



## Federal Tax ADVISORY ■

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### Don't Forget Ruling Guidelines

The IRS has issued a huge number of ruling guidelines, which are sometimes overlooked by tax advisors when analyzing tax issues. The value of these guidelines goes beyond seeking letter rulings. It can be reasonable to determine that a transaction more likely than not (at least) will receive a certain treatment if the IRS has said it would so rule if the taxpayer represents certain facts.

Fortunately, the annual Rev. Proc. 2020-1 lists almost all the ruling guidelines that are still in effect. The IRS may not still issue rulings on a transaction because it is subject to a no-rule in Rev. Proc. 2020-3. But if the taxpayer presents a "significant issue," then even old ruling guidelines can apply. For example, Rev. Proc. 83-59, 1983-2 CB 575, is the Section 351 ruling guideline. Practitioners can use it when drafting representations or statements of facts on which a Section 351 opinion is based.

Rev. Proc. 84-42, 1984-1 CB 521, is a handy ruling guideline for escrowed stock and delayed issuance of stock in reorganizations. Rev. Proc. 86-18, 1986-1 CB 551, addresses the application of Section 302 to redemptions. Rev. Proc. 90-52, 1990-2 CB 626, addresses Section 332 liquidations. Rev. Proc. 81-60, 1981-2 CB 680, provides guidelines for rulings on recaps.

Rev. Proc. 75-17, 1975-1 CB 677, states guidelines for determining corporate earnings and profits, which is highly important to many foreign corporations owned by United States shareholders.

Spinoffs have been subject to two sets of ruling guidelines, first Rev. Proc. 96-30, 1996-1 CB 696, superseded by Rev. Proc. 2017-52, 2017-41 IRB 283. But the earlier procedure can still be useful because it contained a list of permitted business purposes for spins, not appearing in the current procedure.

Rev. Proc. 84-42, 1984-1 CB 521, used to be a very important guideline for all reorganization rulings and still has useful checklists, although it may be out of date in some parts. Rev. Proc. 2001-28, 2001-1 CB 1156, is an important checklist for rulings that leveraged leases are leases.

Even the list in Rev. Proc. 2020-1 misses some guidelines. Rev. Proc. 67-14, 1967-1 CB 591, addresses conditions under which the IRS will issue rulings on waiver of dividends transactions when a family relationship exists between the waiving and remaining stockholders.

The message is: don't assume there is not a ruling guideline that may assist you in analyzing a tax question.

For more information, please contact [Jack Cummings](#) at 919.862.2302.

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