

of the Internal Revenue Code and the applicable income tax treaty as a dividend, and the tax to be withheld from the payment described in paragraph (d)(2)(ii)(B)(1)(ii) of this section shall be determined based on the appropriate rate of withholding that would be applicable to dividends paid from the domestic reverse hybrid entity to the related foreign interest holder under the U.S. treaty with the related foreign interest holder's jurisdiction had that jurisdiction viewed the domestic reverse hybrid entity as not fiscally transparent; and

(iv) For purposes of determining the amount to be recharacterized under paragraph (d)(2)(ii)(B)(1)(iii) of this section, the portion of the payments described in paragraph (d)(2)(ii)(B)(1)(i) of this section treated as derived by the related foreign interest holder shall be reduced by the amount of any prior actual dividend payments made by the domestic reverse hybrid entity to the related foreign interest holder and by the amount of any payments from the domestic reverse hybrid entity to the related foreign interest holder previously recharacterized under paragraph (d)(2)(ii)(B)(1)(iii) of this section.

(2) *Tiered entities.* The principles of this paragraph (d)(2)(ii)(B) shall also apply to payments referred to in this paragraph (d)(2)(ii)(B) made among related entities when there is more than one domestic reverse hybrid entity or other fiscally transparent entities involved.

(3) *Definition of related.* Related shall mean any entity satisfying the ownership requirements of section 267(b) or 707(b)(1), except that 80 percent shall be substituted for 50 percent. For purposes of determining whether a person is related to another person, the constructive ownership rules of section 318 shall apply, and the attribution rules of section 267(c) also shall apply to the extent they attribute ownership to persons to whom section 318 does not attribute ownership. If a person enters into a transaction (or series of transactions) with the domestic reverse hybrid entity, its related interest holders, or its related entities, and the effect of the transaction (or series of transaction) is to avoid the principles of this paragraph (d)(2)(ii)(B), then that person shall be treated as related to the domestic reverse hybrid entity for purposes of this section.

(C) *Commissioner's discretion.* The Commissioner may, as the Commissioner determines to be appropriate, recharacterize for all purposes of the Internal Revenue Code all or part of any transaction (or series

of transactions) between related parties if the effect of the transaction (or series of transactions) is to avoid the principles of this paragraph (d)(2).

(iii) *Examples.* The rules of this paragraph (d)(2) are illustrated by the following examples:

*Example 1. Treatment of payment by unrelated entity to domestic reverse hybrid entity.* (i) *Facts.* Entity A is a domestic reverse hybrid entity, as defined in paragraph (d)(2)(i) of this section, with respect to the U.S. source dividends it receives from B, a domestic corporation to which A is not related, within the meaning of paragraph (d)(2)(ii)(B)(3) of this section. A's 85-percent shareholder FC is a corporation organized under the laws of Country X, which has an income tax treaty in effect with the United States. Under Country X law, FC is not fiscally transparent with respect to the dividend, as defined in paragraph (d)(3)(ii) of this section. In year 1, A receives a \$100 of dividend income from B. Under Country X law, FC is treated as deriving \$85 of the \$100 dividend payment received by A. The applicable rate of tax on dividends under the U.S.-Country X income tax treaty is 5 percent with respect to a 10-percent or more corporate shareholder.

(ii) *Analysis.* Under paragraph (d)(2)(i) of this section, the U.S.-Country X income tax treaty does not apply to the dividend income received by A because the income is paid by B, a domestic corporation, to A, another domestic corporation. A remains fully taxable under the U.S. tax laws as a domestic corporation with regard to that item of income. Further, pursuant to paragraph (d)(2)(i) of this section, notwithstanding the fact that under the laws of Country X A is treated as fiscally transparent with respect to the dividend income, FC may not claim a reduced rate of taxation on its share of the U.S. source dividend income received by A.

*Example 2. Treatment of payment by domestic reverse hybrid entity to related foreign interest holder involving unrelated party.* (i) *Facts.* The facts are the same as in *Example 1*. Both the United States and Country X characterize the payment by B in year 1 as a dividend. In addition, in year 2, A makes a payment of \$25 to FC that is characterized under U.S. tax laws as an interest payment to FC on a loan from FC to A. Under the U.S.-Country X income tax treaty, the rate of tax on interest is zero. Under Country X laws, had the interest been paid by an entity that is not fiscally transparent under Country X's laws with respect to any item of income, FC would not be fiscally transparent as defined in paragraph (d)(2)(ii) of this section with respect to the interest.

(ii) *Analysis.* The analysis is the same as in *Example 1* with respect to the \$100 payment from B to A. With respect to the \$25 payment from A to FC, paragraph (d)(2)(ii)(B) of this section will not apply because, although FC is related to A, A is not related to the payor of the dividend income it received. Under paragraph (d)(2)(ii)(A) of this section, the \$25 interest income paid from A to FC in year 2 will be characterized under U.S. law as interest. Accordingly, in year 2,

FC may obtain the reduced rate of withholding applicable to interest under the U.S.-Country X income tax treaty, assuming all other requirements for claiming treaty benefits are met.

*Example 3. Treatment of payment by domestic reverse hybrid entity to related foreign interest holder.* (i) *Facts.* The facts are the same as in *Example 2*, except the \$100 dividend income received by A in year 1 is from A's wholly owned subsidiary S.

(ii) *Analysis.* The analysis is the same as in *Example 1* with respect to the \$100 dividend payment from S to A. However, the \$25 interest payment in year 2 by A to FC will be treated as a dividend for all purposes of the Internal Revenue Code and the U.S.-Country X income tax treaty because \$25 does not exceed FC's share of the \$100 dividend payment made by S to A (\$85). Since FC is not fiscally transparent with respect to the payment as determined under paragraph (d)(2)(ii)(A) of this section, FC will be entitled to obtain the reduced rate applicable to dividends under the U.S.-Country X income tax treaty with respect to the \$25 payment. Because the \$25 payment in year 2 is recharacterized as a dividend for all purposes of the Internal Revenue Code and the U.S.-Country X income tax treaty, A would not be entitled to an interest deduction with respect to that payment and FC would not be entitled to claim the reduced rate of withholding applicable to interest.

(iv) *Effective date.* This paragraph (d)(2) applies to items of income paid by a domestic reverse hybrid entity on or after the date these regulations are published as final regulations in the **Federal Register** with respect to amounts received by the domestic reverse hybrid entity on or after the date these regulations are published as final regulations in the **Federal Register**.

\* \* \* \* \*

**Robert E Wenzel,**

*Deputy Commissioner of Internal Revenue.*

[FR Doc. 01-1687 Filed 2-26-01; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-106702-00]

RIN 1545-AX94

#### Determination of Basis of Partner's Interest; Special Rules; Correction

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

**ACTION:** Correction to notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains corrections to REG-106702-00 which

was published in the **Federal Register** on Wednesday, January 3, 2001 (66 FR 315). These regulations relate to special rules on determination of basis of partner's interest under section 705 of the Internal Revenue Code.

**FOR FURTHER INFORMATION CONTACT:** Barbara MacMillan, (202) 622-3050 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of proposed rulemaking that is the subject of these corrections is under section 705 of the Internal Revenue Code.

**Need for Correction**

As published, REG-106702-00 contains errors which may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of the notice of proposed rulemaking (REG-106702-00), which is the subject of FR Doc. 01-32189, is corrected as follows:

1. On page 315, column 2, in the preamble, under the caption **DATES:**, last line, the language "must be received by April 3, 2001" is corrected to read "must be received by April 12, 2001".

2. On page 316, column 3, in the preamble under the paragraph heading "Comments and Public Hearing", first full paragraph in the column, last line, the language "April 3, 2001." is corrected to read April 12, 2001."

**§ 1.705-2 [Corrected]**

3. On page 317, column 2, § 1.705-2(b)(2), paragraph (ii) of the *Example*, line 1 the language "Normally, X would be entitled to a \$40" is corrected to read "Normally, X would be entitled to a \$40,000".

4. On page 318, column 3, § 1.705-2(c)(2), paragraph (vi) of *Example 2*, line 19 the language "The amount of UTP's gain" is corrected to read "The amount of LTP's gain".

**Cynthia Grigsby,**

*Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).*

[FR Doc. 01-4671 Filed 2-26-01; 8:45 am]

**BILLING CODE 4830-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 01-349; MM Docket No. 01-37; RM-10065]

**Radio Broadcasting Services (Houston, Anchorage, Alaska)**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule. Order to Show Cause.

**SUMMARY:** The Commission requests comment on a petition for rulemaking filed by Chester P. Coleman, licensee of Station KADX(FM), Houston, Alaska, proposing the substitution of Channel 234C1 for Channel 234C2 at Houston, Alaska, and the modification of Station KADX's license to reflect the change. To accommodate the change the petition also proposes the substitution of Channel 286C1 for Channel 287C1 at Anchorage, Alaska, and the modification of the license of Station KNIK-FM, Anchorage, to specify the new channel. Ubix Corporation, licensee of Station KNIK-FM, is ordered to show cause why Channel 286C1 should not be substituted for Channel 287C1 at Houston, and must respond by the comment deadline specified below. Channel 234C1 can be allotted at Houston in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, at a site 17.2 kilometers (10.7 miles) south of the community at coordinates 61-29-03 NL and 149-45-52 WL. Channel 286C1 can be allotted at Anchorage, Alaska, at Station KNIK-FM's licensed site 2.8 kilometers (1.8 miles) south of the community at coordinates 61-11-33 NL and 149-54-01 WL.

**DATES:** Comments must be filed on or before April 2, 2001, and reply comments must be filed on or before April 17, 2001.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-37, adopted January 31, 2001, and released February 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International

Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Alaska is amended by removing Channel 234C2 and adding 234C1 at Houston, and by removing Channel 287C1 and adding Channel 286C1 at Anchorage.

Federal Communications Commission.

**John A. Karousos,**  
*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 01-4727 Filed 2-26-01; 8:45 am]

**BILLING CODE 6712-01-U**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 01-335; MM Docket No. 01-35; RM-10054]

**Radio Broadcasting Services; Young Harris, GA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition for rule making filed by M. Terry Carter and Douglas Sutton, Jr. d/b/a/ Tugart Communications seeking the allotment of Channel 236A to Young Harris, GA, as its first local aural service. Channel 236A can be allotted to Young Harris in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 34-56-00 NL; 83-50-54 WL.

**DATES:** Comments must be filed on or before April 2, 2001, and reply comments on or before April 17, 2001.

**ADDRESSES:** Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: John F. Garziglia, Pepper & Corazzini, LLP, 1776 K Street,