§ 232.101 Mandated electronic submissions and exceptions.

(a) * * *

(1) * * *

(ix) Form ID (§§ 239.63, 249.446, 269.7 and 274.402 of this chapter); the Form ID authenticating document required by Rule 10(b) of Regulation S–T (§ 232.10(b)) also shall be filed in electronic format as an uploaded Portable Document Format (PDF) attachment to the Form ID filing. Other related correspondence and supplemental information submitted after the Form ID filing shall not be submitted in electronic format; * * * * *


Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the updated EDGAR Filer Manual, Volume I: “General Information,” Version 13 (July 2012). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: “EDGAR Filing,” Version 20 (July 2012). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You must comply with these requirements in order for documents to be timely received and accepted. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 100 F Street NE., Room 1543, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Electronic copies are available on the Commission’s Web site. The address for the Filer Manual is http://www.sec.gov/info/edgar.shtml. You can also inspect the document at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

By the Commission.


Elizabeth M. Murphy,
Secretary.

[FR Doc. 2012–21805 Filed 9–5–12; 8:45 am]
BILLING CODE 8011–01–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

19 CFR Part 4

Vessels in Foreign and Domestic Trades

CFR Correction

In Title 19 of the Code of Federal Regulations, Parts 1 to 99, revised as of April 1, 2012, on page 14, in § 4.7, paragraph (b)(4) introductory text is corrected to read as follows:

§ 4.7 Inward foreign manifest; production on demand; contents and form; advance electronic filing of cargo declaration.

* * * * *

(b) * * *

(4) Carriers of bulk cargo as specified in paragraph (b)(4)(i) of this section and carriers of break bulk cargo to the extent provided in paragraph (b)(4)(ii) of this section are exempt, with respect only to the bulk or break bulk cargo being transported, from the requirement set forth in paragraph (b)(2) of this section that an electronic cargo declaration be received by CBP 24 hours before such cargo is laden aboard the vessel at the foreign port. With respect to exempted carriers of bulk or break bulk cargo operating voyages to the United States, CBP must receive the electronic cargo declaration covering the bulk or break bulk cargo they are transporting 24 hours prior to the vessel’s arrival in the United States (see § 4.30(n)). However, for any containerized or non-qualifying break bulk cargo these exempted carriers will be transporting, CBP must receive the electronic cargo declaration 24 hours in advance of loading.

* * * * *

[FR Doc. 2012–21999 Filed 9–5–12; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9598]

RIN 1545–BK98

Integrated Hedging Transactions of Qualifying Debt

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary regulations that address certain integrated transactions that involve a foreign currency denominated debt instrument and multiple associated hedging transactions. The regulations provide that if a taxpayer has identified multiple hedges as being part of a qualified hedging transaction, and the taxpayer has terminated at least one but less than all of the hedges (including a portion of one or more of the hedges), the taxpayer must treat the remaining hedges as having been sold for fair market value on the date of disposition of the terminated hedge. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the Federal Register.

DATES: Effective Date. These regulations are effective on September 6, 2012. Applicability Date. These regulations apply to leg-outs within the meaning of § 1.988–5(a)(6)(ii) which occur on or after September 6, 2012.

FOR FURTHER INFORMATION CONTACT: Sheila Ramaswamy, at (202) 622–3870 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 1.988–5 provides detailed rules that permit the integration of a qualifying debt instrument with a § 1.988–5(a) hedge. The effect of integration under the regulations is to create a synthetic debt instrument. Generally, if a taxpayer enters into a qualified hedging transaction and meets the requirements of the regulations, no exchange gain or loss is recognized on the debt instrument or the hedge for the period that it is part of a qualified hedging transaction (provided that the synthetic debt instrument is not denominated in a nonfunctional currency). See § 1.988–5(a)(9). A qualified hedging transaction is an integrated economic transaction
consisting of a qualifying debt instrument and a § 1.988–5(a) hedge. See § 1.988–5(a)(1). A qualifying debt instrument is any debt instrument described in § 1.988–1(a)(2)(i) regardless of its denominated currency. See § 1.988–5(a)(3). A § 1.988–5(a) hedge is a spot contract, futures contract, forward contract, option contract, notional principal contract, currency swap contract, or similar financial instrument, or series or combinations of such instruments, that when integrated with a qualifying debt instrument permits the calculation of a yield to maturity in the currency in which the synthetic debt instrument is denominated. See § 1.988–5(a)(4).

Under § 1.988–5(a)(6)(ii), a taxpayer that disposes of all or a part of the qualifying debt instrument or hedge prior to the maturity of the qualifying hedging transaction, or that changes a material term of the qualifying debt instrument or hedge, is viewed as “legging out” of integrated treatment. One of the consequences of legging out is that the taxpayer disposes of, the qualifying debt instrument is treated as sold for its fair market value on the date of disposition of the hedge (log-out date). See § 1.988–5(a)(6)(ii)(B). Any gain or loss on the qualifying debt instrument from the date of identification to the log-out date is recognized on the log-out date. The intended result of this deemed disposition rule is that the gain or loss on the qualifying debt instrument will generally be offset by the gain or loss on the hedge.

The Internal Revenue Service (IRS) and the Department of the Treasury (Treasury Department) have become aware that some taxpayers who are in a loss position with respect to a qualifying debt instrument that is part of a qualified hedging transaction are interpreting the legging-out rules of § 1.988–5(a)(6)(ii)(B) to permit the recognition of the loss on the debt instrument without recognition of all of the corresponding gain on the hedging component of the transaction. Taxpayers claim to achieve this result by hedging nonfunctional currency debt instruments with multiple financial instruments and selectively disposing of less than all of these positions.

Taxpayers take the position that § 1.988–5(a)(6)(ii)(B) triggers the entire loss in the qualifying debt instrument but not the gain in the remaining components of the hedging side of the integrated transaction. For example, a taxpayer may fully hedge a fixed rate nonfunctional currency denominated debt instrument that it has issued with two swaps—a nonfunctional currency/dollar currency swap and a fixed for floating dollar interest rate swap. The effect of matching the currency swap with the foreign currency denominated debt is to create synthetic fixed rate U.S. dollar debt while the effect of the interest rate swap is to simultaneously transform the synthetic fixed rate U.S. dollar debt into synthetic floating rate U.S. dollar debt.

Thus, assuming that the rules of § 1.988–5(a) are otherwise satisfied, the taxpayer will have effectively converted the fixed rate foreign currency denominated debt instrument into a synthetic floating rate U.S. dollar denominated debt instrument.

As the U.S. dollar declines in value relative to the foreign currency in which the debt instrument is denominated, the taxpayer disposes of the interest rate swap while keeping the currency swap in existence. The taxpayer takes the position that the disposition of the interest rate swap allows it to treat the debt instrument as having been terminated on the date of disposition and claims a loss on the debt instrument without taking into account the offsetting gain on the remaining component of the hedge. Thus, the taxpayer claims the transaction generates a net loss. The IRS and the Treasury Department believe that these results are inappropriate under the legging-out rules since the claimed loss is largely offset by unrealized gain on the remaining component of the hedging transaction. Therefore, the IRS and the Treasury Department are issuing these regulations to clarify the rules regarding the consequences of legging-out of qualified hedging transactions that consist of multiple components. No inference is intended regarding the merits of the position taken by the taxpayer with respect to the transaction described above (or comparable positions taken by taxpayers with respect to similar transactions) in the case of transactions occurring prior to the applicability date of these regulations, and in appropriate cases the IRS may challenge the claimed results.

Explanation of Provisions

Section 1.988–5(a) is amended to provide that if a hedge with more than one component has been properly identified as being part of a qualified hedging transaction, and at least one but not all of the components of the hedge that is a part of the qualified hedging transaction has been terminated or disposed of, all of the remaining components of the hedge (as well as the qualifying debt) shall be treated as sold for their fair market value on the log-out date of the terminated hedge. Similarly, if a part of any component of a hedge (whether a hedge consists of a single or multiple components) has been disposed of, the remaining part of that component (as well as other components in the case of a hedge with multiple components) that is still in existence (as well as the qualifying debt instrument) shall be treated as sold for its fair market value on the log-out date of the terminated hedge.

Effective/Applicability Date

The regulation applies to leg-outs within the meaning of § 1.988–5(a)(6)(ii) which occur on or after September 6, 2012.

Special Analyses

It has been determined that these regulations are 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, and because these regulations do not impose a collection of information on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Sheila Ramaswamy, Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendment to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ Paragraph 1. The authority citation for paragraph 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ Par. 2. Section 1.988–5 is amended by:

1. Revising paragraph (a)(6)(ii).

2. Adding Example 11 in paragraph (a)(4).

The revision and addition read as follows:
§ 1.988–5  Section 988(d) hedging transactions.

(a) * * *

(ii) [Reserved]. For further guidance see § 1.988–5T(a)(6)(ii).

(b) * * *

(iv) * * *

Example 11. [Reserved]. For further guidance see § 1.988–5T(a)(9)(iv).

\[\text{Example 11.}\]

§ 1.988–5T  Section 988(d) hedging transactions (temporary).

(a) through (a)(6)(i) [Reserved]. For further guidance see § 1.988–5(a) through (a)(6)(i).

(ii) * * *

Example 10.\[\text{Example 10.}\]

\[\text{Example 11.}\]

\[\text{Example 11.}\]

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\[\text{Example 11.}\]

\[\text{Example 11.}\]

\[\text{Example 11.}\]
pay LIBOR times a notional principal amount of $100 and will receive 8% times the same $100 notional principal amount.

(ii) Assume that K properly identifies the pound borrowing and the swap contracts as a qualified hedging transaction as provided in paragraph (a)(8) of this section and that the other relevant requirements of paragraph (a) of this section are satisfied.

(iii) Assume also that on January 1, 2014, the spot exchange rate is £1.52; the U.S. dollar LIBOR rate of interest is 9%; and the market value of K’s note in pounds has not changed. K terminates swap #2. K will incur a loss of $(.91) (the present value of $1) with respect to the termination of such swap on January 1, 2014. Pursuant to paragraph (a)(6)(ii)(C) of this section, K must treat swap #1 as having been sold for its fair market value on the leg-out date, which is the date swap #2 is terminated. K must realize and recognize gain of $100.92 (the present value of £110 discounted in pounds to equal £100). The loss on the qualifying debt instrument is not taken into account. Thus, the gain on swap #1 and the loss on the qualifying debt this section do not apply and the gain on this swap is terminated.

Accordingly, under paragraph (a)(6)(ii)(F) of this section, any gain on swap #1 will include in income $0.93 realized from the termination of swap #2.

SUMMARY: The Coast Guard is establishing a safety zone upon the navigable waters of the San Diego Bay, San Diego, CA, in support of a bay swim in San Diego Harbor. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 6:30 a.m. to 9:30 a.m. on September 9, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0800. To view documents mentioned in this preamble as being available in the docket, go to http://www.regulations.gov, type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Derek Metzger, Waterways Management, U.S. Coast Guard Sector San Diego; telephone (619) 278–7656, email dl1.marineevents@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) because it would be impracticable to do so with respect to this rule, as the logistical details of the San Diego Bay swim were not finalized nor presented to the Coast Guard in enough time to draft and publish an NPRM. As such, the event would occur before the rulemaking process was complete.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date would be impracticable and contrary to the public interest, since immediate action is needed to ensure public safety.

B. Basis and Purpose

Competitor Group is sponsoring the TriRock Triathlon, consisting of 2000 swimmers swimming a predetermined course. The sponsor will provide 18 safety vessels including boats, paddle boards, and PWCs for this event. A safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and other users of the waterway.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced on September 9, 2012, from 6:30 a.m. to 10 a.m. The limits of the safety zone will be navigable waters of the San Diego Bay behind the San Diego Convention Center bound by the following coordinates including the marina: 32°42′16″ N, 117°09′58″ W to 32°42′15″ N, 117°10′02″ W then south to 32°42′00″ N, 117°09′45″ W to 32°42′03″ N, 117°09′40″ W.

This safety zone is necessary to ensure unauthorized personnel and vessels remain safe by keeping clear during the bay swim. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.