

(4) *Modifications of NAICS product classes.* The product classes of the NAICS Manual may be updated or otherwise modified from time to time as the manual is updated, effective on or after the date of the modification. The NAICS Manual generally is modified every five years, in years ending in a 2 or 7 (such as 2002, 2007, and 2012). The applicability date of the modified NAICS Manual is announced in the **Federal Register** and generally is January 1 of the year the NAICS Manual is modified. Taxpayers may rely on these modifications as they become effective in structuring exchanges under this section. Taxpayers may rely on the previous NAICS Manual for transfers of property made by a taxpayer during the one-year period following the effective date of the modification. For transfers of property made by a taxpayer on or after January 1, 1997, and on or before January 1, 2003, the NAICS Manual of 1997 may be used for determining product classes of the exchanged property.

(5) *Administrative procedures for revising general asset classes and product classes.* The Commissioner may, through published guidance of general applicability, supplement, modify, clarify, or update the guidance relating to the classification of properties provided in this paragraph (b). (See § 601.601(d)(2) of this chapter.) For example, the Commissioner may determine not to follow (in whole or in part) a general asset class for purposes of identifying property of like class, may determine not to follow (in whole or in part) any modification of product classes published in the NAICS Manual, or may determine that other properties not listed within the same or in any product class or general asset class nevertheless are of a like class. The Commissioner also may determine that two items of property that are listed in separate product classes or in product classes with a last digit of 9 are of a like class, or that an item of property that has a NAICS code is of a like class to an item of property that does not have a NAICS code.

(6) *No inference outside of section 1031.* The rules provided in this section concerning the use of general asset classes or product classes are limited to exchanges under section 1031. No inference is intended with respect to the classification of property for other purposes, such as depreciation.

(7) *Examples.* The provisions of this paragraph (b) are illustrated by the following examples:

*Example 1 and Example 2* [Reserved]. For further guidance, see § 1.1031(a)-2(b)(7), *Example 1 and Example 2*.

*Example 3.* Taxpayer E transfers a grader to F in exchange for a scraper. Neither property is within any of the general asset classes. However, both properties are within the same product class (NAICS code 333120). The grader and scraper are of a like class and deemed to be of a like kind for purposes of section 1031.

*Example 4.* Taxpayer G transfers a personal computer (asset class 00.12), an airplane (asset class 00.21) and a sanding machine (NAICS code 333210), to H in exchange for a printer (asset class 00.12), a heavy general purpose truck (asset class 00.242) and a lathe (NAICS code 333210). The personal computer and the printer are of a like class because they are within the same general asset class; the sanding machine and the lathe are of a like class because they are within the same product class (although neither property is within any of the general asset classes). The airplane and the heavy general purpose truck are neither within the same general asset class nor within the same product class, and are not of a like kind.

(8) *Transition rule.* Properties within the same product classes based on the 4-digit codes contained in Division D of the Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), will be treated as property of a like class for transfers of property made by taxpayers on or before [the date these regulations are published as final regulations in the **Federal Register**].

(c) [Reserved]. For further guidance, see § 1.1031(a)-2(c).

(d) *Effective dates.* This section applies to transfers of property made by taxpayers on or after August 12, 2004. However, taxpayers may apply this section to transfers of property made by taxpayers on or after January 1, 1997, in taxable years for which the period of limitation for filing a claim for refund or credit under section 6511 has not expired. For all other exchanges occurring prior to August 12, 2004, see § 1.1031(a)-2(d).

**Linda M. Kroening,**

*Acting Deputy Commissioner for Services and Enforcement.*

Approved: July 28, 2004.

**Gregory F. Jenner,**

*Acting Assistant Secretary of the Treasury.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9140]

RIN 1545-BA90

#### Transfers to Provide for Satisfaction of Contested Liabilities; Correction

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

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations (TD 9140), which was published in the **Federal Register** on July 20, 2004 (69 FR 43302). The document contains final regulations relating to transfers of money or other property to provide for the satisfaction of contested liabilities.

**DATES:** This correction is effective on July 20, 2004.

**FOR FURTHER INFORMATION CONTACT:** Norma Rotunno, (202) 622-7900 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations (TD 9140) that is the subject of this correction are under section 461 of the Internal Revenue Code.

##### Need for Correction

As published, (TD 9140) contains an error that may prove to be misleading and is in need of clarification.

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

Income taxes, Reporting and recordkeeping requirements.

##### Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

#### 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 1.461-2T is removed.

**LaNita Van Dyke,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).*

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