

sentence and adding in its place “persons” and by revising the last sentence to read as follows:

**§ 416.580 Referral of overpayments to the Department of the Treasury for tax refund offset—General.**

\* \* \* \* \*

(b) \* \* \* We refer overpayments to the Department of the Treasury for offset against Federal tax refunds regardless of the amount of time the debts have been outstanding.

■ 9. Amend § 416.581 by revising the section heading, the introductory text, and paragraphs (a) and (b), and in paragraph (e), by removing the word “individual” in two places and adding in its place “person”.

**§ 416.581 Notice to overpaid person.**

We will make a request for collection by reduction of Federal and State income tax refunds only after we determine that a person owes an overpayment that is past due and provide the overpaid person with written notice. Our notice of intent to collect an overpayment through tax refund offset will state:

(a) The amount of the overpayment; and

(b) That we will collect the overpayment by requesting that the Department of the Treasury reduce any amounts payable to the overpaid person as refunds of Federal and State income taxes by an amount equal to the amount of the overpayment unless, within 60 calendar days from the date of our notice, the overpaid person:

(1) Repays the overpayment in full; or  
 (2) Provides evidence to us at the address given in our notice that the overpayment is not past due or legally enforceable; or

(3) Asks us to waive collection of the overpayment under section 204(b) of the Act.

\* \* \* \* \*

**PART 422—ORGANIZATION AND PROCEDURES**

**Subpart D—[Amended]**

■ 10. The authority citation for subpart D of part 422 continues to read as follows:

**Authority:** Secs. 204(f), 205(a), 702(a)(5), and 1631(b) of the Social Security Act (42 U.S.C. 404(f), 405(a), 902(a)(5), and 1383(b)); 5 U.S.C. 5514; 31 U.S.C. 3711(e); 31 U.S.C. 3716.

■ 11. In § 422.310 revise paragraphs (a)(1) and (b) to read as follows:

**§ 422.310 Collection of overdue debts by administrative offset.**

(a) *Referral to the Department of the Treasury for offset.* (1) We recover overdue debts by offsetting Federal and State payments due the debtor through the Treasury Offset Program (TOP). TOP is a Government-wide delinquent debt matching and payment offset process operated by the Department of the Treasury, whereby debts owed to the Federal Government are collected by offsetting them against Federal and State payments owed the debtor. Federal payments owed the debtor include current “disposable pay,” defined in 5 CFR 550.1103, owed by the Federal Government to a debtor who is an employee of the Federal Government. Deducting from such disposable pay to collect an overdue debt owed by the employee is called “Federal salary offset” in this subpart.

\* \* \* \* \*

(b) *Debts we refer.* We refer for administrative offset all qualifying debts that meet or exceed the threshold amounts used by the Department of the Treasury for collection from State and Federal payments, including Federal salaries.

\* \* \* \* \*

[FR Doc. 2011–27221 Filed 10–19–11; 8:45 am]

**BILLING CODE 4191–02–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 558**

[Docket No. FDA–2011–N–0003]

**New Animal Drugs for Use in Animal Feeds; Melengestrol; Monensin; Tylosin**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Ivy Laboratories, Division of Ivy Animal Health, Inc. The supplemental ANADA provides for use of increased dose levels of monensin in three-way, combination drug Type C medicated feeds for heifers fed in confinement for slaughter containing melengestrol acetate, monensin, and tylosin.

**DATES:** This rule is effective October 20, 2011.

**FOR FURTHER INFORMATION CONTACT:** John K. Harshman, Center for Veterinary Medicine (HFV–170), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8197, e-mail: john.harshman@fda.hhs.gov.

**SUPPLEMENTARY INFORMATION:** Ivy Laboratories, Division of Ivy Animal Health, Inc., 8857 Bond St., Overland Park, KS 66214, filed a supplement to ANADA 200–375 for use of HEIFERMAX 500 (melengestrol acetate), RUMENSIN (monensin, USP), and TYLAN (tylosin phosphate) single-ingredient Type A medicated articles to make three-way, combination drug Type C medicated feeds for heifers fed in confinement for slaughter. The supplemental ANADA provides for use of increased dose levels of monensin. The supplemental application is approved as of September 1, 2011, and the regulations in 21 CFR 558.342 are amended to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The Agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of “rule” in 5 U.S.C. 804(3)(A) because it is a rule of “particular applicability.” Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

**List of Subjects in 21 CFR Part 558**

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

**PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS**

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

**Authority:** 21 U.S.C. 360b, 371.

**§ 558.342 [Amended]**

■ 2. In § 558.342, in the table in paragraph (e)(1), remove and reserve paragraph (e)(1)(vii); and in paragraph (e)(1)(xi), in the "Sponsor" column, add "021641".

Dated: October 14, 2011.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 2011-27139 Filed 10-19-11; 8:45 am]

**BILLING CODE 4160-01-P**

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

[TD 9548]

RIN 1545-BH49

**Guidance Regarding the Treatment of Stock of a Controlled Corporation Under Section 355(a)(3)(B)**

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

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations regarding the distribution of stock of a controlled corporation acquired in a transaction described in section 355(a)(3)(B) of the Internal Revenue Code (Code). This action is necessary in light of amendments to section 355(b). These final regulations will affect corporations and their shareholders.

**DATES:** *Effective Date:* These final regulations are effective on October 20, 2011.

*Applicability Date:* For dates of applicability, see § 1.355-2(i).

**FOR FURTHER INFORMATION CONTACT:** Russell P. Subin, (202) 622-7790 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

This document contains amendments to 26 CFR part 1 regarding section 355(a)(3)(B).

Section 355(a) provides that, under certain circumstances, a corporation may distribute stock and securities in a corporation it controls to its shareholders and security holders without causing either the distributing corporation (distributing) or its shareholders and security holders to recognize income, gain, or loss.

Sections 355(a)(1)(C) and 355(b)(1) generally require that distributing and the controlled corporation (controlled)

each be engaged, immediately after the distribution, in the active conduct of a trade or business. Section 355(b)(2)(A) provides that a corporation shall be treated as engaged in the active conduct of a trade or business if and only if it is engaged in the active conduct of a trade or business.

Section 355(b)(2)(B) requires that the trade or business have been actively conducted throughout the five-year period ending on the date of the distribution (pre-distribution period). Section 355(b)(2)(C) provides that the trade or business must not have been acquired in a transaction in which gain or loss was recognized in whole or in part (taxable transaction) within the pre-distribution period. Section 355(b)(2)(D) provides that control of a corporation that (at the time of acquisition of control) was conducting the trade or business must not have been directly or indirectly acquired by any distributee corporation or by distributing during the pre-distribution period in a taxable transaction.

Section 355(b)(3)(A) provides that for purposes of determining whether a corporation meets the requirements of section 355(b)(2)(A), all members of such corporation's separate affiliated group (SAG) shall be treated as one corporation. Section 355(b)(3)(B) provides that for purposes of section 355(b)(3), the term SAG means, with respect to any corporation, the affiliated group that would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply. Section 355(b)(3)(C) provides that if a corporation became a SAG member as a result of one or more taxable transactions, any trade or business conducted by such corporation (at the time that such corporation became such a member) shall be treated for purposes of section 355(b)(2) as acquired in a taxable transaction.

Section 355(a)(3)(B) provides that for purposes of section 355 (other than section 355(a)(1)(D)) and so much of section 356 as relates to section 355, stock of controlled acquired by distributing by reason of any transaction (i) which occurs within five years of the distribution of such stock, and (ii) which is a taxable transaction, shall not be treated as stock of controlled, but as other property.

Section 355(b)(3)(D) provides that the Secretary shall prescribe such regulations as are necessary or appropriate to carry out the purposes of section 355(b)(3), including regulations that provide for the proper application of section 355(b)(2)(B), (C), and (D), and modify the application of section

355(a)(3)(B), in connection with the application of section 355(b)(3).

Pursuant to section 355(b)(3)(D) and section 7805, temporary regulations (TD 9435) under section 355(a)(3)(B) were published in the **Federal Register** (73 FR 75946) on December 15, 2008. A notice of proposed rulemaking (REG-150670-07) cross-referencing the temporary regulation was published in the **Federal Register** on the same day (73 FR 75979). The temporary regulations were intended to harmonize the application of section 355(a)(3)(B) with section 355(b). Generally, the temporary regulations: (1) Disregarded transfers of controlled stock between members of the distributing corporation's SAG (DSAG), (2) did not treat controlled stock as other property if controlled became a DSAG member, and (3) retained the exception of prior regulation § 1.355-2(g) as contained in 26 CFR part 1, revised as of April 1, 2008, for acquisitions from affiliates described in § 1.355-3(b)(4)(iii).

The preamble to the temporary regulations requested comments regarding a variety of issues under section 355(a)(3)(B). One written comment responding to the request was received. No public hearing was requested or held.

**Summary of Comment and Guidance**

The comment generally agreed with the text of the temporary regulations. In addition, the comment addressed, among other things, the treatment of cash paid to acquire controlled stock in lieu of fractional shares, indirect acquisitions and acquisitions of controlled stock by a predecessor to a member of the DSAG, issuances of controlled stock, and redemptions of controlled stock. After considering the comment, the IRS and Treasury Department have decided not to expand the scope of the final regulation to cover additional situations at this time. These final regulations adopt the substantive rules of the temporary regulations without change.

The IRS and Treasury Department continue to study the interrelationship between section 355(a)(3)(B) and section 355(b). No inference regarding the content of future section 355(b) guidance should be drawn from these final regulations. In addition, further guidance may be issued under section 355(a)(3)(B) in connection with future section 355(b) guidance if it is necessary to harmonize the two provisions.

**Special Analyses**

It has been determined that this Treasury Decision is not a significant regulatory action as defined in