**8772. What is a publicly traded partnership?**

A publicly traded partnership is a partnership that is either (1) traded on an established securities market, or (2) is readily tradable on a secondary market or the substantial equivalent thereof (discussed below).[[1]](#footnote-1)

Generally, a partnership that is not traded on an established securities market will be treated as readily tradable on a secondary market or the substantial equivalent thereof if, taking into account all of the facts and circumstances, the partners are readily able to buy, sell, or exchange their partnership interests in a manner that is comparable, economically, to trading on an established securities market. This occurs if any of the following are true:

(1) partnership interests are regularly quoted by any person making a market in the interests;

(2) any person regularly makes bids or offers quotes pertaining to the interests available to the public and stands ready to effect buy or sell transactions regarding same for itself or on behalf of others;

(3) a partnership interest holder has a readily available, regular, and ongoing opportunity to sell or exchange the interest through a public means of obtaining or providing information of offers to buy, sell, or exchange interests in the partnership; or

(4) prospective buyers and sellers have the opportunity to buy, sell, or exchange partnership interests in a time frame and with the regularity and continuity that is comparable to that described in (1)-(3) above.[[2]](#footnote-2)

Despite this, interests in a partnership are not readily tradable on a secondary market or the substantial equivalent thereof unless (1) the partnership participates in the establishment of the market or the inclusion of its interests thereon, or (2) the partnership recognizes transfers made on that market.[[3]](#footnote-3)

Generally, both general and limited partnership interests are included in calculations of percentage of partnership interests. However, if at any time during the taxable year, the general partner (and certain related persons under IRC Section 267(b) or IRC Section 707(b)(1)) own more than 10 percent of the outstanding interests in partnership capital and profit, the calculations are made without regard to interests owned by the general partner and the related persons.[[4]](#footnote-4)

The percentage of partnership interests that are traded in a tax year is equal to the sum of the monthly percentages. The percentage of partnership interests traded during a month is determined by reference to partnership interests outstanding during the month. Any monthly convention may be used (e.g., first of month, 15th of month, end of month), so long as it is reasonable and used consistently.

In the case of “block transfers,” the determination of percentage of partnership interests traded during a thirty day period is made with reference to partnership interests outstanding immediately prior to the block transfer.[[5]](#footnote-5) A block transfer occurs when a partner transfers interests exceeding 2 percent of total interests in partnership capital and profit during a 30 day period.

These rules apply to the taxable years of a partnership beginning after December 31, 1995, unless the partnership was actively engaged in an activity before December 4, 1995. In that case, these rules apply to taxable years beginning after December 31, 2005, unless the partnership added a substantial new line of business[[6]](#footnote-6) after December 4, 1995, in which case these rules apply to taxable years beginning on or after the addition of the new line of business.[[7]](#footnote-7) Different transitional rules applied to certain pre-1996 partnerships.[[8]](#footnote-8)

1. . IRC Sec. 7704(b). [↑](#footnote-ref-1)
2. . Treas. Reg. §1.7704-1(c). [↑](#footnote-ref-2)
3. . Treas. Reg. §1.7704-1(d). [↑](#footnote-ref-3)
4. . Treas. Reg. §1.7704-1(k)(1). [↑](#footnote-ref-4)
5. . Treas. Reg. §§1.7704-1(k)(2) to 1.7704-1(k)(4). [↑](#footnote-ref-5)
6. . Treas. Reg. §1.7704-2. [↑](#footnote-ref-6)
7. . Treas. Reg. §1.7704-1(l). Notice 88-75, 1988-2 CB 386, (see below) generally applies to partnerships exempted from the rules in this section. [↑](#footnote-ref-7)
8. . See Notice 88-75, 1988-2 CB 386. [↑](#footnote-ref-8)