Does Anyone Still Care About the May Company Regulations?

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Before addressing the May Company regulations, it might first be appropriate to question whether anyone *remembers* them. If you do not, you should take a look. The corporate tax law underwent a radical transformation in 1986 with the repeal of the *General Utilities* doctrine. Corporate tax planners that for a generation had been used to dealing with a single level of tax on most business transactions were confronted with the end of an era.

That Was Then

In short, this was a time that gave way to a new dawn of flow-through entities. It wasn't too many years thereafter that techniques and strategies for adapting to this brave new world were upon us. And that led to the inevitable push back from the IRS.

In 1992, the IRS issued proposed regulations to prevent corporate partners from avoiding corporate-level gain through transactions with partnerships involving the equity interests of partners. [Proposed Reg. §1.337(d)-3]. The most notorious transactions at the time were known as May Company transactions since clever tax lawyers for the May Company arranged a deal to avoid corporate gain recognition despite the repeal of the *General Utilities* doctrine. These proposed regulations enunciated both a deemed redemption rule and a distribution rule.

The deemed redemption rule requires a corporate partner to recognize gain when it enters into some transactions with a partnership that have the economic effect of an exchange of an interest in appreciated property for an interest in its own stock. Beyond this simple description, however, the rules are complex and confusing. Moreover, in some cases it may appear that gain is triggered earlier than it should be.

New Dawn

Of course, there have also been a number of statutory changes to the partnership provisions of the Code since 1992, reducing the need for portions of the proposed regulations. A future issue will include a survey of current partnership acquisition and disposition techniques.