

rulemaking on February 5, 1996 (61 FR 4240) which covered rules on source, origin and nationality of commodities and services.

The final rule was published on October 15, 1996 (61 FR 53615), effective November 14, 1996, adding part 228 to Title 22 of the Code of Federal Regulations. The substantive changes made to Regulation 1 in this notice incorporate the applicable rules of part 228 by reference.

USAID has determined that this rule is not a significant regulatory action under Executive Order 12866. The rule has been reviewed in accordance with the requirement of the Regulatory Flexibility Act. USAID has determined that the rule will not have a significant economic impact on a substantial number of small entities, and, therefore, a Regulatory Flexibility Analysis is not required. There are no information collection requirements in this rule as contemplated by the Paperwork Reduction Act.

**List of Subjects in 22 CFR Part 201**

Administrative practice and procedure, Commodity procurement—foreign relations.

For the reasons set out in the preamble, 22 CFR part 201 is amended as follows.

1. The authority citation continues to read as follows:

**Authority:** 22 U.S.C. 2381.

**PART 201—[AMENDED]**

2. Part 201 is amended by removing “A.I.D.” wherever it appears and adding “USAID” in its place; by removing “A.I.D.-financed” wherever it appears and adding “USAID-financed” in its place; and by removing “A.I.D./W” wherever it appears and adding “USAID/W” in its place.

3. Section 201.11, is amended by revising paragraphs (b), (e) and (j) to read as follows:

**§ 201.11 Eligibility of commodities.**

\* \* \* \* \*

(b) *Source.* The authorized source for procurement shall be a country or countries authorized in the implementing document by name or by reference to a USAID geographic code. The source and origin of a commodity must be an authorized source country. The applicable rules on source, origin and nationality for commodities and commodity-related services are in subparts (B), (C), and (F) of part 228 of this chapter.

\* \* \* \* \*

(e) *Marine insurance.* In accordance with the provisions of § 228.23 of this

chapter, USAID may require that any USAID-financed commodity shipped to the cooperating country shall be insured against marine risks and that such insurance shall be placed in the United States with a company or companies authorized to do marine insurance business in a State of the United States.

\* \* \* \* \*

(j) *Purchases from eligible suppliers.* Commodities procured with funds made available under this part 201 shall be purchased from eligible suppliers. The rules on the nationality of suppliers of commodities are in section 228.14 of this chapter.

\* \* \* \* \*

4. Section 201.12 is amended by revising paragraph (d) and adding a new paragraph (e) as follows:

**§ 201.12 Eligibility of incidental services.**

\* \* \* \* \*

(d) The supplier of such services, prior to approval of the USAID Commodity Approval Application, has neither been suspended or debarred by USAID under part 208 of this chapter, nor has been placed on the “Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs,” published by the U.S. General Services Administration.

(e) The supplier of such services meets the requirements of § 228.25 of this chapter.

5. Section 201.13 is amended by revising paragraphs (a), (b) and (c) as follows:

**§ 201.13 Eligibility of delivery services.**

(a) *General.* Delivery of USAID-financed commodities may be financed under the implementing document provided the delivery services meet the requirements of this section and the applicable provisions in part 228, subpart C of this chapter.

(b) *Transportation costs.* USAID will not finance transportation costs:

(1) For shipment beyond the point of entry in the cooperating country except when intermodal transportation service covering the carriage of cargo from point of origin to destination is used, and the point of destination, as stated in the carrier’s through bill of lading, is established in the carrier’s tariff; or

(2) On a transportation medium owned, operated or under the control of any country not included in Geographic Code 935; or

(3) Under any ocean or air charter covering full or part cargo (whether for a single voyage, consecutive voyages, or a time period) which has not received prior approval by USAID/W, Office of Procurement, Transportation Division); or

(4) Which are attributable to brokerage commissions which exceed the limitations specified in § 201.65(h) or to address commissions, dead freight, demurrage or detention.

(c) *Inspection services.* USAID will finance inspection of USAID-financed commodities when inspection is required by USAID, or in those cases where inspection is required by the importer and such inspection is specified in the purchase contract, performed by independent inspectors and is either customary in export transactions for the commodity involved or is necessary to determine conformity of the commodities to the contract. Section 228.24 of this chapter covers the nationality requirements for suppliers of inspection services.

\* \* \* \* \*

6. Section 201.14 is amended by adding a sentence at the end of the paragraph as follows:

**§ 201.14 Eligibility of bid and performance bonds and guaranties.**

\* \* \* Nationality requirements for sureties, insurance companies or banks who issue bonds or guaranties under A.I.D.-financed transactions are set forth in § 228.38(b) of this chapter.

Dated: May 12, 1997.

**Marcus L. Stevenson,**

*Procurement Executive.*

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 8724]

RIN 1545-AU16

**Section 1059 Extraordinary Dividends**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations under section 1059(e) of the Internal Revenue Code. The final regulations clarify that certain distributions in redemption of stock held by a corporate shareholder are treated as extraordinary dividends notwithstanding provisions that otherwise might exempt the distributions from extraordinary dividend treatment. Corporations that receive a distribution in redemption of stock may be affected if the redemption is either part of a partial liquidation of the redeeming corporation or is not pro

rata as to all shareholders. The final regulations also provide that section 1059(e)(1) applies to certain exchanges described in section 356.

**DATES:** This regulation is effective July 16, 1997.

For date of applicability, see § 1.1059(e)-1(c).

**FOR FURTHER INFORMATION CONTACT:** Richard K. Passales, (202) 622-7530 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 18, 1996, the IRS published in the **Federal Register** a notice of proposed rulemaking (CO-9-96), 61 FR 30845, concerning certain distributions under section 1059(e)(1) of the Internal Revenue Code. The proposed rules were based on the conclusion that applying the exceptions to extraordinary dividend treatment found in sections 1059 (d)(6) and (e)(2) to amounts treated as extraordinary dividends under section 1059(e)(1) is inconsistent with the purposes of section 1059 and may create inappropriate consequences, such as basis shifting that eliminates gain or creates artificial loss.

The IRS received a few comments on the proposed regulations. No one requested to speak at the public hearing. After consideration of all the comments, the regulations are adopted as revised by this Treasury decision. The revisions and significant comments are discussed below.

**Explanation of Revisions**

Section 1.1059(e)-1(b) of the proposed regulations provides that for purposes of section 1059(e)(1), an exchange under section 356(a)(1) is treated as a redemption and, to the extent any amount is treated as a dividend under section 356(a)(2), it is treated as a dividend under section 301. One practitioner questioned whether section 1.1059(e)-1(b) applies to exchanges for section 306 stock that are treated as section 301 distributions under section 356(e). The final regulations clarify that for purposes of section 1059(e)(1), all exchanges under section 356 are treated as redemptions and all amounts treated as a dividend under section 356(a)(2) are treated as dividends under section 301. Accordingly, the final regulations delete the reference to subsection (a)(1) of section 356.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 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 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, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Drafting Information**

The principal author of these regulations is Richard K. Passales, Office of Assistant Chief Counsel (Corporate), IRS. 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.

**Adoption of 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 is amended by adding an entry in numerical order to read as follows:

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

Section 1.1059(e)-1 also issued under 26 U.S.C. 1059 (e)(1) and (e)(2). \* \* \*

**Par. 2.** In § 1.302-2, paragraph (c) introductory text is amended by adding a sentence immediately following the first sentence to read as follows:

**§ 1.302-2 Redemptions not taxable as dividends.**

\* \* \* \* \*

(c) \* \* \* (For adjustments to basis required for certain redemptions of corporate shareholders that are treated as extraordinary dividends, see section 1059 and the regulations thereunder.) \* \* \*

**Par. 3.** Section 1.1059(e)-1 is added to read as follows:

**§ 1.1059(e)-1 Non-pro rata redemptions.**

(a) *In general.* Section 1059(d)(6) (exception where stock held during entire existence of corporation) and section 1059(e)(2) (qualifying dividends) do not apply to any distribution treated as an extraordinary dividend under section 1059(e)(1). For example, if a redemption of stock is not pro rata as to

all shareholders, any amount treated as a dividend under section 301 is treated as an extraordinary dividend regardless of whether the dividend is a qualifying dividend.

(b) *Reorganizations.* For purposes of section 1059(e)(1), any exchange under section 356 is treated as a redemption and, to the extent any amount is treated as a dividend under section 356(a)(2), it is treated as a dividend under section 301.

(c) *Effective date.* This section applies to distributions announced (within the meaning of section 1059(d)(5)) on or after June 17, 1996.

**Michael P. Dolan,**

*Acting Commissioner of Internal Revenue.*

Approved: June 27, 1997.

**Donald C. Lubick,**

*Acting Assistant Secretary of the Treasury.*

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**DEPARTMENT OF JUSTICE**

**28 CFR Part 0**

[DEA-159F]

**Redelegation of Functions; Delegation of Authority to Drug Enforcement Administration Official**

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Drug Enforcement Administration (DEA), Department of Justice, is amending the appendix to the Justice Department regulations which delegate certain functions and authorities vested in the Attorney General by the Controlled Substances Act and are redelegated to the Administrator.

**EFFECTIVE DATE:** July 16, 1997.

**FOR FURTHER INFORMATION CONTACT:** G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307-7297.

**SUPPLEMENTARY INFORMATION:** The Controlled Substances Import and Export Act (CSIEA) (21 U.S.C. 951 *et seq.*) and subsequent amendments establish a comprehensive system of controls over the importation and exportation of controlled substances. The CSIEA authorizes the Attorney General to register individuals to import and export controlled substances; issue import and export permits; and require import and export notifications and declarations (21 U.S.C. 952, 953 and 958).