

Notice 94-50, 1994-1 CB 367--IRC Sec(s).42

May 09, 1994

This notice provides references to guidance published by the Internal Revenue Service as of March 31, 1994, with respect to the time and manner for making seven of the elections provided to taxpayers by the Omnibus Budget Reconciliation Act of 1993 (the Act).

CODE OR ACT SECTION

Act section 13201(d)

GENERAL DESCRIPTION OF ELECTION: Election to Pay Additional 1993 Taxes in Installments. Election by individual taxpayers who are liable for additional 1993 taxes to pay those additional taxes in three equal installments.

GUIDANCE: See Notice 93-51, 1993-33 I.R.B. 18.

Code section 108(c)(3)

GENERAL DESCRIPTION OF ELECTION: Exclusion from Gross Income for Income from Discharge of Qualified Real Property Business Indebtedness.

Certain noncorporate taxpayers may elect to treat certain indebtedness described in section 108(c)(3) that is discharged after December 31, 1992, as qualified real property business indebtedness. The discharged indebtedness is excluded from gross income to the extent allowed by section 108.

GUIDANCE: See regulations section 1.108(c)-1T.

Code section 163(d)(4)

GENERAL DESCRIPTION OF ELECTION: Treatment of Capital Gain Under Limitation on Investment Interest.

Election to take all or a portion of certain net capital gains, attributable to dispositions of property held for investment, into account as investment income. As a consequence, the capital gains affected by this election are not eligible for the maximum capital gains rate of 28%.

GUIDANCE: See regulations section 1.163(d)-1T.

Code section 197 (Act section 1326(g))

GENERAL DESCRIPTION OF ELECTION: Amortization of Goodwill and Certain Other 197 Intangibles.

There are two elections. (1) One election allows taxpayers to apply section 197 retroactively to property acquired after July 25, 1991, and before August 11, 1993. (2) The other election allows an exception from the application of section 197 to certain property acquired pursuant to a binding contract in effect on August 10, 1993.

GUIDANCE: See regulations section 1.197-1T

Code section 1044(a)

GENERAL DESCRIPTION OF ELECTION: Rollover of Publicly Traded Securities Gain into Specialized Small Business Investment Companies.

Election allows individuals and C corporations that sell publicly traded securities after August 9, 1993, to not recognize certain gain from the sale if the taxpayer purchases common stock or a partnership interest in a specialized small business investment company within the 60-day period beginning on the day the publicly traded securities are sold.

GUIDANCE: See regulations section 1.1044(a)-1T.

Code section 6655(e)(2)(C)

GENERAL DESCRIPTION OF ELECTION: Election for Different Annualization Periods. Election by a corporate taxpayer to use a different annualization period to determine annualized income for purposes of paying any required installment of estimated income tax for a taxable year beginning after December 31, 1993.

GUIDANCE: See regulations section 1.6655(e)-1T.

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The Service also published Rev. Procs. 94-9, 1994-2 I.R.B. 25, and 94-10, 1994-2 I.R.B. 26, relating to two elections with respect to the low-income housing credit under section 42 of the Code. The deadline for making these two elections, which are under Act section 13142(c) and relate to the determination of gross rent based on the number of bedrooms and to the 200% rent restriction, was February 7, 1994.

The Service may issue separate guidance with respect to other elections that are contained in the Act and are not listed in this notice.

The principal author of this notice is George Bradley of the Office of the Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Mr. Bradley on (202) 622-8104 (not a toll-free number). r the Kansas Limited Liability Company Act (LLCA), a Kansas limited liability company (LLC) may be classified as a partnership or as an association taxable as a corporation, depending on the provisions adopted by the LLC. The particular LLC considered in Rev. Rul. 94-30 was ruled a partnership for tax purposes because it lacked the corporate characteristics of continuity of life and free transferability of interests.