

Part III - Administrative, Procedural, and Miscellaneous

Qualified NMWHFIT Exception Extension

Notice 2006-30

PURPOSE

This notice informs taxpayers that § 1.671-5, which provides reporting rules for widely held fixed investment trusts (WHFITs), will be amended to provide that the availability of the Qualified NMWHFIT (non-mortgage widely held fixed investment trust) Exception in § 1.671-5(c)(2)(iv)(E) is extended by 60 days from the date indicated in Notice 2006-29, 2006-12 I.R.B. 644, issued by the IRS and the Treasury Department on February 23, 2006.

BACKGROUND

On January 24, 2006, the IRS and Treasury Department published final regulations under § 1.671-5 (Reporting Requirements for Widely Held Fixed Investment Trusts) in the Federal Register (T.D. 9241, 2006-7 I.R.B. 427 [71 FR 4002]). Following the publication of those final regulations, the IRS and Treasury Department received a number of comments regarding the applicability of those regulations to NMWHFITs. The commentators requested that the IRS and the Treasury Department issue additional guidance to clarify and simplify the application of the final regulations to NMWHFITs. Commentators also requested that the availability of the qualified

NMWHFIT exception in § 1.671-5(c)(2)(iv)(E) be extended while the additional guidance was being developed. The qualified NMWHFIT exception, if satisfied, excepts trustees and middlemen from specific reporting requirements in the final regulations regarding market discount, bond premium, sales and dispositions, redemptions, and sales of trust interests. In response, the IRS and Treasury Department issued Notice 2006-29 which, among other things, indicated that the IRS and Treasury Department intended to amend §1.671-5 to extend the availability of the qualified NMWHFIT exception to NMWHFITs created on or after February 23, 2006 which was the cut-off date for qualifying for the exception in the final regulations. Under Notice 2006-29, to satisfy the qualified NMWHFIT exception, a NMWHFIT's registration statement must become effective under the Securities Act of 1933, as amended (15 U.S.C. 77a, et. seq.) (Securities Act of 1933) and trust interests must be offered for sale to the public by June 1, 2006 and the NMWHFIT must be fully funded by August 1, 2006.

60 DAY EXTENSION

The IRS and the Treasury Department expect to issue additional guidance under § 1.671-5 in the near future that will include minor modifications to the reporting rules for sales and dispositions in § 1.671-5. Such guidance, however, will not be issued prior to June 1, 2006. Accordingly, the IRS and the Treasury Department are extending the availability of the qualified NMWHFIT exception beyond the date in Notice 2006-29. Specifically, taking into account the extensions indicated in Notice 2006-29 and the extension indicated in this notice, § 1.671-5(c)(2)(iv)(E) will be amended to provide that the qualified NMWHFIT exception is satisfied if the calendar year for which the trustee is

reporting begins before January 1, 2011 and: (1) the NMWHFIT has a start-up date (as defined in § 1.671-5(b)(19)) before February 23, 2006; (2) the registration statement of the NMWHFIT becomes effective under the Securities Act of 1933 and trust interests are offered for sale to the public before February 23, 2006; or (3) the registration statement of the NMWHFIT becomes effective under the Securities Act of 1933 and trust interests are offered for sale to the public on or after February 23, 2006 and before July 31, 2006, and the NMWHFIT is fully funded before October 1, 2006.

EFFECTIVE DATE

The effective date for amended § 1.671-5(c)(2)(iv)(E) will be the date of publication of those amendments in the Federal Register. Taxpayers, however, may apply those amendments as though they were included in § 1.671-5 as published in the Federal Register on January 24, 2006.

DRAFTING INFORMATION

The principal author of this notice is Faith P. Colson of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Faith P. Colson at (202) 622-3060 (not a toll-free call).