(2) No. 058198 for use of product described in paragraph (a)(2) of this section.

* * * * *

§ 520.955 [Amended]

■ 6. In paragraph (b) of § 520.955, remove ''No. 000061'' and in its place add ''Nos. 000061 and 058198''.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 7. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.1465 [Amended]

■ 8. In paragraph (b) of § 524.1465, add ''026637,'' after ''025463,''.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 9. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

§ 556.733 [Amended]

■ 10. In paragraph (a) of § 556.733, remove ''10 micrograms'' and in its place add ''50 micrograms''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 11. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 12. In § 558.665, in the table, revise paragraph (e)(5) to read as follows:

§ 558.665 Zilpaterol.

* * * * *

(e) * * *

Zilpaterol in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
*	*	*	*	*
(5) 6.8 to provide 60 to 90 mg/head/day.	Monensin 10 to 40, plus tylosin 8 to 10.	Cattle fed in confinement for slaughter: As in paragraph (e)(1) of this section; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii;* and for reduction of incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Arcanobacterum (Actinomyces) pyogenes*.	As in paragraph (e)(1) of this section; see §§ 558.355(d) and 558.625(c) of this chapter. Monensin as provided by No. 000986; tylosin as provided by Nos. 000986 or 016592 in § 510.600(c) of this chapter.	000061 016592
*	*	*	*	*

Dated: August 19, 2013.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2013–20538 Filed 8–26–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9630]

RIN 1545–BK71

Use of Differential Income Stream as an Application of the Income Method and as a Consideration in Assessing the Best Method

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that implement the use of the differential income stream as a consideration in assessing the best method in connection with a cost sharing arrangement and as a specified application of the income method.

DATES: *Effective Date:* These regulations are effective on August 27, 2013.

Applicability Dates: For dates of applicability, see § 1.482–7(l).

FOR FURTHER INFORMATION CONTACT: Mumal R. Hemrajani, (202) 622–3800 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Final cost sharing regulations were published in the **Federal Register** (76 FR 80082) (REG–144615–02) (TD 9568) on December 22, 2011 (''final cost sharing regulations''). Corrections to the final cost sharing regulations were published in the **Federal Register** (77 FR 3606, 77 FR 8143, and 77 FR 8144) on January 25, 2012, and February 14, 2012. Certain guidance regarding application of the differential income stream approach was reserved in the final cost sharing regulations because the Treasury Department and the IRS believed it was appropriate to solicit public comments on that subject matter.

Temporary cost sharing regulations and a notice of proposed rule making on application of the differential income stream approach were published in the **Federal Register** (76 FR 80249 and 76 FR 80309) (REG–145474–11) (TD 9569) on December 23, 2011 (''temporary and proposed regulations''). Comments were submitted, which we address in this Preamble. No request for a public hearing was received. The Treasury Department and the IRS are finalizing the proposed regulations without change.

Explanation of Provisions

The Treasury Department and the IRS were aware that some taxpayers were taking unreasonable positions in applying the income method by using relatively low licensing discount rates, and relatively high cost sharing discount rates, without sufficiently considering the appropriate interrelationship of the discount rates and financial projections. This practice gave rise to material distortions and the potential for PCT Payments not in accordance with the arm's length standard. To address these problems, the temporary and proposed regulations provided additional guidance on evaluating the results of an application of the income method (§ 1.482–7T(g)(2)(v)(B)(*2*) (Implied discount rates) and (g)(4)(vi)(F)(*2*) (Use of differential income stream as a consideration in assessing the best method)), and

provided a new specified application of the income method for directly determining the arm's length charge for PCT Payments (§ 1.482–7(g)(4)(v) (Application of income method using differential income stream)).

Comments noted that § 1.482–7T(g)(4)(vi)(F)(*2*) explicitly provides that the implied discount rate may be used to evaluate the reliability of the corresponding actual discount rates associated with the licensing and cost sharing alternatives, but no similar explicit provision is contained in § 1.482–7(g)(4)(v) regarding the use of actual discount rates to evaluate the reliability of the corresponding implied discount rate. Thus, the comments suggested that such an explicit provision be adopted. The Treasury Department and the IRS agree that, depending on facts and circumstances, separately derived discount rates pursuant to a general application of the income method may yield a more reliable measure of an arm's length result than a proffered discount rate pursuant to a differential income stream application of the income method in a particular case. In such a case, however, the best method rule already would require a determination of PCT Payments under the method, and the application of such method, that, under the facts and circumstances, provides the most reliable measure of an arm's length result. See, for example, §§ 1.482–1(c)(1) and 1.482–7(g)(4)(vi)(A). Accordingly, the suggested change was not adopted.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration (CCASBA) for comment on their impact on small business. CCASBA had no comments.

Drafting Information

The principal author of these regulations is Mumal R. Hemrajani, Office of the Associate Chief Counsel (International). However, other personnel from the Internal Revenue Service and the Treasury Department participated in the development of the regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.482–7 is amended by revising paragraph (g)(2)(v)(B)(*2*), adding paragraph (g)(4)(v), revising paragraphs (g)(4)(vi)(F)(*2*), (g)(4)(viii) *Example 8,* adding *Example 9,* and revising paragraph (l).

§ 1.482–7 Methods to determine taxable income in connection with a cost sharing arrangement.

* * * * *

(g) * * *

(2) * * *

(v) * * *

(B) * * *

(*2*) *Implied discount rates.* In some circumstances, the particular discount rate or rates used for certain activities or transactions logically imply that certain other activities will have a particular discount rate or set of rates (implied discount rates). To the extent that an implied discount rate is inappropriate in light of the facts and circumstances, which may include reliable direct evidence of the appropriate discount rate applicable for such other activities, the reliability of any method is reduced where such method is based on the discount rates from which such an inappropriate implied discount rate is derived. See paragraphs (g)(4)(vi)(F)(*2*) and (g)(4)(viii), *Example 8* of this section.

* * * * *

(4) * * *

(v) *Application of income method using differential income stream.* In some cases, the present value of an arm's length PCT Payment may be determined as the present value, discounted at the appropriate rate, of the PCT Payor's reasonably anticipated stream of additional positive or negative income over the duration of the CSA Activity that would result (before PCT Payments) from undertaking the cost sharing alternative rather than the licensing alternative (differential income stream). See *Example 9* of paragraph (g)(4)(viii) of this section.

* * * * *

(vi) * * *

(F) * * *

(*2*) *Use of differential income stream as a consideration in assessing the best method.* An analysis under the income method that uses a different discount rate for the cost sharing alternative than for the licensing alternative will be more reliable the greater the extent to which the implied discount rate for the projected present value of the differential income stream is consistent with reliable direct evidence of the appropriate discount rate applicable for activities reasonably anticipated to generate an income stream with a similar risk profile to the differential income stream. Such differential income stream is defined as the stream of the reasonably anticipated residuals of the PCT Payor's licensing payments to be made under the licensing alternative, minus the PCT Payor's cost contributions to be made under the cost sharing alternative. See, for example, *Example 8* of this paragraph (g)(4)(viii).

* * * * *

(viii) * * *

Example 8. (i) The facts are the same as in *Example 1,* except that the taxpayer determines that the appropriate discount rate for the cost sharing alternative is 20%. In addition, the taxpayer determines that the appropriate discount rate for the licensing alternative is 10%. Accordingly, the taxpayer determines that the appropriate present value of the PCT Payment is $146 million.

(ii) Based on the best method analysis described in *Example 2,* the Commissioner determines that the taxpayer's calculation of the present value of the PCT Payments is outside of the interquartile range (as shown in the sixth column of *Example 2*), and thus warrants an adjustment. Furthermore, in evaluating the taxpayer's analysis, the Commissioner undertakes an analysis based on the difference in the financial projections between the cost sharing and licensing alternatives (as shown in column 11 of *Example 1*). This column shows the anticipated differential income stream of additional positive or negative income for FS over the duration of the CSA Activity that would result from undertaking the cost sharing alternative (before any PCT Payments) rather than the licensing alternative. This anticipated differential income stream thus reflects the anticipated incremental undiscounted profits to FS from the incremental activity of undertaking the risk of developing the cost shared intangibles and enjoying the value of its divisional interests. Taxpayer's analysis logically implies that the present value of this stream must be $146 million, since only then would FS have the same anticipated value in both the cost sharing and licensing alternatives. A present value of $146 million implies that the discount rate applicable to this stream is

34.4%. Based on a reliable calculation of discount rates applicable to the anticipated income streams of uncontrolled companies whose resources, capabilities, and rights consist primarily of software applications intangibles and research and development teams similar to USP's platform contributions to the CSA, and which income streams, accordingly, may be reasonably anticipated to reflect a similar risk profile to the differential income stream, the Commissioner concludes that an appropriate discount rate for the anticipated income stream associated with USP's platform contributions (that is, the additional positive or negative income over the duration of the CSA Activity that would result, before PCT Payments, from switching from the licensing alternative to the cost sharing alternative) is 16%, which is significantly less than 34.4%. This conclusion further suggests that Taxpayer's analysis is unreliable. See paragraphs (g)(2)(v)(B)(*2*) and (g)(4)(vi)(F)(*1*) and (*2*) of this section.

(iii) The Commissioner makes an adjustment of $296 million, so that the present value of the PCT Payments is $442 million (the median results as shown in column 6 of *Example 2*).

Example 9. The facts are the same as in *Example 1,* except that additional data on discount rates are available that were not available in *Example 1.* The Commissioner determines the arm's length charge for the PCT Payment by discounting at an appropriate rate the differential income stream associated with the rights contributed by USP in the PCT (that is, the stream of income in column (11) of *Example 1*). Based on an analysis of a set of public companies whose resources, capabilities, and rights consist primarily of resources, capabilities, and rights similar to those contributed by USP in the PCT, the Commissioner determines that 15% to 17% is an appropriate range of discount rates to use to assess the value of the differential income stream associated with the rights contributed by USP in the PCT. The Commissioner determines that applying a discount rate of 17% to the differential income stream associated with the rights contributed by USP in the PCT yields a present value of $446 million, while applying a discount rate of 15% to the differential income stream associated with the rights contributed by USP in the PCT yields a present value of $510 million. Because the taxpayer's result, $464 million, is within the interquartile range determined by the Commissioner, no adjustments are warranted. See paragraphs (g)(2)(v)(B)(*2*), (g)(4)(v), and (g)(4)(vi)(F)(*1*) of this section.

* * * * *

(l) *Effective/applicability dates.* Except as otherwise provided in this paragraph (l), this section applies on December 16, 2011. Paragraphs (g)(2)(v)(B)(*2*), (g)(4)(vi)(F)(*2*), and (g)(4)(viii), *Example 8* of this section apply to taxable years beginning on or after December 19, 2011. Paragraphs (g)(4)(v) and (g)(4)(viii), *Example 9* apply to taxable years beginning on or after August 27, 2013.

* * * * *

§ 1.482–7T [Removed]

■ **Par. 3.** Section 1.482–7T is removed.

Beth Tucker,

Deputy Commissioner for Operations Support.

Approved: August 15, 2013.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013–20786 Filed 8–26–13; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9631]

RIN 1545–BL66

Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that authorize the disclosure of certain items of return information to the Bureau of the Census (Bureau) in conformance with section 6103(j)(1) of the Internal Revenue Code (Code). The final regulations are made pursuant to a request from the Secretary of Commerce. Because the return information will be disclosed to the Bureau in statistical format, specific taxpayers will not be identified, and, therefore, no taxpayers are affected by the disclosures authorized by this guidance.

DATES: *Effective Date:* These regulations are effective on August 27, 2013.

Applicability Date: For dates of applicability, see § 301.6103(j)(1)–1(e).

FOR FURTHER INFORMATION CONTACT: Melissa Avrutine, (202) 622–7950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 301. Section 6103(j)(1)(A) authorizes the Secretary of Treasury to furnish, upon written request by the Secretary of Commerce, such return or return information as the Secretary of Treasury may prescribe by regulation to officers and employees of the Bureau for the purpose of, but only to the extent necessary in, the structuring of censuses and conducting related statistical activities authorized by law. Section 301.6103(j)(1)–1 of the existing regulations further defines such purposes by reference to 13 U.S.C. chapter 5 and provides an itemized description of the return information authorized to be disclosed for such purposes.

By letter dated July 24, 2009, the Secretary of Commerce requested that additional items of return information be disclosed to the Bureau for purposes of allowing the Bureau to study a developing trend of increased use of contract workers. Specifically, the Secretary of Commerce requested disclosure of the following additional items: (1) Total number of documents reported on Form 1096 transmitting Forms 1099–MISC and (2) total amount reported on Form 1096 transmitting Forms 1099–MISC.

Section 301.6103(j)(1)–1 of the regulations formerly permitted disclosure of the total number of documents reported on Form 1096 transmitting Forms 1099–MISC and the total amount reported on Form 1096 transmitting Forms 1099–MISC. At the request of the Secretary of Commerce, the Treasury Department removed these items from the list of items of return information authorized to be disclosed, as disclosure of this return information was no longer necessary (See TD 9372, 72 FR 73262 [Dec. 27, 2007]).

In 2009, the Secretary of Commerce determined that these items of return information were needed again to provide critical data about contract labor necessary to estimate total employment and payroll in the United States. The employment and compensation data compiled by the Bureau are important to analysts and policy makers in both the public and private sectors. Thus, the Secretary of Commerce asserted that good cause existed to amend § 301.6103(j)(1)–1 of the regulations to restore these items to the list of items of return information that may be disclosed to the Bureau. The Treasury Department and the IRS agree that amending existing regulations to permit disclosure of these items to the Bureau is appropriate to meet the analytical needs of the Bureau.

Explanation of Provisions

On August 26, 2010, the IRS and the Treasury Department published temporary regulations under § 6103(j)(1) and issued a notice of proposed rulemaking cross-referencing those temporary regulations. See TD 9500 (75