

Taking Advantage of the Reduced Maximum Exclusion on the Sale of a Principal Residence

By James L. Wittenbach

James L. Wittenbach examines the safe harbors regulations and recent letter rulings allowing the reduced maximum exclusion to apply.

Introduction

Under Sections 121(a) and (b) of the Internal Revenue Code, taxpayers who have owned and used property as a principal residence for at least two of the previous five years ending on the sale or exchange date can exclude up to \$250,000 of the gain (\$500,000 for certain joint filers). The Code Sec. 121 exclusion is applicable to only one sale every two years. Because a personal residence is a capital asset, any gain not excluded under this provision is a capital gain. On the other hand, a loss on the sale or exchange of a personal residence is not recognized.

For individuals who do not satisfy these rather strict requirements, a reduced exclusion may be available if the sale or exchange is due to a change in place of employment, health or unforeseen circumstances. This article focuses on the final regulations providing safe harbors for individuals who fail the use-and-ownership requirements or the one-sale-every-two-years rule, and examines recently released IRS letter rulings dealing with unforeseen circumstances.

Reduced Maximum Exclusion

Code Sec. 121(c)(2) provides for a reduced maximum exclusion for a taxpayer who sells or exchanges his or her principal residence but fails to meet the use-and-ownership requirements or the two-year limitation. In order for a taxpayer to claim a reduced maximum

exclusion, the primary reason the individual sold or exchanged the home was a change in place of employment, health or unforeseen circumstances. Six factors that may be relevant in determining the taxpayer's primary reason for the sale or exchange include (but are not limited to) whether:¹

- the sale or exchange and the circumstances giving rise to the sale or exchange are proximate in time;
- the suitability of the property as the taxpayer's principal residence materially changes;
- the taxpayer's financial ability to maintain the property is materially impaired;
- the taxpayer uses the property as the taxpayer's residence during the period of the taxpayer's ownership of the property;
- the circumstances giving rise to the sale or exchange are not reasonably foreseeable when the taxpayer begins using the property as the taxpayer's principal residence; and
- the circumstances giving rise to the sale or exchange occur during the period of the taxpayer's ownership and use of the property as the taxpayer's principal residence.

Sale or Exchange by Reason of a Change in Place of Employment

A sale or exchange of a taxpayer's principal residence is by reason of a change in place of employment if the primary reason for the sale or exchange is a change in the location of employment of a qualified individual. Before providing a few examples from the regulations, three key terms are defined.

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Qualified Individual

For purposes of the reduced maximum exclusion, a “qualified individual” means any of the following:²

- The taxpayer
- The taxpayer’s spouse
- A co-owner of the residence
- A person whose principal place of abode is in the same household as the taxpayer

Employment

“Employment,” for this purpose, includes “the commencement of employment with a new employer, the continuation of employment with the same employer, and the commencement or continuation of self-employment.”³

Safe Harbor

A sale or exchange is deemed to be by reason of a change in place of employment if both of the following are true:⁴

- The change in place of employment occurs during the period of the taxpayer’s ownership and use of the property as the taxpayer’s principal residence.
- The qualified individual’s new place of employment is at least 50 miles farther from the residence sold or exchanged than was the former place of employment, or, if there was no former place of employment, the distance between the qualified individual’s new place of employment and the residence sold or exchanged is at least 50 miles.

The following examples illustrate a sale or exchange by reason of a change in place of employment:⁵

Example 1. A is unemployed and owns a townhouse that she has owned and used as her principal residence since 2005. In 2006, A obtains a job that is 54 miles from her townhouse, and she sells the townhouse. Because the distance between A’s new place of employment and the townhouse is at least 50 miles, the sale is within the safe harbor of paragraph (c)(2) of Reg. §1.121-3 and A is entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Example 2. B is an officer in the U.S. Air Force, stationed in Florida. B purchases a house in Florida in 2004. In May 2005, B moves out of his house to take a three-year assignment in Germany. B sells his house in January 2006. Because B’s new place of employment in Germany is at least 50

miles farther from the residence sold than is B’s former place of employment in Florida, the sale is within the safe harbor of paragraph (c)(2) of Reg. §1.121-3 and B is entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Example 3. C is employed by Employer R at R’s Philadelphia office. C purchases a house in February 2003 that is 35 miles from R’s Philadelphia office. In May 2004, C begins a temporary assignment at R’s Wilmington office that is 72 miles from C’s house, and moves out of the house. In June 2006, C is assigned to work in R’s London office. C sells her house in August 2006 as a result of the assignment to London. The sale of the house is not within the safe harbor of paragraph (c)(2) of Reg. §1.121-3 by reason of the change in place of employment from Philadelphia to Wilmington because the Wilmington office is not 50 miles farther from C’s house than is the Philadelphia office. Furthermore, the sale is not within the safe harbor by reason of the change in place of employment to London because C is not using the house as her principal residence when she moves to London. However, C is entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2) because, under the facts and circumstances, the primary reason for the sale is the change in C’s place of employment.

Example 4. In July 2005, D, who works as an emergency medicine physician, buys a condominium that is five miles from her place of employment and uses it as her principal residence. In February 2006, D obtains a job that is located 51 miles from D’s condominium. D may be called in to work unscheduled hours and, when called, must be able to arrive at work quickly. Because of the demands of the new job, D sells her condominium and buys a townhouse that is four miles from her new place of employment. Because D’s new place of employment is only 46 miles farther from the condominium than is D’s former place of employment, the sale is not within the safe harbor of paragraph (c)(2) of Reg. §1.121-3. However, D is entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2) because, under the facts and circumstances, the primary reason for the sale is the change in D’s place of employment.

Sale or Exchange by Reason of Health

A sale or exchange is because of health “if the primary reason for the sale or exchange is to obtain, provide, or facilitate the diagnosis, cure, mitigation, or treatment of disease, illness, or injury of a qualified individual ... , or to obtain or provide medical or personal care for a qualified individual suffering from a disease, illness or injury.”⁶ By reason of health does not include a sale or exchange that is merely beneficial to the general health or well-being of a taxpayer.⁷

The term “qualified individual” includes those listed above (taxpayer, taxpayer’s spouse, co-owner of the residence or a person whose principal place of abode is in the same household as the taxpayer) as well as the following:⁸

- Parent, grandparent, stepmother, stepfather
- Child, grandchild, stepchild, adopted child
- Brother, sister, stepbrother, stepsister, half brother, half sister
- Mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law
- Uncle, aunt, nephew, niece, or cousin

Example 5. In 2005, H and W purchase a house in Michigan that they use as their principal residence. H’s doctor tells H that he should get more outdoor exercise, but H is not suffering from any disease that can be treated or mitigated by outdoor exercise. In 2006, H and W sell their house and move to Florida so that H can increase his general level of exercise by playing golf year-round. Because the sale of the house is merely beneficial to H’s general health, the sale of the house is not by reason of H’s health. H and W are not entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Safe Harbor

A sale or exchange of a taxpayer’s principal residence is considered to be by reason of health if a doctor recommends a change of residence for reasons of health outlined above.⁹

Example 6. B, who has chronic asthma, purchases a house in Minnesota in 2005 that he

uses as his principal residence. B’s doctor tells B that moving to a warm, dry climate would mitigate B’s asthma symptoms. In 2006, B sells his house and moves to Arizona to relieve his asthma symptoms. The sale is within the safe harbor of paragraph (d)(2) of Reg. §1.121-3 and B is entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

The following examples illustrate a sale or exchange by reason of health:¹⁰

Example 7. In 2005, A buys a house that she uses as her principal residence. A is injured in an accident and is unable to care for herself. A sells her house in 2006 and moves in with her daughter so that the daughter can provide the care that A requires as a result of her injury. Because, under the facts and circumstances, the primary reason for the sale of A’s house is A’s health, A is entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Example 8. H’s father has a chronic disease. In 2005, H and W purchase a house that they use as their principal residence. In 2006, H and W sell their house in order to move into the house of H’s father so that they can provide the care he requires as a result of his disease. Because, under the facts and circumstances, the primary reason for the sale of their house is the health of H’s father, H and W are entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Example 9. H and W purchase a house in 2005 that they use as their principal residence. Their son suffers from a chronic illness that requires regular medical care. Later that year their son begins a new treatment that is available at a hospital 100 miles away from their residence. In 2006, H and W sell their house so that they can be closer to the hospital to facilitate their son’s treatment. Because, under the facts and circumstances, the primary reason for the sale is to facilitate the treatment of their son’s chronic illness, H and W are entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Insight is also provided by the IRS with the recent release of numerous private letter rulings.

In a recent letter ruling, the IRS ruled that the taxpayer could exclude gain up to the reduced maximum exclusion amount under Code Sec. 121(c) because the taxpayer sold his home in order to purchase a house that would better accommodate his wife's disabled mother.¹¹

Another recent ruling involved a couple who owned a residence with an elderly couple as joint tenants. Because of declining health the elderly couple moved to an assisted living facility. Soon after moving to the assisted living facility one of the co-owners was moved to the hospice care portion of the facility. The home was sold shortly after even though the younger couple had lived there for fewer than two years. The IRS concluded that the younger couple could exclude gain up to the reduced maximum exclusion under Code Sec. 121(c).¹²

Sale or Exchange by Reason of Unforeseen Circumstances

A sale or exchange of a primary residence is because of an unforeseen circumstance if the taxpayer's primary reason for the sale or exchange is the occurrence of an event that the individual could not reasonably have anticipated prior to buying and occupying the main home.¹³ However, unforeseen circumstances does not include selling or exchanging a residence simply because the taxpayer has a preference for a different home or wishes to improve his or her financial circumstances.¹⁴

Example 10. In 2005, F buys a small condominium that she uses as her principal residence. In 2006, F receives a promotion and a large increase in her salary. F sells the condominium in 2006 and purchases a house because she can now afford the house. The safe harbors of paragraph (e)(2) of Reg. §1.121-3 do not apply. Under the facts and circumstances, the primary reason for the sale of the house, F's salary increase, is an improvement in F's financial circumstances. Under paragraph (e)(1) of Reg. §1.121-3, an improvement in financial circumstances, even if the result of unforeseen circumstances, does not qualify for the reduced maximum exclusion by reason of unforeseen circumstances under Code Sec. 121(c)(2).

Example 11. In April 2005, G buys a house that he uses as his principal residence. G sells his house in October 2006 because the house has greatly appreciated in value, mortgage rates have substantially decreased, and G can afford a bigger house. The safe harbors of paragraph (e)(2) of

Reg. §1.121-3 do not apply. Under the facts and circumstances, the primary reasons for the sale of the house, the changes in G's house value and in the mortgage rates, are an improvement in G's financial circumstances. Under paragraph (e)(1) of Reg. §1.121-3, an improvement in financial circumstances, even if the result of unforeseen circumstances, does not qualify for the reduced maximum exclusion by reason of unforeseen circumstances under Code Sec. 121(c)(2).

Safe Harbors

A sale or exchange is deemed to be by reason of unforeseen circumstances if any of the following events occur during the time of the individual's ownership and use of the home as his or her principal residence:¹⁵

- An involuntary conversion of the individual's home
- Natural or man-made disasters or acts of war or terrorism resulting in a casualty to the residence (without regard to deductibility of the loss)
- In the case of a qualified individual:
 - Death
 - Unemployment that results in the individual being eligible for unemployment compensation
 - A change in employment or self-employment status that results in the taxpayer's inability to pay housing costs and reasonable basic living expenses for the taxpayer's household¹⁶
 - Divorce or legal separation under a decree of divorce or separate maintenance
 - Multiple births resulting from the same pregnancy

Three examples of house sales that fall within the safe harbor parameters (and one example that does not) follow.¹⁷

Example 12. In 2005, A buys a house in California. After A begins to use the house as her principal residence, an earthquake causes damage to A's house. A sells the house in 2006. The sale is within the safe harbor of paragraph (e)(2)(ii) of Reg. §1.121-3 and A is entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Example 13. H works as a teacher and W works as a pilot. In 2005, H and W buy a house that they use as their principal residence. Later that year W is furloughed from her job for

six months. H and W are unable to pay their mortgage and reasonable basic living expenses for their household during the period W is furloughed. H and W sell their house in 2006. The sale is within the safe harbor of paragraph (e)(2)(iii)(C) of Reg. §1.121-3 and H and W are entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Example 14. In 2005, H and W buy a two-bedroom condominium that they use as their principal residence. In 2006 W gives birth to twins and H and W sell their condominium and buy a four-bedroom house. The sale is within the safe harbor of paragraph (e)(2)(iii)(E) of Reg. §1.121-3, and H and W are entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Example 15. In 2005, C buys a house that he uses as his principal residence. The property is located on a heavily traveled road. C sells the property in 2006 because C is disturbed by the traffic. The safe harbors of paragraph (e)(2) of Reg. §1.121-3 do not apply. Under the facts and circumstances, the primary reason for the sale, the traffic, is not an unforeseen circumstance because C could reasonably have anticipated the traffic at the time he purchased and occupied the house. Consequently, the sale of the house is not by reason of unforeseen circumstances and C is not entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

The following three examples illustrate events that are not within the safe harbor provisions of the law but do come under the designation as unforeseen circumstances.¹⁸

Example 16. In 2005, B buys a condominium in a high-rise building and uses it as his principal residence. B's monthly condominium fee is \$X. Three months after B moves into the condominium, the condominium association replaces the building's roof and heating system. Six months later, B's monthly condominium fee doubles in order to pay for the repairs. B sells the condominium in 2006 because he is unable to afford the new condominium fee along with a monthly mortgage payment. The safe harbors of paragraph (e)(2) of Reg. §1.121-3 do not apply. However, under the facts and circumstances, the primary reason for the sale, the doubling of the

condominium fee, is an unforeseen circumstance because B could not reasonably have anticipated that the condominium fee would double at the time he purchased and occupied the property. Consequently, the sale of the condominium is by reason of unforeseen circumstances and B is entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Example 17. In 2005, D and her fiancé E buy a house and live in it as their principal residence. In 2006, D and E cancel their wedding plans and E moves out of the house. Because D cannot afford to make the monthly mortgage payments alone, D and E sell the house in 2006. The safe harbors of paragraph (e)(2) of Reg. §1.121-3 do not apply. However, under the facts and circumstances, the primary reason for the sale, the broken engagement, is an unforeseen circumstance because D and E could not reasonably have anticipated the broken engagement at the time they purchased and occupied the house. Consequently, the sale is by reason of unforeseen circumstances and D and E are each entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Example 18. H works as a police officer for City X. In 2005, H buys a condominium that he uses as his principal residence. In 2006, H is assigned to City X's K-9 unit and is required to care for the police service dog at his home. Because H's condominium association does not permit H to have a dog in his condominium, in 2006 he sells the condominium and buys a house. The safe harbors of paragraph (e)(2) of Reg. §1.121-3 do not apply. However, under the facts and circumstances, the primary reason for the sale, H's assignment to the K-9 unit, is an unforeseen circumstance because H could not reasonably have anticipated his assignment to the K-9 unit at the time he purchased and occupied the condominium. Consequently, the sale of the condominium is by reason of unforeseen circumstances and H is entitled to claim a reduced maximum exclusion under Code Sec. 121(c)(2).

Under the regulations, the IRS may designate other events or situations as unforeseen circumstances in published guidance of general applicability.¹⁹ The IRS may also issue private letter rulings addressed to specific individuals identifying other events or situations as unforeseen circumstances.²⁰

Recent Private Letter Rulings

A number of recent IRS private letter rulings address situations where taxpayers sell their homes due to unforeseen circumstances. In each of these rulings, the taxpayers were allowed a partial Code Sec. 121(c) gain exclusion even though they had owned and used their principal residence for less than two of the preceding five years. The facts surrounding ten of the more recent rulings are summarized below. These rulings clearly show that the IRS' interpretation of the term "unforeseen circumstances" is very broad and therefore very beneficial to taxpayers:

- A, a family member and inhabitant of the taxpayer's house, was placed on probation and spent one year at a rehabilitation facility. As a result, the taxpayers sold their old home and purchased a new home in a new neighborhood. Subsequently, the court ordered A to live at the new residence under house arrest and to continue receiving rehabilitation counseling. Taxpayers' neighbors vehemently protested A's presence in the neighborhood. They made threats against A, insisted that A not spend time outside in the taxpayer's yard and have interfered with A's attempts to find employment. A's probation officer recommended selling taxpayer's residence and moving the family to another neighborhood in order to improve A's chances of ending or reducing the period of A's probation and house arrest.²¹
- A married couple moved to a different state and purchased a new residence because of a new job opportunity. They subsequently sold the house for the following reasons: (1) they became aware of various criminal activities occurring in their neighborhood; (2) their son was assaulted and threatened; and (3) one of the taxpayers was assaulted by several of the neighbors, which resulted in a trip to the hospital emergency room.²²
- A married couple acquired a new house together that was located in the school district of the spouse's child. Their intent was to move back to the first home purchased by the taxpayer alone after spouse's youngest child graduated from school. Because of their intent to return, taxpayer rented out the first house while they lived in the second house. After the family moved to the second house, taxpayer and spouse had a child. The first house was no longer large enough for their family so they sold it.²³
- A married couple retired and moved to a new community in another state. Subsequent to moving their daughter lost her job and divorced her husband. Because of the daughter's changed financial and marital situation, the daughter (and grandchild) had to move in with her parents. However, because of the age restrictions in the parent's new community, the daughter and grandchild were unable to live with them. As a result, the parents sold their house and moved back to their original state where they purchased a residence that would accommodate the extended family.²⁴
- Taxpayer purchased a home that contained three bedrooms. Taxpayer occupied one of the bedrooms and taxpayer's three sons occupied the remaining two bedrooms. After moving into the new home, taxpayer decided to adopt an orphan girl from a foreign country. Taxpayer soon discovered that under state law it would not be possible to adopt unless the orphan girl had a separate sizable bedroom. Therefore, taxpayer sold the residence and rented a larger home with an additional room in which a girl could have her own bedroom.²⁵
- Taxpayer, who is employed as a narcotic investigator, conducted a highly publicized arrest of an alleged drug dealer. Following the arrest, associates of the arrested individual discovered taxpayer's home address and planned to kill taxpayer in his home. In response to the threat, the police provided 24-hour security for taxpayer and his family. Because taxpayer feared for the safety of his family, he sold the residence.²⁶
- Unmarried taxpayers jointly purchased a principal residence. Approximately seven months later, one of the taxpayers discovered that she was one-month pregnant. Unfortunately, she and the father of the expected child were no longer in a relationship. The residence they jointly owned was not large enough to accommodate two adults and a child. Furthermore, neither taxpayer could afford to make the monthly mortgage payments on the residence alone. Consequently, the taxpayers made the decision to sell their home and fine separate residences.²⁷
- Shortly after purchasing and occupying property as his principal residence, taxpayer realized there was substantial noise from airplanes flying overhead during peak flight periods. Taxpayer represents that had he known or been advised how noisy the flight traffic would be, he would not have purchased the home. Although the taxpayer ended up selling the house at a loss, the IRS ruled that the settlement proceeds from his lawsuit (*i.e.*, taxpayer sued the sellers, their real estate agent, and his own real estate agent for their failure to disclose the noise) could be treated as proceeds from the sale of a principal residence.²⁸

- As taxpayer was leaving principal residence, an assistant held a gun to taxpayer's head and forced taxpayer to drive to several locations including an ATM where taxpayer withdrew money for the assailant. Due to the traumatic and violent nature of the crime, taxpayer made the decision to sell the residence.²⁹
- Taxpayer, who is employed as a police officer, and spouse purchased a townhouse as their principal residence. Subsequently, taxpayer was selected to become a K-9 officer. This position required the taxpayer to care for a dog and maintain a kennel at the officer's home. Because the homeowners association for taxpayer's townhouse did not allow residents to maintain a kennel, taxpayer and spouse sold the townhouse.³⁰

Computation of Reduced Maximum Exclusion

As outlined in the regulations, the reduced maximum exclusion is determined by multiplying the maximum dollar limitation of \$250,000 (\$500,000 for certain joint filers) by a fraction. The numerator of the fraction, expressed in days or months, is the shortest of the following:³¹

- The period of time that the taxpayer owned the property during the five-year period ending on the date of the sale or exchange
- The period of time that the taxpayer used the property as the taxpayer's principal residence during the five-year period ending on the date of the sale or exchange
- The period of time between the date of a prior sale or exchange of property for which the taxpayer excluded gain under Code Sec. 121 and the date of the current sale or exchange

The denominator of the fraction depends on the measure of time used in the numerator (*i.e.*, 730 days or 24 months). The application of the above rules is illustrated in the following two examples.³²

Example 19. Taxpayer A purchases a house that she used as her principal residence. Twelve months after the purchase, A sells the house due to a change in place of her employment. A has not excluded gain under Code Sec. 121 on a prior sale or exchange of property within the last two years. A is eligible to exclude up to \$125,000 of the gain from the sale of her house ($12/24 \times \$250,000$).

Example 20. (i) Taxpayer H owns a house that he has used as his principal residence since 2002. On January 15, 2005, H and W marry and W begins to use H's house as her principal residence. On January 15, 2006, H sells the house due to a change in W's place of employment. Neither H nor W has excluded gain under Code Sec. 121 on a prior sale or exchange of property within the last two years.

(ii) Because H and W have not each used the house as their principal residence for at least two years during the five-year period preceding its sale, the maximum dollar limitation amount that may be claimed by H and W will not be \$500,000, but the sum of each spouse's limitation amount determined on a separate basis as if they had not been married.³³

(iii) H is eligible to exclude up to \$250,000 of gain because he meets the requirements of Code Sec. 121. W is not eligible to exclude the maximum dollar limitation amount. Instead, because the sale of the house is due to a change in place of employment, W is eligible to claim a reduced maximum exclusion of up to \$125,000 of the gain ($365/730 \times \$250,000$). Therefore, H and W are eligible to exclude up to \$375,000 of gain ($\$250,000 + \$125,000$) from the sale of the house.

Conclusion

Under Code Sec. 121(a) and (b), taxpayers who satisfy the use-and-ownership requirements and the one sale every two years rule will be entitled to exclude up to \$250,000 of the gain (\$500,000 in the case of joint filers). However, taxpayers who do not meet these rather restrictive conditions can still take advantage of a reduced maximum exclusion under Code Sec. 121(c) assuming the home sale was the result of a change in place of employment, health or unforeseen circumstances. Safe harbors, outlined in the regulations, give guidance on how to qualify for a reduced exclusion. Insight is also provided by the IRS with the recent release of numerous private letter rulings.

By being aware of the opportunities and the pitfalls that surround Code Sec. 121, taxpayers will be in a position to maximize the after tax cash flow resulting from the sale of their primary residence. This, in turn, would go a long way towards a down payment on the next home.

ENDNOTES

- ¹ Reg. §1.121-3(b).
² Reg. §1.121-3(f).
³ Reg. §1.121-3(c)(3).
⁴ Reg. §1.121-3(c)(2). Note that this is the same test that applies to the deductibility of moving expenses under Code Sec. 217.
⁵ Reg. §1.121-3(c)(4), Examples 1–4.
⁶ Reg. §1.121-3(d)(1).
⁷ Reg. §1.121-3(d)(1). See Reg. §1.121-3(d)(3), Example 5.
⁸ Reg. §1.121-3(f)(5).
⁹ See Code Sec. 213(d)(4) for definition of a doctor. Also, see Reg. §1.121-3(d)(3), Example 4.
¹⁰ See Reg. §1.121-3(d)(3), Examples 1, 2 and 3.
¹¹ LTR 200626024 (Mar. 23, 2006).
¹² LTR 200604013 (Oct. 18, 2005).
¹³ Reg. §1.121-3(e)(1).
¹⁴ Reg. §1.121-3(e)(1), and Examples 7 and 8 from Reg. §1.121-3(e)(4).
¹⁵ Reg. §1.121-3(e)(2).
¹⁶ Reasonable basic living expenses include food, clothing, medical expenses, taxes, transportation, court-ordered payments and expenses reasonably necessary to the production of income, but not for the maintenance of an affluent or luxurious standard of living.
¹⁷ See Reg. §1.121-3(e)(4), Examples 1, 2, 3 and 5.
¹⁸ See Reg. §1.121-3(e)(4), Examples 4, 6 and 9.
¹⁹ For example, the IRS determined the September 11, 2001, terrorist attacks to be an unforeseen circumstance. See Notice 2002-60, 2002-2 CB 482.
²⁰ Reg. §1.121-3(e)(3).
²¹ LTR 200403049 (Sept. 26, 2003).
²² LTR 200601009 (Sept. 30, 2005).
²³ LTR 200601022 (Sept. 30, 2005).
²⁴ LTR 200601023 (Sept. 30, 2005).
²⁵ LTR 200613009 (Dec. 19, 2005).
²⁶ LTR 200615011 (Dec. 8, 2005).
²⁷ LTR 200652041 (Sept. 30, 2005).
²⁸ LTR 200702032 (Sept. 29, 2006).
²⁹ LTR 200630004 (Apr. 28, 2006).
³⁰ LTR 200504012 (Oct. 14, 2004).
³¹ Reg. §1.121-3(g)(1).
³² Reg. §1.121-3(g)(2). See Examples 1 and 2.
³³ Reg. §1.121-2(a)(3)(ii).

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