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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9256]

RIN 1545-BD97

Revised Regulations Concerning Disclosure of Relative Values of Optional Forms of Benefit; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations that were published in the **Federal Register** on Friday, March 24, 2006 (71 FR 14798) concerning content requirements applicable to explanations of qualified joint and survivor annuities and qualified preretirement survivor annuities payable under certain retirement plans.

DATES: This correction is effective March 24, 2006.

FOR FURTHER INFORMATION CONTACT: Bruce Perlin or Linda Marshall at (202) 622-6090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9256) that are the subject of this correction are under section 417 of the Internal Revenue Code.

Need for Correction

As published, (TD 9256) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9256), which was the subject of FR Doc. 06-2844, is corrected as follows:

On page 14801, in the preamble, column 3, under the paragraph heading, "Explanation of Provisions", first paragraph of the column, line 2 from the bottom of the paragraph, the language "75% survivor annuity, and joint and"

is corrected to read "75% survivor annuity, and the joint and".

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Publications and Regulations Branch, Legal
Processing Division, Associate Chief Counsel,
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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9261]

RIN 1545-BF32

Intercompany Transactions; Manufacturer Incentive Payments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 1502 of the Internal Revenue Code. *Example 13* of the intercompany transaction regulations illustrates the treatment of manufacturer incentive payments. Because a premise underlying the example is under reconsideration, these final regulations remove and reserve this example. The regulations will affect corporations filing consolidated returns. **DATES:** *Effective Date:* These regulations are effective May 8, 2006.

FOR FURTHER INFORMATION CONTACT: Frances Kelly, (202) 622-7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 1.1502-13 of the consolidated return regulations provides rules for taking into account items of income, gain, deduction, and loss of members from intercompany transactions. In particular, § 1.1502-13(c)(7)(ii), *Example 13* illustrates how the matching rule of the intercompany transaction regulations treats a transaction involving manufacturer incentive payments. On August 13, 2004, the IRS and Treasury Department published a notice of proposed rulemaking (REG-131264-04) in the **Federal Register** (69 FR 50112) proposing regulations to address additional transactions involving manufacturer incentive payments and to clarify the proper treatment of such incentive payments under the intercompany transaction regulations.

On April 25, 2005, the IRS and Treasury Department published Rev.

Rul. 2005-28 (2005-19 IRB 997), which suspends, in part, Rev. Rul. 76-96 (1976-1 CB 23). Rev. Rul. 2005-28 states that the IRS will not apply, and taxpayers may not rely upon, the conclusion reached in Rev. Rul. 76-96 that certain rebates made by a manufacturer to retail customers are ordinary and necessary business expenses deductible under section 162, pending the IRS's reconsideration of the issue and publication of subsequent guidance.

Explanation of Provisions

The manufacturer incentive payment transaction described in § 1.1502-13(c)(7)(ii), *Example 13* relies, in part, upon the premise that the manufacturer incentive payment is an ordinary and necessary business expense deductible under section 162. To the extent that this premise is correct, this example illustrates the proper application of the intercompany transaction regulations. However, because Rev. Rul. 2005-28 suspends Rev. Rul. 76-96, in pertinent part, these final regulations remove § 1.1502-13(c)(7)(ii), *Example 13* pending further guidance on the section 162 issue considered in Rev. Rul. 76-96.

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 is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. These final regulations do not alter substantive provisions of the intercompany transaction regulations. They merely remove an example which may be misleading and cause confusion for taxpayers. Accordingly, good cause is found for dispensing with prior notice and comment pursuant to 5 U.S.C. 553(b), and for dispensing with a delayed effective date pursuant to 5 U.S.C. 553(d). Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business.

Drafting Information

The principal author of these regulations is Frances Kelly of the Office of the Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.