

(b) *Tolerances*—(1) *Cattle*—(i) *Liver (the target tissue)*. The tolerance for CP-60,300 (the marker residue) is 5.5 parts per million (ppm).

(ii) [Reserved]

(2) *Swine*—(i) *Kidney (the target tissue)*. The tolerance for CP-60,300 (the marker residue) is 15 ppm.

(ii) [Reserved]

(c) *Related conditions of use*. See § 522.2630 of this chapter.

Dated: June 20, 2005.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

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DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice 5130]

RIN 1400-ZA17

Amendments to the International Traffic in Arms Regulations: Part 126

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending and/or clarifying the content of the International Traffic in Arms Regulations (ITAR). The affected part of the ITAR is: Part 126—Policies and Provisions. See Supplementary Information for a description of the changes and clarifications made.

EFFECTIVE DATE: July 12, 2005.

ADDRESSES: Interested parties are invited to submit written comments to the Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, 12th Floor, SA-1, Washington, DC 20522-0112. E-mail comments may be sent to DDTCResponseTeam@state.gov with an appropriate subject line. Persons with access to the Internet may also view this notice by going to the [regulations.gov](http://www.regulations.gov) Web site at: <http://www.regulations.gov>. Comments will be accepted at any time.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Tomchik, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663-2799 or FAX (202) 261-8199. ATTN: Regulatory Change, USML Sections 126.5 and 126.15.

SUPPLEMENTARY INFORMATION: Two changes are made to the International Traffic in Arms Regulations (ITAR) Part 126—General Policies and Provisions. The first change affects 22 CFR 126.5. This section describes *inter alia* the

modalities by which exporters, without a license issued by the Directorate of Defense Trade Controls (DDTC), may conduct permanent and temporary exports of defense articles to Canada, and temporary imports from Canada. These changes to 22 CFR 126.5 are designed to clarify for exporters the range of defense articles, related technical data, and defense services that will continue to require a license issued by the Directorate of Defense Trade Controls for export to or temporary import from Canada.

The list of items excluded from the provisions of Section 126.5 is outlined in paragraph (b). That list is amended in the following ways: the text of 126.5(b)(12) is amended to reflect textual revisions to Category XIV of the U.S. Munitions List regarding chemical and biological agents. The body of chemical agents encompassed by 126.5(b)(12) and previously controlled in a single paragraph of the Category now has been grouped by type and distributed into several distinct paragraphs. The text also clarifies but does not change the scope of biological agents controlled. Other changes are made to reflect the redesignation of paragraphs in the Category.

The second change is a result of statutory direction. A new section of the ITAR implements Section 1225 of Public Law 108-375 regarding “Bilateral Exchanges and Trade in Defense Articles and Defense Services Between the United States and the United Kingdom and Australia.” This section, to be designated 126.15, calls for the expeditious processing of license applications for the export of defense articles and services to Australia or the United Kingdom, consistent with national security and the requirements of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

Regulatory Analysis and Notices: This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is exempt from review under executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof. This rule does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996. It will not have substantial direct effects on the States, the relationship between the national Government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, it is determined that this rule does not have sufficient federalism implications to warrant application of the consultation provisions of Executive Orders 12372 and 13132. This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Part 126 is amended as follows:

PART 126—GENERAL POLICIES AND PROVISIONS

■ 1. The authority citation for Part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108-375.

■ 2. Section 126.5 is amended by revising paragraph (b)(12) to read as follows:

§ 126.5 Canadian exemptions.

* * * * *

(b) * * *

(12) Chemical agents listed in Category XIV (a), (d), and (e), biological agents and biologically derived substances in Category XIV (b), and equipment listed in Category XIV (f) for dissemination of the chemical agents and biological agents listed in Category XIV (a), (b), (d), and (e).

* * * * *

■ 3. Section 126.15 is added to read as follows:

§ 126.15 Expedited processing of license applications for the export of defense articles and defense services to Australia or the United Kingdom.

(a) Any application submitted for authorization of the export of defense articles or services to Australia or the United Kingdom will be expeditiously processed by the Department of State, in consultation with the Department of Defense. Such license applications will not be referred to any other Federal department or agency, except when the defense articles or defense services are classified or exceptional circumstances apply. (See section 1225, Pub. L. 108-375).

(b) To be eligible for the expedited processing in paragraph (a) of this section, the destination of the prospective export must be limited to Australia or the United Kingdom. No

other country may be included as intermediary or ultimate end-user.

Dated: June 23, 2005.

Robert G. Joseph,

Under Secretary, Arms Control and International Security, Department of State.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9210]

RIN 1545-BE75

LIFO Recapture Under Section 1363(d)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations regarding LIFO recapture by corporations converting from C corporations to S corporations. The purpose of these regulations is to provide guidance on the LIFO recapture requirement when the corporation holds inventory accounted for under the last-in, first-out (LIFO) method (LIFO inventory) indirectly through a partnership. These regulations affect C corporations that own interests in partnerships holding LIFO inventory and that elect to be taxed as S corporations or that transfer such partnership interests to S corporations in nonrecognition transactions. These regulations also affect S corporations receiving such partnership interests from C corporations in nonrecognition transactions.

DATES: *Effective Date:* These regulations are effective July 12, 2005.

Applicability Date: These regulations apply to S elections and transfers made on or after August 13, 2004.

FOR FURTHER INFORMATION CONTACT: Pietro Canestrelli, at (202) 622-3060 and Martin Schäffer, at (202) 622-3070 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545-1906.

The collection of information in these final regulations is in § 1.1363-2(e)(3).

This information is required to inform the IRS of partnerships electing to increase the basis of inventory to reflect any amount included in a partner's income under section 1363(d).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Estimated total annual reporting burden: 200 hours.

The estimated annual burden per respondent varies from 1 to 3 hours, depending on individual circumstances, with an estimated average of 2 hours.

Estimated number of respondents: 100.

Estimated annual frequency of responses: On occasion.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to 26 CFR part 1 under section 1363(d) of the Internal Revenue Code (Code). Section 1363(d)(1) provides that a C corporation that owns LIFO inventory and that elects under section 1362(a) to be taxed as an S corporation must include in its gross income for its final tax year as a C corporation the LIFO recapture amount. Under section 1363(d)(3), the LIFO recapture amount is the excess of the inventory amount of the inventory using the first-in, first-out (FIFO) method (the FIFO value) over the inventory amount of the inventory using the LIFO method (the LIFO value) at the close of the corporation's final tax year as a C corporation (essentially, the amount of income the corporation has deferred by using the LIFO method rather than the FIFO method).

Final regulations (TD 8567) under section 1363(d) were published in the **Federal Register** on October 7, 1994 (59 FR 51105) to describe the recapture of LIFO benefits when a C corporation that

owns LIFO inventory elects to become an S corporation or transfers LIFO inventory to an S corporation in a nonrecognition transaction. The regulations did not explicitly address the indirect ownership of inventory through a partnership.

A notice of proposed rulemaking (REG-149524-03, 2004-39 I.R.B. 528) was published in the **Federal Register** on August 13, 2004 (69 FR 50109). The proposed regulations provided guidance for situations in which a C corporation that owns LIFO inventory through a partnership (or through tiered partnerships) converts to an S corporation or transfers its partnership interest to an S corporation in a nonrecognition transaction. One person submitted comments in response to the notice of proposed rulemaking. A public hearing was held on December 8, 2004. After consideration of the comments, the proposed regulations are adopted as final regulations with the modifications discussed below.

Summary of Comments and Explanation of Revisions

The proposed regulations provided that a C corporation that holds an interest in a partnership owning LIFO inventory must include the lookthrough LIFO recapture amount in its gross income where the corporation either elects to be an S corporation or transfers its interest in the partnership to an S corporation in a nonrecognition transaction. The proposed regulations defined the lookthrough LIFO recapture amount as the amount of income that would be allocated to the corporation, taking into account section 704(c) and § 1.704-3, if the partnership sold all of its LIFO inventory for the FIFO value. A corporate partner's lookthrough LIFO recapture amount must be determined, in general, as of the day before the effective date of the S corporation election or, if the recapture event is a transfer of a partnership interest to an S corporation, the date of recapture event is a transfer of a partnership interest to an S corporation, the date of the transfer (the recapture date). The proposed regulations provided that, if a partnership is not otherwise required to determine inventory values on the recapture date, the lookthrough LIFO recapture amount may be determined based on inventory values of the partnership's opening inventory for the year that includes the recapture date.

The sole commentator suggested that the regulations provide that, if the lookthrough LIFO recapture amount is determined based on inventory values of the partnership's opening inventory for the year that includes the recapture