

IRS 26 POINT CHECKLIST FOR RFC'S

[509] The following check sheet can provide a quick test of the validity of your BHPH lot and RFC. If the answers to the questions below are no, the issue probably merits further analysis.

RELATED FINANCE COMPANY CHECKSHEET

ORGANIZATION

1. Is the RFC a separate, legal entity from the dealership?
2. Does the RFC meet all state licensing requirements?
3. Does the RFC maintain all required, local business licenses?
4. Does the RFC comply with title and lien holder laws in its area?
5. Does the RFC have adequate capital to pay for the contracts?
6. Does the RFC have its own address and operate from separate facilities?
7. Does the RFC have its own telephone number?
8. Does the RFC maintain its own books, separate from the dealership(s)?
9. Does the RFC have its own employees?
10. Does the RFC compensate the employees directly?
11. Does the RFC pay its own expenses?
12. Does the RFC maintain its own bank accounts, separate from the related dealership(s)?

OPERATION

13. Does the lien holder on the finance contract change from the dealership to the finance company?
14. Does the dealership notify customers that the contracts were sold?
15. Does the RFC pay the dealership for the contracts at the time of purchase?
16. Does the RFC purchase any contracts from unrelated companies?
17. Does the RFC have written agreements with the dealership(s)?
18. If so, does the agreement state how the discount rate was determined?
19. Does the discount rate approximate the actual loss experience?
20. Are the finance contracts non-recourse?
21. Does the RFC handle repossessions?
22. Does the dealership sell any finance contracts to unrelated finance companies?
23. Does the RFC report income on a pro-rata basis?
24. Did the profit reported on the initial sale of the vehicle exceed the loss on the sale of the finance contract?
25. Does the RFC have a business purpose?
26. Did the RFC investigate items such as the borrower's credit history, length of the note, age of the vehicle, and payment history prior to determining FMV of the note?

CONCLUSION

[510] An adjustment is appropriate where the note is not discounted at fair market value to a "controlled financier" or where the Related Finance Company arrangement is an economic sham. If such is the case, then adjustments should be made to assign income to the proper year it was incurred in connection with the rules aforementioned.