

(ii) If the issuer establishes that it did not know, and in the exercise of reasonable care could not have known, that a disqualification existed under paragraph (c)(1) of this section.

*Instruction to paragraph (c)(2)(ii).* An issuer will not be able to establish that it has exercised reasonable care unless it has made factual inquiry into whether any disqualifications exist. The nature and scope of the requisite inquiry will vary based on the circumstances of the issuer and the other offering participants.

(3) For purposes of paragraph (c)(1) of this section, events relating to any affiliated issuer that occurred before the affiliation arose will be not considered disqualifying if the affiliated entity is not:

(i) In control of the issuer; or

(ii) Under common control with the issuer by a third party that was in control of the affiliated entity at the time of such events.

#### **PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933**

4. The general authority citation for Part 239 continues to read in part as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78u-5, 78w(a), 78ll, 78mm, 80a-2(a), 80a-3, 80a-8, 80a-9, 80a-10, 80a-13, 80a-24, 80a-26, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

\* \* \* \* \*

5. Amend Form D (referenced in § 239.500) by revising the third paragraph under the heading “Terms of Submission” in the “Signature and Submission” section following Item 16 to read as follows:

**Note:** The text of Form D does not, and the amendments will not, appear in the Code of Federal Regulations.

#### **Form D**

\* \* \* \* \*

• Certifying that, if the issuer is claiming an exemption under Rule 505 or Rule 506, the issuer is not disqualified from relying on such rule for one of the reasons stated in paragraph (b)(2)(iii) of Rule 505 or paragraph (c)(1) of Rule 506 (as the case may be).

\* \* \* \* \*

By the Commission.

Dated: May 25, 2011.

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2011-13370 Filed 5-31-11; 8:45 am]

**BILLING CODE 8011-01-P**

## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Part 1**

[REG-118761-09]

RIN 1545-BI92

#### **Controlled Groups; Deferral of Losses; Hearing**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of public hearing on a notice of proposed rulemaking providing guidance concerning the time for taking into account deferred losses on the sale or exchange of property between members of a controlled group.

**DATES:** The public hearing is being held on Wednesday, August 3, 2011, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by Thursday, July 21, 2011.

**ADDRESSES:** The public hearing is being held in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Send submissions to: CC: PA: LPD: PR (REG-118761-09), room 5203, Internal Revenue Service, P.O. 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-118761-09), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic outlines of oral comments via the Federal eRulemaking Portal at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Bruce A. Decker at (202) 622-7790; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard A. Hurst at [Richard.A.Hurst@irscounsel.treas.gov](mailto:Richard.A.Hurst@irscounsel.treas.gov) or (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG-118761-09) that was published in the **Federal Register** on Thursday, April 21, 2011 (76 FR 22336).

Persons who wish to present oral comments at the hearing that submitted written comments, must submit an outline of the topics to be discussed and the amount of time to be devoted to

each topic (signed original and eight (8) copies) by Thursday, July 21, 2011.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue, NW, entrance, 1111 Constitution Avenue, NW., Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**LaNita Van Dyke,**

Chief, Publications and Regulations Branch,  
Legal Processing Division, Associate Chief  
Counsel, Procedure and Administration.

[FR Doc. 2011-13407 Filed 5-31-11; 8:45 am]

**BILLING CODE 4830-01-P**

## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Part 301**

[REG-153338-09]

RIN 1545-BJ19

#### **Disclosure of Returns and Return Information to Designee of Taxpayer; Hearing Cancellation**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of a notice of public hearing on a proposed rulemaking.

**SUMMARY:** This document cancels a public hearing on a proposed rulemaking pertaining to the period for submission to the IRS of taxpayer authorizations permitting disclosure of returns and return information.

**DATES:** The public hearing, originally scheduled for June 9, 2011 at 10 a.m. is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Funmi Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622-7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and a notice of