

Rev. Proc. 96-43

SECTION 1. PURPOSE

This revenue procedure amplifies Rev. Proc. 96-3, 1996-1 I.R.B. 82, which sets forth the areas of the Internal Revenue Code under the jurisdiction of the Associate Chief Counsel (Domestic) and the Associate Chief Counsel (Employee Benefits and Exempt Organizations) relating to issues on which the Internal Revenue Service will not issue advance rulings or determination letters.

SECTION 2. BACKGROUND

Section 4 of Rev. Proc. 96-3 sets forth those areas in which rulings or determination letters will not ordinarily be issued. Section 355(a) of the Internal Revenue Code applies to distributions of stock or securities of a corporation controlled by the distributing corporation if each of the corporations is engaged in the active conduct of a trade or business. Section 355(b) provides that a corporation is engaged in such conduct if, among other things, it is directly engaged in the active conduct of a trade or business, or substantially all of its assets consist of stock and securities of a corporation controlled by it (immediately after the transaction) which is so engaged.

SECTION 3. PROCEDURE

Rev. Proc. 96-3 is amplified by adding to section 4 the following:

Section 355.—Distribution of Stock and Securities of a Controlled Corporation.—Whether a distribution of stock or securities is described in § 355(a)(1) when the gross assets of the trades or businesses relied on to satisfy the active trade or business requirement of § 355(b) will have a fair market value that is less than 5 percent of the total fair market value of the gross assets of the corporation directly conducting the

trades or businesses. The Service may rule that the trades or businesses satisfy the active trade or business requirement of § 355(b) if it can be established that, based upon all relevant facts and circumstances, the trades or businesses are not de minimis compared with the other assets or activities of the corporation and its subsidiaries.

SECTION 4. EFFECTIVE DATE

This revenue procedure will apply to all ruling requests postmarked or, if not mailed, received on or after August 8, 1996.

FURTHER INFORMATION

For further information regarding this revenue procedure contact Robert Hawkes of the Office of Assistant Chief Counsel (Corporate) at (202) 622-7530 (not a toll-free call).