640, and 660) to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the appropriate docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Transcripts of the public meeting may be requested in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript of the public meeting and copies of information and comments submitted to the meeting record will be available for examination at the Dockets Management Branch (address above) approximately 15 working days after the meeting, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 4, 1995.

William K. Hubbard,

Interim Deputy Commissioner for Policy. [FR Doc. 95–460 Filed 1–4–95; 3:01 pm] BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-76-92]; [PS-51-93]

RIN 1545-AR48; RIN 1545-AR93

Recognition of Gain or Loss by Contributing Partner on Distribution of Contributed Property or Other Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the recognition of gain or loss on certain distributions of contributed property by a partnership under section 704(c)(1)(B)of the Internal Revenue Code of 1986 (Code). This document also contains proposed regulations relating to the recognition of gain on certain distributions to a contributing partner under section 737. Changes to the applicable law were made by the Revenue Reconciliation Act of 1989 and the Energy Policy Act of 1992. The proposed regulations affect partnerships and their partners and are necessary to

provide guidance for complying with the applicable tax law.

DATES: Written comments must be received by April 10, 1995. Requests to speak (with outlines of oral comments) at a public hearing scheduled for June 19, 1995, at 10 a.m. must be received by May 29, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (PS-76-92; PS-51-93), Room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC. 20044. In the alternative, submissions may be hand delivered between the hours of 8:00 a.m. and 5:00 p.m. to: CC:DOM:CORP:T:R (PS-76-92; PS-51-93), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. The public hearing has been scheduled to be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Stephen J. Coleman, (202) 622–3060; concerning submissions and the hearing, Michael Slaughter, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Introduction

This document proposes to add new §§ 1.704–4, 1.737–1, 1.737–2, 1.737–3, 1.737–4, and 1.737–5 to the Income Tax Regulations (26 CFR part 1) under sections 704(c)(1)(B), 704(c)(2), and 737 of the Code.

Background

Section 704(c)(1)(A) of the Internal Revenue Code (Code) requires that gain or loss with respect to property contributed to a partnership by a partner be shared among the partners so as to take into account any built-in gain or loss in the property at the time of the contribution. Prior to its amendment by the Revenue Reconciliation Act of 1989 (1989 Act), section 704(c) did not require the recognition of built-in gain or loss by a contributing partner on a distribution of contributed property by the partnership. The 1989 Act added sections 704(c)(1)(B) and 704(c)(2) to the Code. Section 704(c)(1)(B) provides that in the case of a distribution of contributed property to another partner within five years of its contribution to the partnership, the contributing partner must recognize gain or loss in an amount equal to the gain or loss the partner would have been allocated under section 704(c)(1)(A) on a sale of the property by the partnership at its fair market value at the time of the distribution. Section 704(c)(2) provides

for an exception for distributions of certain like-kind property. The legislative history of the 1989 Act indicates that Congress intended section 704(c)(1)(B) to eliminate the inconsistent treatment of sales and distributions by a partnership and thereby prevent partners from circumventing the rule requiring precontribution gain or loss on contributed property to be allocated to the contributing partner by distributing the property to another partner. H.R. Rep. No. 101–247, 101st Cong., 1st Sess. 406 (1989).

Prior to the enactment of the Energy Policy Act of 1992 (1992 Act), a partner who contributed appreciated property to a partnership did not recognize gain on a distribution to the distributee partner of partnership property other than money. The 1992 Act added section 737 to the Code to require a contributing partner to recognize gain to the extent of the lesser of (i) the net precontribution gain on property contributed to the partnership by the partner, or (ii) the excess of the value of the distributed property over the adjusted basis of the partner's interest in the partnership. H.R. Rep. No. 102-1018, 102d Cong., 2d Sess. 428 (1992).

Explanation of Provisions

A. Overview

Section 704(c)(1)(B) generally requires a contributing partner to recognize gain or loss when the property contributed by that partner is distributed to another partner within five years of its contribution to the partnership. Section 737 generally requires a contributing partner to recognize gain when the partner receives, within five years of the contribution, a distribution of other property with a fair market value in excess of the partner's adjusted basis in the partnership. Both sections apply only to distributions made to a partner in the partner's capacity as a partner. Section 704(c)(1)(B) and section 737 do not apply to transactions or distributions in which the partner is not acting in the capacity of a partner (e.g., transactions or distributions subject to section 707(a) or section 751(b)).

The proposed regulations provide rules for determining when section 704(c)(1)(B) and section 737 apply and the amount of gain or loss that must be recognized by the contributing partner under the applicable section. The proposed regulations also provide rules for determining the character of such gain or loss and for making the necessary basis adjustments. The proposed regulations contain several exceptions that are based on the