

determined and published on a daily basis in a widely-available medium, such as a newspaper of general circulation;

(iv) No less frequently than annually, independent auditors must prepare financial statements of the foreign corporation that include balance sheets (statements of assets, liabilities, and net assets) and statements of income and expenses, and those statements must be made available to the public;

(v) The foreign corporation is supervised or regulated as an investment company by a foreign government or an agency or instrumentality thereof;

(vi) The foreign corporation has no senior securities authorized or outstanding, including any debt other than in de minimis amounts;

(vii) Ninety percent or more of the gross income of the foreign corporation for its taxable year is passive income, as defined in section 1297(a)(1) and the regulations thereunder; and

(viii) The average percentage of assets held by the foreign corporation during its taxable year which produce passive income or which are held for the production of passive income, as defined in section 1297(a)(2) and the regulations thereunder, is at least 90 percent.

(2) *Anti-abuse rule.* If a foreign corporation undertakes any action with a principal purpose of manipulating the net asset value of a class of its shares in order to reduce the United States tax under section 1296 of one or more of its shareholders, the class of shares will not qualify as marketable stock for purposes of paragraph (d)(1) of this section.

(e) [Reserved]

(f) *Special rules for regulated investment companies (RICs)*—(1) *General rule.* In the case of any RIC which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at net asset value, its stock in any passive foreign investment company which it owns directly or indirectly, as defined in sections 958(a) (1) and (2), shall be treated as marketable stock owned by that RIC for purposes of section 1296.

(2) [Reserved]

(g) *Effective date.* This section applies to shareholders whose taxable year ends on or after the date these regulations are published as final regulations in the **Federal Register** for stock in a foreign corporation whose taxable year ends with or within the shareholder's taxable year. In addition, shareholders may elect to apply these regulations to any taxable year beginning after December 31, 1997, for stock in a foreign corporation whose taxable year ends

with or within the shareholder's taxable year.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL-941-86]

RIN 1545-AI33

Withdrawal of Guidance Under Section 1291 Relating to Mark to Market Elections for RICs

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of proposed regulations.

SUMMARY: This document withdraws § 1.1291-8 of the notice of proposed rulemaking that was published in the **Federal Register** on April 1, 1992, providing guidance under the passive foreign investment company (PFIC) rules relating to the mark to market election for regulated investment companies (RICs) that are shareholders of PFICs.

DATES: Section 1.1291-8 of the proposed regulations published at 57 FR 11024 (April 1, 1992) is withdrawn February 2, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Laudeman of the Office of Associate Chief Counsel (International), Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224. Telephone (202) 622-3840, not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1992 (57 FR 11024), the IRS issued proposed regulations providing, in part, an election under which certain RICs could mark to market their stock in certain PFICs. In the Taxpayer Relief Act of 1997 Congress enacted section 1296(e)(2) of the Internal Revenue Code, which allows certain RICs to elect to mark to market their PFIC stock. Accordingly, the IRS is withdrawing proposed regulations § 1.1291-8. Future guidance will be issued providing rules for all PFIC shareholders, including RICs, on how to mark to market certain PFIC stock.

Drafting Information

The principal author of this withdrawal notice is Robert Laudeman, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in developing the withdrawal notice.

List of Subjects in Part 1

Income taxes, Reporting and recordkeeping requirements.

Partial Withdrawal of Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, § 1.1291-8 of the proposed amendments to 26 CFR part 1 published at 57 FR 11024, April 1, 1992, is withdrawn.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA112-4084; FRL-6229-2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Nitrogen Oxides Allowance Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision implements Pennsylvania's portion of the Ozone Transport Commission's (OTC) September 27, 1994 Memorandum of Understanding (MOU) including a regional nitrogen oxides (NO_x) cap and trade program that will significantly reduce NO_x emissions generated within the Ozone Transport Region (OTR). The intended effect of this action is to propose approval of Pennsylvania's regulations implementing Phase II of the OTC's MOU to reduce nitrogen oxides.

DATES: Written comments must be received on or before March 4, 1999.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air