

a class of tax includes liability for any new or reinstated tax. For this purpose, a new or reinstated tax is—

(1) Any tax (including an alternative method tax) that was not in effect at all times during the look-back quarter; and

(2) Any alternative method tax that was not in effect at all times during the month preceding the look-back quarter.

(B) *Modification.* The safe harbor rule of paragraph (c)(2)(i) of this section does not apply to a class of tax unless the deposit of taxes in that class for each semimonthly period in the calendar quarter is not less than the greater of—

(1) $\frac{1}{6}$ of the net tax liability reported for the class of tax for the look-back quarter; or

(2) The sum of—

(i) 95 percent of the net tax liability incurred with respect to new or reinstated taxes during the semimonthly period; and

(ii) $\frac{1}{6}$ of the net tax liability reported for all other taxes in the class for the look-back quarter.

(C) *Effective date.* This paragraph (c)(2)(iv) applies to tax liabilities for new or reinstated taxes incurred after February 28, 1997, except that paragraph (c)(2)(iv)(A)(2) of this section applies only for calendar quarters beginning after December 31, 1997.

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(f) * * * (1) * * * Also, no deposit is required in the case of any floor stocks tax described in § 40.0–1(a).

* * * * *

§ 40.6302(c)–1T [Removed]

Par. 7. Section 40.6302(c)–1T is removed.

Par. 8. In § 40.6302(c)–2, paragraph (b)(2)(iii) is added to read as follows:

§ 40.6302(c)–2 Special rules for use of Government depositaries under section 4681.

* * * * *

(b) * * *

(2) * * *

(iii) *Modification for new chemicals—*

(A) *Applicability.* The safe harbor rule of paragraph (b)(2)(i) of this section is modified for any calendar quarter in which a person's liability for section 4681 tax includes liability with respect to any new chemical. For this purpose, a new chemical is any chemical that was not subject to tax at all times during the look-back quarter.

(B) *Modification.* The safe harbor rule of paragraph (b)(2)(i) of this section does not apply unless the deposit of section 4681 taxes for each semimonthly period in the calendar quarter is not less than the greater of—

(1) $\frac{1}{6}$ of the net tax liability reported under section 4681 for the look-back quarter; or

(2) The sum of—

(i) 95 percent of the net tax liability incurred under section 4681 with respect to the new chemical during the semimonthly period; and

(ii) $\frac{1}{6}$ of the net tax liability reported under section 4681 with respect to all other chemicals for the look-back quarter.

(C) *Effective date.* This paragraph (b)(2)(iii) applies to tax liabilities for new chemicals incurred after February 28, 1997.

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§ 40.6302(c)–2T [Removed]

Par. 9. Section 40.6302(c)–2T is removed.

Approved: May 22, 2000.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Jonathan Talisman,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–14007 Filed 6–7–00; 8:45 am]

BILLING CODE 4830–01–U

and (j), that address mitigating measures used by persons with impairments. The guidance set forth in those sentences is no longer valid in light of the Supreme Court's rulings in *Sutton v. United Airlines, Inc.*, 527 U.S. ____ (1999), and *Murphy v. United Parcel Service, Inc.*, 527 U.S.—(1999). In those cases, the Supreme Court held that the determination of whether an individual has an impairment that substantially limits a major life activity under the ADA must be made by considering any mitigating measures (such as medications or assistive devices) that the individual uses to eliminate or reduce the effects of an impairment.

Regulatory Procedures

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (Public Law 96–354, as amended by Public Law 104–121), the Commission has reviewed this regulation, and by approving it, certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

This rule is not a significant regulatory action as defined in Executive Order 12866 and is therefore not subject to review by the Office of Management and Budget.

List of Subjects in 29 CFR Part 1630

Equal employment opportunity, Individuals with disabilities.

For the Commission.

Ida L. Castro,

Chairwoman.

Accordingly, the Commission amends 29 CFR chapter XIV as follows:

PART 1630—[AMENDED]

1. The authority citation for part 1630 continues to read as follows:

Authority: 42 U.S.C. 12116.

Appendix to Part 1630 [Amended]

2. Amend the Appendix to Part 1630 as follows:

a. Section 1630.2(h) is amended by removing the second paragraph.

b. Section 1630.2(j) is amended by removing the third, fourth, and fifth sentences of the sixth paragraph, and by removing “, without regard to mitigating measures such as medicines, or assistive or prosthetic devices” from the first sentence of the eighth paragraph.

[FR Doc. 00–14476 Filed 6–7–00; 8:45 am]

BILLING CODE 6570–01–U