

CFR Correction

In Title 26 of the Code of Federal Regulations, Part 1 (§§ 1.908 to 1.1000), revised as of April 1, 2008, in § 1.924(c)–1, make the following corrections:

1. On pages 62 and 63, remove paragraphs (d) introductory text, (d)(1) through (7), and (2) following (d)(7);
2. Reinstate paragraphs (d)(1) and (2) to read as set forth below; and
3. On page 64, in the last sentence of paragraph (d)(6), insert the word “in” before the words “§ 1.415(c)–2(b) and (c)”.

§ 1.924(c)–1 Requirement that a FSC be managed outside the United States.

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(d) *Disbursement of dividends, legal and accounting fees, and salaries of officers and directors out of the principal bank account of the FSC—(1) In general.* All dividends, legal fees, accounting fees, salaries of officers of the FSC, and salaries or fees paid to members of the board of directors of the FSC that are disbursed during the taxable year must be disbursed out of bank account(s) of the FSC maintained outside the United States. Such an account is treated as the principal bank account of the FSC for purposes of section 924(c). Dividends, however, may be netted against amounts owed to the FSC (e.g., commissions) by a related supplier through book entries. If the FSC regularly disburses its legal or accounting fees, salaries of officers, and salaries or fees of directors out of its principal bank account, the occasional, inadvertent payment by mistake of fact or law of such amounts out of another bank account will not be considered a disbursement by the FSC if, upon determination that such payment was made from another account, reimbursement to such other account is made from the principal bank account of the FSC within a reasonable period from the date of the determination. Disbursement out of the principal bank account of the FSC may be made by transferring funds from the principal bank account to a U.S. account of the FSC provided that (i) the payment of the dividends, salaries or fees to the recipients is made within 12 months of the transfer, (ii) the purpose of the expenditures is designated and, (iii) the payment of the dividends, salaries or fees is actually made out of the same U.S. account that received the disbursement from the principal bank account.

(2) *Reimbursement.* Legal or accounting fees, salaries of officers, and

salaries or fees of directors that are paid by a related person wholly or partially on behalf of a FSC must be reimbursed by the FSC. The amounts paid by the related person are not considered disbursed by the FSC until the related person is reimbursed by the FSC. The related person must be reimbursed no later than the last date prescribed for filing the FSC's tax return (including extensions) for the taxable year to which the reimbursement relates. Any reimbursement for amounts paid on behalf of the FSC must be disbursed out of the FSC's principal bank account (and not netted against any obligation owed by the related person to the FSC), as set forth in paragraph (c) of this section. To determine the amounts paid on behalf of the FSC, the FSC may rely upon a written statement or invoice furnished to it by the related person which shows the following:

(i) The actual fees charged for performing the legal or accounting services for the FSC or, if such fees cannot be ascertained by the related person, a good faith estimate thereof, and the actual salaries or fees paid for services as officers and directors of the FSC, and

(ii) The person who performed or provided the services.

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[FR Doc. E9–7205 Filed 3–30–09; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1****Income Taxes; Transfers of Property by U.S. Persons to Foreign Corporations***CFR Correction*

In Title 26 of the Code of Federal Regulations, Part 1 (§§ 1.301 to 1.400), revised as of April 1, 2008, on page 306, in § 1.367(a)–6T, in paragraph (e)(5)(ii)(B), reinstate the remainder of the first sentence, following the word “some”, to read as follows: “. . . portion of which was recaptured on the disposition, of the recaptured portions of those overall foreign losses after multiplication by the following fraction:”.

[FR Doc. E9–7203 Filed 3–30–09; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY**Alcohol and Tobacco Tax and Trade Bureau****27 CFR Parts 40, 41, 44, 46, and 71**

[Docket No. TTB–2009–0001; T.D. TTB–75; Re: Notice No. 93]

RIN 1513–AB70

Increase in Tax Rates on Tobacco Products and Cigarette Papers and Tubes; Floor Stocks Tax on Certain Tobacco Products, Cigarette Papers, and Cigarette Tubes; and Changes to Basis for Denial, Suspension, or Revocation of Permits (2009R–118P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Temporary Rule.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau is amending its regulations to implement certain provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (the Act). This final rule amends existing regulations to reflect increases in the Federal excise tax rates on tobacco products and cigarette papers and tubes, revises existing floor stocks tax regulations to reflect the scope of the floor stocks tax provisions of the Act, and revises existing regulations to include the new statutory criteria for denial, suspension, or revocation of tobacco permits. We also are soliciting comments from all interested parties on these amendments through a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

DATES: *Effective date:* March 31, 2009. *Applicability dates:* The amendments in 27 CFR 40.21, 40.23, 40.25, 40.25a, 40.351, 40.352, 41.30 through 41.35, 46.75, and 46.191 through 46.274, are applicable April 1, 2009. The amendments in 27 CFR 40.74, 40.332, 41.198, 44.92, 44.162, 71.46, and 71.46b were applicable on February 4, 2009.

FOR FURTHER INFORMATION CONTACT: For questions concerning floor stocks tax, contact the National Revenue Center, Alcohol and Tobacco Tax and Trade Bureau (*FloorStocksTax@ttb.gov*, 513–684–3334 or 1–877–TTB-FAQS (1–877–882–3277)); for other questions concerning this document, contact Amy Greenberg, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202–927–8210).

SUPPLEMENTARY INFORMATION: