

University of Mississippi

eGrove

AICPA Committees

American Institute of Certified Public
Accountants (AICPA) Historical Collection

1965

**Tax Committee Comments and Recommendations, No 5:
Comments on Proposed Regulations Under Section 341 of the
Internal Revenue Code Relating to Collapsible Corporations,
Submitted to the IRS - Jan. 15, 1965**

American Institute of Certified Public Accountants. Committee on Federal Taxation

Follow this and additional works at: https://egrove.olemiss.edu/aicpa_comm



Part of the [Accounting Commons](#), and the [Taxation Commons](#)

TAX COMMITTEE COMMENTS AND RECOMMENDATIONS

Comments on Proposed Regulations
Under Section 341 of the Internal Revenue Code
Relating to Collapsible Corporations

Submitted to the IRS - Jan. 15, 1965

Part of a Special Series Published by
The American Institute of Certified Public Accountants

COMMITTEE ON FEDERAL TAXATION

of the

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

Comments on Proposed Regulations Under
Section 341 of the Internal Revenue Code of 1954
Relating to Collapsible Corporations

Section

1.

1.341-6(b)(4)

This subparagraph establishes the rules for determining the extent to which activities of a "more than 20% shareholder" taint the assets of the corporation for purposes of determining whether those assets are subsection (e) assets under Section 341(e)(5)(A)(i) and (iii). The rules, at this point in the proposed regulations, should apply only for purposes of making the general corporate test, and not for purposes of making the test with respect to a sale of stock by a specific stockholder owning 20% or more of the stock in this corporation and "more than 20% of the stock in another corporation, etc." The extent to which his activities outside the corporation taint the corporate assets for purposes of such a specific sale is determined under Sections 341(e)(1)(C) and 341(e)(2)(C) and Proposed Regulations Section 1.341-6(c)(3)(ii).

The language in this subparagraph, however, in referring to the indirect activities of such a stockholder and in making a cross-reference to paragraph (d) of the proposed regulations (dealing with ownership of stock in related corporations) infers that these indirect activities of a "more than 20% stockholder" including the indirect activities through related corporations, might create subsection (e) assets in the corporation even for purposes of determining collapsibility of a sale of stock by a stockholder owning 20% or less of the corporation's stock. This

inference is an extension of the statute and should be eliminated. Moreover, the presumption created in this subparagraph is, in one instance, inappropriate and should be eliminated.

The subparagraph should be reworded as follows:

(a) Language such as "all the facts and circumstances surrounding the activities of the shareholder" should be substituted for the present language "all the facts and circumstances of the direct and indirect activities of the shareholder."

(b) In the second sentence, the language "or has held" should be deleted so that the presumption only applies if the stockholder presently holds similar property for sale. If a specific reference must be made to the situation where the stockholder previously held similar property for sale, that fact should not create a presumption but should only be indicated as a factor to be taken into consideration.

(c) In the third sentence the words "direct and indirect" should be deleted.

(d) The last sentence, referring to paragraph (d), should be deleted.