



**STATE OF NEW YORK
EXCELSIOR JOBS PROGRAM**

INTERNAL REVENUE CODE SECTION 465 (B) (3) (C) – Related Person

(C) Related person – For purposes of this subsection, a person (hereinafter in this paragraph referred to as the “related person”) is related to any person if:

- (i) the related person bears a relationship to such person specified in section 267 (b) or section 707 (b)(1), or
- (ii) the related person and such person are engaged in trades or business under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of clause (i), in applying section 267 (b) or 707 (b)(1), “10 percent” shall be substituted for “50 percent”.

Section 267 (b) Relationships

The persons referred to in subsection (a) are:

- (1) Members of a family, as defined in subsection (c)(4);
- (2) An individual and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual;
- (3) Two corporations which are members of the same controlled group (as defined in subsection (f));
- (4) A grantor and a fiduciary of any trust;
- (5) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (6) A fiduciary of a trust and a beneficiary of such trust;
- (7) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (8) A fiduciary of a trust and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (9) A person and an organization to which section 501 (relating to certain educational and charitable organizations which are exempt from tax) applies and which is controlled directly or indirectly by such person or (if such person is an individual) by members of the family of such individual;
- (10) A corporation and a partnership if the same persons own—
 - (A) more than 50 percent in value of the outstanding stock of the corporation, and
 - (B) more than 50 percent of the capital interest, or the profits interest, in the partnership;
- (11) An S corporation and another S corporation if the same persons own more than 50 percent in value of the outstanding stock of each corporation;
- (12) An S corporation and a C corporation, if the same persons own more than 50 percent in value of the outstanding stock of each corporation; or
- (13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate.

OR

§ 707(b) Certain sales or exchanges of property with respect to controlled partnerships

(1) Losses disallowed

No deduction shall be allowed in respect of losses from sales or exchanges of property (other than an interest in the partnership), directly or indirectly, between:

- (A) a partnership and a person owning, directly or indirectly, more than 50 percent of the capital interest, or the profits interest, in such partnership, or
- (B) two partnerships in which the same persons own, directly or indirectly, more than 50 percent of the capital interests or profits interests.

In the case of a subsequent sale or exchange by a transferee described in this paragraph, section 267 (d) shall be applicable as if the loss were disallowed under section 267 (a)(1). For purposes of section 267 (a)(2), partnerships described in subparagraph (B) of this paragraph shall be treated as persons specified in section 267(b)

§ 52. Special rules

(a) Controlled group of corporations

For purposes of this subpart, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) determined under section 51 (a) with respect to each such member shall be its proportionate share of the wages giving rise to such credit. For purposes of this subsection, the term “controlled group of corporations” has the meaning given to such term by section 1563 (a), except that—

- (1) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in section 1563 (a)(1), and
- (2) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(b) Employees of partnerships, proprietorships, etc., which are under common control

For purposes of this subpart, under regulations prescribed by the Secretary—

- (1) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and
- (2) the credit (if any) determined under section 51 (a) with respect to each trade or business shall be its proportionate share of the wages giving rise to such credit.

The regulations prescribed under this subsection shall be based on principles similar to the principles which apply in the case of subsection (a).