

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-104713-07]

RIN 1545-BG39

**Calculating and Apportioning the Section 11(b)(1) Additional Tax Under Section 1561 for Controlled Groups****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that affect component members of a controlled group of corporations and consolidated groups filing life-nonlife Federal income tax returns. These temporary regulations provide guidance for calculating and apportioning between component members any amount of additional tax and any reduction in the amount exempted from the alternative minimum tax. These temporary regulations also update and clarify the allocation of tax-benefit items in the case in which a component member has a short taxable year not including a December 31st date. Finally, these temporary regulations provide explanations of two concepts: A group's testing date and a member's testing period for use in determining which members of the group and which taxable years of those members are subject to the controlled group rules. The text of those regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and a request for a public hearing must be received by March 25, 2008.**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-104713-07), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-104713-07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-104713-07).**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulation, Grid Glycer, (202) 622-7930, concerning submissions of comments and requests

for public hearings, Richard A. Hurst, (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1 to add §§ 1.1502-47T and 1.1561-0T, remove § 1.1561-2, and amend §§ 1.1561-2T and 1.1563-1T. The text of those regulations also serves as the text of these proposed regulations. The preamble to the final and temporary regulations explains these proposed regulations.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. With respect to § 1.1502-47, it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses. Further, these regulations do not require any additional collection of information under § 1.1502-47 because these regulations simply add a section that had been inadvertently removed from the Code of Federal Regulations. Therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written or

electronic comments. If a public hearing is scheduled, notice of the date, time and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Grid Glycer of the Office of Associate Chief Counsel (Corporate). Other personnel from the Treasury Department and the IRS participated in their development.

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

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**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 1.1561-0 is added to read as follows:

**§ 1.1561-0 Table of contents.**

[The text of the proposed § 1.1561-0 is the same as the text for § 1.1561-0T published elsewhere in this issue of the **Federal Register**].

**Par. 3.** Section 1.1561-2 is added to read as follows:

**§ 1.1561-2 Special rules for allocating reductions to certain section 1561(a) tax-benefit items.**

[The text of the proposed § 1.1561-2 is the same as the text for § 1.1561-2T(a) through (f)(1) published elsewhere in this issue of the **Federal Register**].

**Par. 4.** Section 1.1563-1 is amended to read as follows:

**§ 1.1563-1 Definition of controlled group of corporations and component members and related concepts.**

[The text of the proposed § 1.1563-1 is the same as the text for § 1.1563-1T published elsewhere in this issue of the **Federal Register**].

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

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