

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-121584-05]

RIN 1545-BE57

**Guidance Regarding the Simplified Service Cost Method and the Simplified Production Method****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the capitalization of costs under the simplified service cost method of the Income Tax Regulations and the simplified production method. The regulations affect taxpayers that use the simplified service cost method or the simplified production method for self-constructed assets that are constructed on a routine and repetitive basis in the ordinary course of their businesses. The text of those regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments must be received by November 1, 2005.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-121584-05), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-121584-05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the IRS Internet site at <http://www.irs.gov/regs> or the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS and REG-121584-05 or RIN-1545-BE57).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Scott Rabinowitz, (202) 622-4970; concerning submission of comments and/or requests for a public hearing, LaNita VanDyke, (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 263A of the Internal Revenue

Code (Code). The temporary regulations provide that self-constructed property is considered produced on a routine and repetitive basis for purposes of the simplified service cost method and the simplified production method when numerous units of tangible personal property are mass-produced, *i.e.*, substantially identical assets are manufactured within a taxable year using standardized designs and assembly line techniques, *and* the recovery period of the assets under section 168(c) is not longer than 3 years. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do 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 Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. The IRS and the Treasury Department also request comments on whether additional simplified methods should be made available to taxpayers in certain industries. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time and place for the hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Scott Rabinowitz of the Office of Associate Chief Counsel (Income Tax & Accounting). However other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be 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 1.263A-1 is amended by revising paragraph (h)(2)(i)(D) and adding paragraphs (k) and (l) to read as follows:

**§ 1.263A-1 Uniform capitalization of costs.**

\* \* \* \* \*

(h) \* \* \*

(2) \* \* \*

(i) \* \* \*

(D) [The text of this proposed paragraph (h)(2)(i)(D) is the same as the text of § 1.263A-1T(h)(2)(i)(D) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(k) [The text of this proposed paragraph (k) is the same as the text of § 1.263A-1T(k) published elsewhere in this issue of the **Federal Register**.]

(l) [The text of this proposed paragraph (l) is the same as the text of § 1.263A-1T(l) published elsewhere in this issue of the **Federal Register**.]

**Par 3.** Section 1.263A-2 is amended by revising paragraph (b)(2)(i)(D) and adding paragraphs (e) and (f) to read as follows:

**§ 1.263A-2 Rules relating to property produced by the taxpayer.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \*

(D) [The text of this proposed paragraph (b)(2)(i)(D) is the same as the text of § 1.263A-2T(b)(2)(i)(D) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(e) The text of this proposed paragraph (e) is the same as the text of § 1.263A-2T(e) published elsewhere in this issue of the **Federal Register**.]

(f) The text of this proposed paragraph (f) is the same as the text of § 1.263A-2T(f) published elsewhere in this issue of the **Federal Register**.]

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 05-15362 Filed 8-2-05; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF DEFENSE

### Department of the Army

#### 32 CFR Part 581

RIN 0702-AA51

#### Personnel Review Board

**AGENCY:** Department of the Army, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Army proposes to amend its regulation on Army Board for Correction of Military Records to be in compliance with the United States District Court for the District of Columbia decision (*Daniel J. Lipsman v. Secretary of the Army—Civil Action No. 02-0151 (RMU)*, Document Nos. 18, 20, decided September 7, 2004, 2004 U.S. Dist. LEXIS 17866).

**DATES:** Comments submitted to the address below on or before September 2, 2005 will be considered.

**ADDRESSES:** You may submit comments, identified by “32 CFR Part 581 and RIN 0702-AA51 in the subject line, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-Mail:* [Hubert.Shaw@hqda.army.mil](mailto:Hubert.Shaw@hqda.army.mil). Include 32 CFR Part 581 and RIN 0702-AA51 in the subject line of the message.

- *Mail:* The Army Review Boards Agency, ATTN: Hubert S. Shaw, 1901 South Bell Street, 2nd Floor, Arlington, Virginia 22202-4508.

#### FOR FURTHER INFORMATION CONTACT:

Hubert S. Shaw, 703-607-1779.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This rule has previously been published. Section 581.3 contained in 32 CFR part 581 provides Department of the Army policy, criteria and administrative instructions regarding an applicant's request for the correction of a military record. The Administrative Procedure Act, as amended by the Freedom of Information Act, requires that certain policies and procedures and other information concerning the

Department of the Army be published in the **Federal Register**. The policies and procedures covered by this part fall into that category.

##### B. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the proposed rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

##### C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the proposed rule does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of \$100 million or more.

##### D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the proposed rule does not have an adverse impact on the environment.

##### E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the proposed rule does not involve collection of information from the public.

##### F. Executive Order 12630 (Government Actions and Interference with Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the proposed rule does not impair private property rights.

##### G. Executive Order 12866 (Regulatory Planning and Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 this proposed rule is not a significant regulatory action.

##### H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045 this proposed rule does not apply.

##### I. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria

defined in Executive Order 13132 this proposed rule does not apply because it will not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

**Carl W.S. Chun,**

*Director, Army Board for Correction of Military Records.*

#### List of Subjects in 32 CFR Part 581

Administrative practice and procedure, Archives and Records, Military Personnel.

For reasons stated in the preamble the Department of the Army proposes to amend § 581.3 of part 581 to read as follows:

#### PART 581—PERSONNEL REVIEW BOARD

1. The authority citation for part 581 continues to read as follows:

**Authority:** 10 U.S.C. 1552, 1553, 1554, 3013, 3014, 3016; 38 U.S.C. 3103(a).

2. Amend § 581.3 by revising paragraphs (g)(4)(i) and (ii) to read as follows:

##### § 581.3 Army Board for Correction of Military Records.

\* \* \* \* \*

(g) \* \* \*

(4) \* \* \*

(i) If the ABCMR receives the request for reconsideration within 1 year of the ABCMR's original decision and if the ABCMR has not previously reconsidered the matter, the ABCMR staff will review the request to determine if it contains evidence (including, but not limited to, any facts or arguments as to why relief should be granted) that was not in the record at the time of the ABCMR's prior consideration. If new evidence has been submitted, the request will be submitted to the ABCMR for its determination of whether the new evidence is sufficient to demonstrate material error or injustice. If no new evidence is found, the ABCMR staff will return the application to the applicant without action.

(ii) If the ABCMR receives a request for reconsideration more than 1 year after the ABCMR's original decision or after the ABCMR has already considered one request for reconsideration, then the case will be returned without action and the applicant will be advised that his