

## § 1.457-12

transfer is in partial settlement of the commitment made in 2010 and, at the time of the transfer in 2018, the present value of the commitment is \$80,000. In 2020, X pays D the \$12,500 that remains due.

(ii) *Conclusion.* In this *Example 4*, D has income of \$50,000 in 2010. In 2018, D has income of \$30,000, which is the amount transferred in 2018, minus the allocable portion of the basis that results from the \$50,000 of income in 2010. (Under section 72(e)(2)(B), income is allocated first. The income is equal to \$30,000 (\$80,000 minus the \$50,000 basis), with the result that the allocable portion of the basis is equal to \$40,000 (\$70,000 minus the \$30,000 of income.) In 2020, D has income of \$2,500 (\$12,500 minus \$10,000, which is the excess of the original \$50,000 basis over the \$40,000 basis allocated to the transfer made in 2018).

[T.D. 9075, 68 FR 41240, July 11, 2003]

## § 1.457-12 Effective dates.

(a) *General effective date.* Except as otherwise provided in this section, §§ 1.457-1 through 1.457-11 apply for taxable years beginning after December 31, 2001.

(b) *Transition period for eligible plans to comply with EGTRRA.* For taxable years beginning after December 31, 2001, and before January 1, 2004, a plan does not fail to be an eligible plan as a result of requirements imposed by the Economic Growth and Tax Relief Reconciliation Act of 2001 (115 Stat. 385) (EGTRRA) (Public Law 107-16) June 7, 2001, if it is operated in accordance with a reasonable, good faith interpretation of EGTRRA.

(c) *Special rule for distributions from rollover accounts.* The last sentence of § 1.457-6(a) (relating to distributions of amounts held in a separate account for eligible rollover distributions) applies for taxable years beginning after December 31, 2003.

(d) *Special rule for options.* Section 1.457-11(d) does not apply with respect to an option without a readily ascertainable fair market value (within the meaning of section 83(e)(3)) that was granted on or before May 8, 2002.

(e) *Special rule for qualified domestic relations orders.* Section 1.457-10(c) (relating to qualified domestic relations orders) applies for transfers, distributions, and payments made after December 31, 2001.

[T.D. 9075, 68 FR 41240, July 11, 2003]

## 26 CFR Ch. I (4-1-04 Edition)

### § 1.458-1 Exclusion for certain returned magazines, paperbacks, or records.

(a) *In general—(1) Introduction.* For taxable years beginning after September 30, 1979, section 458 allows accrual basis taxpayers to elect to use a method of accounting that excludes from gross income some or all of the income attributable to qualified sales during the taxable year of magazines, paperbacks, or records, that are returned before the close of the applicable merchandise return period for that taxable year. Any amount so excluded cannot be excluded or deducted from gross income for the taxable year in which the merchandise is returned to the taxpayer. For the taxable year in which the taxpayer first uses this method of accounting, the taxpayer is not allowed to exclude from gross income amounts attributable to merchandise returns received during the taxable year that would have been excluded from gross income for the prior taxable year had the taxpayer used this method of accounting for that prior year. (See paragraph (e) of this section for rules describing how this amount should be taken into account.) The election to use this method of accounting shall be made in accordance with the rules contained in section 458(c) and in § 1.458-2 and this section. A taxpayer that does not elect to use this method of accounting can reduce income for returned merchandise only for the taxable year in which the merchandise is actually returned unsold by the purchaser.

(2) *Effective date.* While this section is generally effective only for taxable years beginning after August 31, 1984, taxpayers may rely on the provisions of paragraphs (a) through (f) of this section in taxable years beginning after September 30, 1979.

(b) *Definitions—(1) Magazine.* “Magazine” means a publication, usually paper-backed and sometimes illustrated, that is issued at regular intervals and contains stories, poems, articles, features, etc. This term includes periodicals, but does not include newspapers or volumes of a single publication issued at various intervals. However, volumes of a single publication that are issued at least annually, are