

Ruling 98-01

Vermont Department of Taxes

Date: April 2, 1998

Written By: Danforth Cardozo, Special Assistant Attorney General

Approved By: Edward W. Haase, Commissioner of Taxes

You have requested a ruling on the application of the regulations prescribed under I.R.C. § 1502 and the Vermont land gains regulation § 1.10005(d)-1 to the transfer by [Affiliate Co. No. 1] of [#] "quarter share" interval ownership condominium units at the [Condominium No. 1], and [#] "quarter share" interval ownership condominium units at the [Condominium No. 2].

It appears from the information you have provided that [Affiliate Co. No. 1] purchased [#] acres of land at [Town], VT, from [Affiliate Co. No. 2]., and [#] acres at [Town], VT on [date], from [Affiliate Co. No. 3]. The "quarter share" interval ownership condominium units referred to above have been declared on the purchased land pursuant to the Vermont Condominium Ownership Act. [Affiliate Co. No. 1], [Affiliate Co. No. 2], and [Affiliate Co. No. 3] are members of the [Parent Company] affiliated group of companies and join in filing a federal consolidated income tax return.

In the case of inter-company transfers between corporations that are members of the same consolidated group, I.R.C. Reg. § 1.1502-13(b)(1), the holding period in such a transfer is the sum of the holding periods of the transferor and transferee. I.R.C. Reg. § 1.1502-13(c)(1)(ii).

Since [Affiliate Co. No. 2], [Affiliate Co. No. 3] and [Affiliate Co. No. 1] are members of the same consolidated group, and the purchase of each of these two properties by [Affiliate Co. No. 1] was an inter-company transaction, the holding period in the hands of [Affiliate Co. No. 2] and [Affiliate Co. No. 3] tack to [Affiliate Co. No. 1]'s holding period for the purposes of the Vermont land gains tax. Reg. § 1.10005(d)-1 provides that the holding period for purposes of the land gains tax follows the holding period rules in the Internal Revenue Code, including "tacking." The regulation further provides that tacking under the Internal Revenue Code normally occurs when there is a sale or exchange in which nonrecognition of gain is permitted and the basis is either a carry-over basis or a substituted basis.

This ruling is issued solely to your business and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the department will not be bound by this ruling in the case of any other taxpayer or in the case of any change in the relevant statute or regulations.