventory or such property were substan-
tially similar to the items constituting
such inventory or property during the
five-year period immediately before
the distribution, and
(b) The quantity of such items on the
date of distribution was not substan-
tially in excess of the quantity of simi-
lar items regularly on hand in the con-
duct of such business during such five-
year period, or
(iv) Proceeds from the sale of inven-
tory or property described in subdivi-
sion (iii) of this subparagraph, if such
inventory or property is sold in bulk in
the course of termination of such trade
or business and if with respect to such
inventory the conditions of subdivision
(ii)(a) and (b) of this subparagraph
would have been met had such inven-
tory or property been distributed on
the date of such sale.

(c) Active conduct of a trade or busi-
ness. For the purpose of section
346(b)(1), a corporation shall be deemed
to have actively conducted a trade or
business immediately before the dis-
tribution, if:
(1) In the case of a business the assets
of which have been distributed in kind,
the business was operated by such cor-
poration until the date of distribution,
or
(2) In the case of a business the pro-
ceeds of the sale of the assets of which
are distributed, such business was ac-
tively conducted until the date of sale
and the proceeds of such sale were dis-
tributed as soon thereafter as reason-
ably possible.

The term active conduct of a trade or
business shall have the same meaning
in this section as in paragraph (c) of
§1.355–1.

§1.346–2 Treatment of certain redemp-
tions.

If a distribution in a redemption of
stock qualifies as a distribution in part
or full payment in exchange for the
stock under both section 302(a) and this
section, then only this section shall be
applicable. None of the limitations of
section 302 shall be applicable to such
redemption.