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THE STATE BAR OF CALIFORNIA
TAXATION SECTION
2005 WASHINGTON D.C. DELEGATION
PAPER TOPIC SUBMISSION FROM
INCOME/OTHER TAXES COMMITTEE[1]

SUBSTITUTION OF INSTALLMENT OBLIGORS

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EXECUTIVE SUMMARY

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1 The comments contained in this paper are the individual views of the author who prepared them, and do not represent the position of the State Bar of California or of the Los Angeles County Bar Association.

2 Although the participants on the project might have clients affected by the rules applicable to the subject matter of this paper and have advised such clients on applicable law, no such participant has been specifically engaged by a client to participate on this project.

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It is unclear under current law whether I.R.C.[3] § 453[4] allows a buyer of property, after an installment sale, to assign its payment obligations to a third party which, with greater financial strength, provides a more practical safeguard for payment to the seller, even though the terms of the note remain unchanged. The question is whether the addition of an obligor under the facts described will accelerate income to the taxpayer/seller.

IRS rulings and case law involving assignments of installment obligations suggest that there should be no acceleration of the installment obligation merely because there is an additional obligor. This paper proposes amending the Treasury Regulations (under I.R.C. § 453) or implementing administrative guidance regarding income recognition principles applicable to installment sale agreements.

A clarification of the law under I.R.C. § 453 would provide installment sellers with certainty in determining when they must recognize gross income for Federal income tax purposes. A clarification will enable sellers to consummate more financially viable sales. Fewer private letter ruling requests would be necessary, and fewer controversies would result from improved published guidance.

DISCUSSION

I. OVERVIEW

The installment method is frequently used for sales of personal residences, closely held businesses, and many other assets. Most installment

[3] Unless otherwise specified, all Section references are to the Internal Revenue Code of 1986, as amended.

[4] I.R.C § 453 covers installment methods of taxpayers and allows taxpayers to defer income from payments under an installment sale agreement to years in which the taxpayer actually receives payment rather than the year in which the transaction occurred.

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agreements involve only two parties, a buyer and a seller. Installment sale agreements typically require a buyer to make regular periodic payments to a seller. Sellers usually include in their gross income payments from the buyer when and as received. For a seller to claim payments in the year they receive them, their installment agreement must meet I.R.C. § 453(b)(1) and payments must be taken into account under the installment method.

In the contemplated transaction, after the conclusion of an installment sale, the buyer will transfer its obligation to a third party who will assume the periodic payments to the seller. The third party assumer will, following such assumption, have primary liability under the note. However, the third party will also purchase an annuity to fund its new obligations to the seller in the event it is unable to do so. The seller who is reporting under the installment method will have no ownership interest in, or rights to, the annuity.

It is unclear if this assignment could be regarded as a disposition (which would result in an immediate recognition of income to the seller). The buyer's assignment of this obligation to a third party provides stronger safeguards to the seller, just as a standby letter of credit would, in the event of insolvency of the buyer. However, the buyer/holder would have no security and no interest in the annuity purchased by the third party obligor. Consequently, such taxpayers should be allowed to accept payments from third-parties who were assigned the obligations from their debtors with no tax ramifications.

II. LEGAL BASIS FOR ASSIGNMENT OF INSTALLMENT OBLIGATIONS AND TREATMENT OF PERIODIC PAYMENTS

The installment method allows taxpayers to defer recognition of income until the taxpayer actually receives payment, rather than recognizing the income in the year in which the taxpayer completes a sale. It is necessary to review the installment method and consider dispositions of installment obligations, as well as the constructive receipt doctrine, to

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understand the reasons that support our requested Regulation amendment or administrative guidance.

A. Installment Method

Installment sales are governed by I.R.C. § 453(b)(1), which provides that at least one payment must be received after the close of the taxable year in which the sale occurs to be classified as in installment sale. In addition, income received from the installment sale must be taken into account under the "installment method." The installment method allows the seller to include as income only the actual payments received in that tax year, rather than having to include the full purchase price in income. Under the installment method, "the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract."

I.R.C. § 453 does not specifically address whether the original seller and buyer are necessary parties for a seller to treat payments under an installment sale agreement as income only in the year in which payments are received.

B. Dispositions of Installment Obligations

I.R.C. § 453B(a) states that if an installment obligation is disposed of, then any gain or loss will be immediately recognized. More specifically, I.R.C. § 453B(a) states:

> (a) General rule: If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and—
>
> > (1) the amount realized, in the case of satisfaction at other than face value or a sale or exchange, or
> >
> > (2) the fair market value of the obligation at the time of distribution, transmission, or disposition, in the case of the distribution, transmission, or disposition otherwise than by sale or exchange.

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> any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received.

Therefore, the benefit of the installment method is lost and an immediate recognition of income would result. If the installment obligation is disposed of for an amount other than its face value, then any gain or loss is recognized to the extent of the difference between the basis of the obligation and the amount realized. In all other dispositions, gain or loss would be measured on the difference between the basis of the obligation and the fair market value.[5]

A disposition includes not only an actual transfer of an installment obligation to other parties, but also "deemed dispositions." A deemed disposition occurs when the terms of the installment sale agreement are substantially altered. In effect, the installment obligation is considered to have been exchanged for a new obligation. In Revenue Ruling 75-457, the IRS concluded that a satisfaction or disposition under I.R.C. § 453(d) occurs when the "rights accruing to the seller under an installment sale either disappear or are materially disposed of or altered so that the need for postponing recognition of gain otherwise realized ceases."

A large body of law addresses modifications to installment obligations and whether they give rise to a disposition for purposes of the installment sale rules.[6] Generally, these authorities involve *sellers* who transfer their installment note, and the question is whether such a transfer should be considered a disposition. Less attention has been paid to the *buyer* in the installment sale, who may transfer their obligations to pay under the note to a third party.

The installment sale disposition rules do not specifically address whether *buyers* can assign their obligations to a third party under an agreement where the third party will make the same periodic payments as the buyer, allowing the seller to continue to defer income.

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[5] *See* I.R.C. § 453(B)(a)(1) and (2).

[6] *See* Walter C. Cliff & Phillip J. Levine, *Reflections on Ownership - Sales and Pledges of Installment Obligations,* 39 TaxLaw 37 (1985).

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C. Constructive Receipt of Security Instruments

The constructive receipt doctrine prohibits taxpayers from deliberately turning their backs upon income, thereby opportunistically selecting the year in which they want to receive (and report) the income. Treas. Reg. § 1.451-2(a) defines when income is constructively received by a taxpayer:

> Income although not actually reduced to a taxpayer's possession is constructively received by him in the taxable year during which it is credited to his account, set apart for him, or otherwise made available so that he may draw upon it at any time, or so that he could have drawn upon it during the taxable year if notice of intention to withdraw had been given. However, income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions. Thus, if a corporation credits its employees with bonus stock, but the stock is not available to such employees until some future date, the mere crediting on the books of the corporation does not constitute receipt.

This general rule does not appear to directly apply to the situation contemplated here. If a buyer assigns an obligation to pay periodic payments to a third party in an independent transaction, the seller should not have to accelerate its gain. Under traditional assignment of income principles, if the assignment of payments are not credited to a claimant's account, set apart for him or otherwise made available so he may draw upon the settlement at any time, then there should be no constructive receipt of income. However, the regulations (and the case law) only contain analyses applicable to other types of relationships (for example, employer/employee relationships).

D. Cash Equivalency

The cash equivalency doctrine essentially states that if a promise to pay a benefit to an individual (even though it is unfunded) is unconditional and exchangeable for cash, then the promise is the same as cash (or income) and it will be currently taxable. For example, in *Cowden v. Commissioner,* 289 F.2d 20 (5th Cir. 1961), the court held that a contract right

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to deferred bonus payment under an oil and gas lease was the equivalent of cash. Thus, the court found that the right was taxable just as if cash had been received by the taxpayer.

The *Cowden* court based its conclusion on three factors: (1) the obligation of the payor was an unconditional and assignable promise to pay by a solvent obligor; (2) it was of a kind that was frequently transferred to lenders or investors at a discount not substantially greater than the generally prevailing premium for the use of money; and (3) the obligation was readily convertible to cash. *Cowden v. Commissioner,* 289 F.2d 20 (5th Cir. 1961), *rev'g and remanding,* 32 T.C. 853 (1959), *opinion on remand,* T.C. Memo 1961-229.

There are strong arguments why the cash equivalency doctrine should not be applied to the contemplated transaction. The case law exploring the cash equivalency doctrine focuses primarily on deferred payment obligations that the taxpayer can readily discount. Where a payee's rights cannot be assigned, transferred, pledged or encumbered, the cash equivalency doctrine has not been applied. See *Reed v. Commissioner*, 723 F.2d 138 (1st Cir. 1983); *Johnston v. Commissioner*, 14 T.C. 560 (1950). In a properly structured installment arrangement, the documents will forbid the seller from transferring, assigning, selling or encumbering their rights to receive future payments. Any attempt by a seller to sell, transfer or assign their rights to future payments is void, thus precluding application of the cash equivalency doctrine.

E. Economic Benefit

Economic benefit occurs when money or property is not necessarily available so that the taxpayer may obtain it at any time, but has been transferred to an arrangement such as a trust for the sole economic benefit of the taxpayer. Revenue Ruling 60-31, 1960-1 C.B. 174, applies the economic benefit doctrine in some of its examples and discussions. Those examples discuss situations where there is more than a mere promise to pay, and the obligations are secured in some way. In the proposed arrangement, the obligation to pay is not secured. The annuity and the third party's obligations are merely in addition to the buyer's obligation to pay. The buyer remains personally liable to the seller for all payments.

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In *Sproull v. Commissioner,* 16 T.C. 244 (1951), an employer established an irrevocable trust for the benefit of the employee. The court decided that the employee had received an economic benefit and thus the value of the trust was taxable. However, in *Sproull* the taxpayer's rights in the trust were vested and secured and the taxpayer was free to assign or alienate the trust proceeds. In the proposed arrangement, the seller is not a party to the transaction between the third party and the buyer. Therefore, the seller has no rights in the annuity.

Of course, this situation differs from the *Sproull* fact pattern because *Sproull* involved personal services, not a sale of property. In *Sproull* the taxpayer's employer set up the trust in connection with the taxpayer's services. I.R.C. § 83 was enacted in 1969 and states that property (or money) transferred in connection with the providing of services by the employee [into a trust] is taxable. Therefore, the *Sproull* decision does not apply to the transaction contemplated here, as the buyer does not have an employment relationship with the seller.

Personal services were also involved in *Childs v. Commissioner,* 103 T.C. 634 (1994), aff'd 89 F.3d 856 (11th Cir., 1996), though there the taxpayers were found not to have an economic benefit. The Tax Court, and later affirmed by the Eleventh Circuit, addressed the question whether attorneys had the economic benefit of annuity policies purchased to fund periodic payments of their fees. The opinion states that the annuity policies were not secured because the policies were subject to claims of general creditors of the insurance companies (who sold the annuities). Therefore, the annuity was not taxable income to the attorney when the annuity was purchased.

Similarly, in the proposed transaction (which again, follows after a sale of property transaction not the performance of services), the third party's payments are not secured and do not replace the liability of the buyer to make the periodic payments. If the buyer was already under an installment agreement where the payments are only taxable in the year received, the buyer's receipt of payments from a third party (whose ability to make those payments are not secured) should not change the tax position of the seller.

III. CURRENT LAW & REASON FOR PROPOSED CHANGE

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The buyer's periodic payment obligations to the seller constitute indebtedness of the buyer, which is not payable on demand or readily tradable. Therefore, the periodic payment obligation is not part of the payment received by the seller in the year of sale. Consequently, assignment of that obligation by the obligor, which does not alter the original obligation, should not accelerate income (nor result in a disposition of the installment obligation) to the seller.

A. Periodic Payments Are Payments Under Installment Method

The periodic payment obligation is an obligation of the buyer, and at all times thereafter remains an obligation of the buyer. Even after the buyer assigns its obligation to make the periodic payments to the seller, the seller is not a party to that assignment, and the third party does not become directly liable to the seller. In addition, the buyer is not released from liability, so that if the third party should fail to make the periodic payments, the buyer would still remain liable. Thus, the periodic payment obligation received by the seller remains indebtedness of the buyer.

This analysis is conceivably complicated by the fact that the buyer will assign its periodic payment liability to a third party, and this third party will be the primary obligor (and will purchase an annuity). However, the seller will have no rights in the annuity. The IRS could argue that the periodic payment obligation received by the seller in connection with the sale should be viewed as an obligation of the third party. The IRS might argue that the value of the periodic payment obligation should be included in the amount of the "payment" the seller received in the year of the sale, since the third party is not the actual purchaser of the property. In essence, the IRS would be arguing that the buyer purchased the property in exchange for the debt obligation issued by the third party.

Although there is no authority directly on point, we believe such arguments are not persuasive.[7] The seller is not a party to the assignment, and the buyer remains liable to the seller (the seller is not

[7] *See Caldwell v. U.S.,* 114 F.2d 995 (3d Cir. 1940). In *Caldwell* the buyer formed a holding company to assume the buyer's obligations under the contract. The court held the buyer, not the holding company, remained the purchaser and the seller was receiving the holding company's obligation not that of the buyer.

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released from liability). Therefore, the obligation remains indebtedness to the buyer.

B. Assignments of Installment Obligations Are Not Dispositions

The Code and regulations provide only limited guidance on the question whether the assignment of an installment obligation constitutes a disposition. Instead, the scope of the disposition concept must be examined through case law and other authorities. A body of cases address whether the substitution of obligors under an installment obligation results in a disposition for purposes of the installment sale rules. These authorities are not directly on point, since the assignment contemplated here does not involve a substitution of obligors.

Instead, the third party's payment obligation under the assignment is in addition to, not in substitution of, the buyer's original obligation to the seller. The buyer's liability to the seller is not extinguished. Clearly, if a full fledged substitution of obligors would not trigger a disposition, then neither should an assignment.

The leading case is *Wynne v. Commissioner*, 47 B.T.A. 731 (1942), decided by the Board of Tax Appeals. In *Wynne*, a corporation, whose stock was owned by a partnership, owed remaining payments to a former shareholder under an installment obligation. The corporation was liquidated and the partnership assumed liability to make the remaining payments in accordance with the terms of the original obligation. Thus, the only change that occurred as a result of the liquidation was the substitution of a new obligor in place of the former obligor. The board rejected the IRS's contention that a disposition of the installment obligation occurred under these facts for the purposes of the installment sale rules.

Another leading case is *Cunningham v. Commissioner,* 44 T.C. 103 (1965). In *Cunningham*, a corporation bought the stock of another corporation for cash and promissory notes. The stock was then pledged as collateral for repayment of the promissory notes. Two years later, the corporation sold the stock to a new corporation, with the new corporation agreeing to assume liability under the promissory notes, and the original buyer released from any further liability.

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Soon after this sale, the new buyer and seller agreed to change the terms of the promissory note. The changes related to the amount and due dates for payments and a waiver of interest. The court rejected the IRS's contention that the second sale resulted in a disposition of the promissory notes for purposes of the installment sale rules, reasoning that the "petitioners [sellers] had no more or less than they had in the beginning. They were creditors of the same installment obligations. There was a different obligor, it is true, but in both instances the essential underlying security for the obligations was the stock and earning potentials."[8]

The IRS issued guidance in Revenue Ruling 75-457, 1975-2 C.B. 196, 1982-1 C.B. 80. In that ruling, the taxpayer sold real estate to a buyer in exchange for cash and a promissory note. One year later, the buyer sold the property to a new buyer, and the taxpayer agreed to release the first buyer from further liability and to substitute the new buyer as the obligor under the promissory note. The other terms of the note were not changed. The IRS held that the substitution of a new obligor did not trigger a disposition under the installment sale rules. The IRS stated that "the mere substitution and release of the original obligor on an installment obligation, and the assumption of the installment obligation by a new obligor, without any other changes, will not in itself constitute a satisfaction or disposition under section 453(d)." Id.

In Revenue Ruling 75-457 the IRS analyzed GCM 36299 (June 5, 1975), elaborating on the IRS's reasoning in analyzing whether there has been a disposition, the focus should be on the rights of the seller. A disposition should not occur "as long as [the seller] possesses substantially the same rights he received in the original transaction." Based on that standard, the GCM concluded that a disposition does not occur merely on account of "a change in the identity of the obligor when the seller's rights under the installment sale otherwise were not altered."

The rationale of GCM 36299 and Revenue Ruling 75-457 differ somewhat from the reasoning suggested by Revenue Ruling 61-215, 1961-2 C.B. 110. In Revenue Ruling 61-215, two corporations merged with the surviving corporation assuming a liability under an installment agreement of the merged corporation. The IRS held that the substitution of obligors that

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[8] 44 T.C. at 108.

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occurred as a result of the merger did not trigger a disposition under the installment sale rules. As the basis for this conclusion, the IRS cited the fact that "there was, in essence, not a substitution of a new or materially different obligor or obligation." This suggests that a disposition could be triggered if the new obligor is "materially different" in some sense from the original obligor. However, the IRS has not chosen to follow this aspect of Revenue Ruling 61-215. Revenue Ruling 75-457 and Revenue Ruling 82-122 both focus solely on changes in the rights of the seller and ignore the identity of the obligor entirely.

In Revenue Ruling 82-122, the IRS amplified its holding in Revenue Ruling 75-457. The two rulings involved similar facts, except that in exchange for releasing the original buyer from further liability, the seller and the new buyer agreed to increase the interest rate, and accordingly the monthly payments, under the assumed mortgage. The IRS concluded that "the changes in the obligor, and the interest rate neither eliminate nor materially after the rights of the taxpayer." Accordingly, the IRS held that the transaction did not result in a disposition for purposes of the installment sale rules.

The IRS and courts continue to adhere to the holding in Revenue Ruling 75-457 and the *Cunningham* case. The only potentially adverse authority is *Burrell Groves, Inc. v. Commissioner*. In *Burrell Groves*, the taxpayer sold a citrus grove to a buyer in exchange for cash and a fifteen year promissory note that was secured by a mortgage on the property. Two years later, the original buyer sold the grove to a new buyer. In the transaction, the taxpayer surrendered the original promissory note, thereby releasing the original buyer, and, in exchange, took back new promissory notes in the name of the new buyer, which were once again secured by a mortgage on the property. The new promissory note carried a different interest rate and was payable in different amounts over a different term.

The court distinguished the *Wynne* case on the basis that, in that case, only the identity of the obligor changed, as opposed to the facts of *Burrell Groves* where the interest rate and the term of the note were also changed. The court held that the transaction did trigger a disposition for purposes of the installment sale rules.

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It is unclear whether the *Burrell Groves* case would be followed today. The case is inconsistent with Revenue Ruling 82-122. In addition, the *Burrell Groves* case involved more than a mere change in obligors. It also involved a change in the payment terms of the underlying promissory note. Thus, in situations where the only change that occurs is the substitution of a new obligor, the *Burrell Groves* case by its terms should not apply.

In summary, the substitution of obligors under an installment obligation does not involve a disposition for purposes of the installment sale rules. The sole effect of the assignment is to impose a payment obligation on the third party that is in addition to, not in substitution for, the original payment obligation of the buyer under the agreement. The buyer is not released from liability. Apart from creating an additional obligation on the part of the third party, the assignment does not otherwise alter or affect the terms of the buyer's original obligation at all. Thus, based on the authorities discussed above, the assignment should not trigger a disposition.

C. Constructive Receipt of Security Instruments

Treas. Reg. § 1.451-2(a) defines when income is constructively received by a taxpayer, but does not suggest that rights under security instruments that protect installment sales are not constructively received. Indeed, in the Installment Sales Revision Act of 1980, Congress allowed for security instruments (such as standing letters of credit) to be specifically exempt from any constructive receipt issues.

Therefore, if a buyer assigns obligations to pay periodic payments to a seller, the seller should not experience an acceleration of gain. A security instrument merely ensures the seller of funds if the buyer or third party defaults. Under traditional assignment of income principles, if the assignment of payments are not credited to a claimant's account, set apart for him or otherwise made available so he may draw upon the settlement at any time, then there should be no constructive receipt of income. However, the regulations (and the case law) only contain analyses applicable to other types of relationships (for example, employee/employer relationships).

The assignment of the obligation is also similar to the seller securing a letter of credit. Essentially, the buyer is securing the sale through a more financially secure method. Congress, in the Installment Sales

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Revision Act of 1980, explicitly stated that letters of credit are not constructively received. In the contemplated transaction, the third party is merely sitting in place of a letter of credit. Letters of credit are impractical for many buyers and sellers to secure, as they are expensive and require annual renewals. Therefore, it is more feasible to allow buyers to assign their obligations to a third party.

D. Cash Equivalency

As noted above, the cash equivalency doctrine essentially states that if a promise to pay a benefit to an individual (even though it is unfunded) is unconditional and exchangeable for cash, then the promise is the same as cash (or income) and it will be currently taxable.

The leading case of *Cowden v. Commissioner,* examines three factors: (1) the obligation of the payor was an unconditional and assignable promise to pay by a solvent obligor; (2) it was of a kind that was frequently transferred to lenders or investors at a discount not substantially greater than the generally prevailing premium for the use of money; and (3) the obligation was readily convertible to cash.

In the proposed arrangement the seller is not able to convert the annuity into cash. The seller is not even a party to the transaction and has no rights in the annuity. Several other cases support the notion that if the taxpayer cannot assign, transfer, pledge or encumber, the cash equivalency doctrine does not apply. See *Reed v. Commissioner*, 723 F.2d 138 (1st Cir. 1983); *Johnston v. Commissioner*, 14 T.C. 560 (1950).

The proposed arrangement merely adds another obligor on behalf of the buyer. The terms of the buyer/third party contract forbid the sellers from transferring, assigning, selling or encumbering their rights to receive future payments. Any attempt by a seller to sell, transfer or assign their rights to future payments is void, thus precluding application of the cash equivalency doctrine.

E. Economic Benefit

The economic benefit doctrine states that when money or property is not necessarily available so that the taxpayer may obtain it at any time but has been transferred to an arrangement such as a trust for the sole economic benefit of the taxpayer.

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The examples and discussions in Revenue Ruling 60-31, 1960-1 C.B. 174, apply the economic benefit doctrine when there is more than a mere promise to pay and the obligations are secured in some way. In the proposed arrangement, the obligation to pay is not secured, the annuity and third party guaranty are merely in addition to the buyer's obligation to pay. The buyer remains personally liable to the seller for all payments, and the third party's payments are not guaranteed. While the third party may provide additional peace-of-mind for the seller, there is no guarantee the third party will remain solvent.

See further discussion of the economic benefit doctrine above.

IV. REGULATORY OR ADMINISTRATIVE SOLUTION

The regulations under I.R.C. 453 and 453B, and the cases addressing the assignment of installment obligations suggest that as long as the obligation does not substantially change, the seller may continue to defer the recognition of income. Unfortunately, the regulations give very little guidance, and this is impacting buyers and sellers who wish to structure such transactions, and the willingness of third parties to facilitate such arrangements.

A third party should be able to assume the responsibility for making the periodic payments on behalf of a buyer if the assignment of that obligation does not substantially change the original buyer/seller agreement. Taxpayers should have published guidance under I.R.C. 453 and 453B to determine when to report the periodic payments they (the sellers) receive. The regulatory change could be a simple one. The regulations could state:

> An obligor's assignment of an obligation under an installment sale agreement, defined in this section, that otherwise would qualify under the payee's installment method of accounting, will still qualify as installment payments from a third party assignee so long as the rights under the original installment sale agreement are not substantially modified.

To further promote the concept of protecting the seller's risk of loss if the buyer were to become insolvent, a regulatory change could state:

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Security arrangements that protect the seller from a defaulting payor are not considered constructively received by the seller if, despite the security arrangement, the payments remain precisely the same as if the payor did not default, and if the seller has no rights in or to any collateral or property which constitutes a part of the security arrangement.

I.R.C. 453 is only applicable for determining classification of payments under an agreement with the original seller/buyer. Thus, the proposed language in the regulations would include payments made pursuant to an assignment of obligations under an installment sale agreement. The proposed language does not include any payments made under agreements that are substantially modified. This could include examples from the *Burrell Groves* case.

We believe a regulatory change would clarify the timing of reporting periodic installment payments, and give further guidance to the periodic and annuity payment industries at a time when there is tremendous growth in the use of the assignments of installment sale agreements. The regulatory change, as outlined here, would also eliminate the time and expense the IRS might spend auditing these taxpayers.

An alternative to a regulatory change would be the issuance of a revenue ruling or other administrative guidance. If a revenue ruling were issued by the IRS which outlined when a seller must report a disposition under an assignment of an installment sale agreement, taxpayers would then have published authority to follow in this context. A revenue ruling would achieve a similar result to the regulatory change suggested here.

V. CONCLUSIONS

The IRS has stated its intention to provide more published guidance to taxpayer so the public can better understand IRS positions. The regulatory or administrative solutions proposed here would help serve that stated goal, and would help to resolve the uncertainty surrounding this increasingly important issue.

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