

the initial notification subsequently completes and submits to OEE the narrative account required by paragraph (c)(3) of this section such that OEE receives it within 180 days of the initial notification date, or within the additional time, if any, granted by the Director of OEE pursuant to paragraph (c)(2)(iv) of this section, the disclosure, including violations disclosed in the narrative account that were not expressly mentioned in the initial notification, will be deemed to have been made on the initial notification date for purposes of paragraph (b)(3) of this section if the initial notification was made in compliance with paragraphs (c)(1) and (2) of this section. Failure to meet the deadline (either the initial 180-day deadline or an extended deadline granted by the Director of OEE) would not be an additional violation of the EAR, but such failure may reduce or eliminate the mitigating impact of the voluntary disclosure under Supplement No. 1 to this part. For purposes of determining whether the deadline has been met under this paragraph, a complete narrative account must contain all of the pertinent information called for in paragraphs (c)(3), (c)(4), and (c)(5) of this section, and the voluntary self-disclosure must otherwise meet the requirements of this section.

(iv) *Deadline extensions.* The Director of OEE may extend the 180-day deadline upon a determination in his or her discretion that U.S. Government interests would be served by an extension or that the person making the initial notification has shown that more than 180 days is reasonably needed to complete the narrative account.

(A) *Conditions for extension.* The Director of OEE in his or her discretion may place conditions on the approval of an extension. For example, the Director of OEE may require that the disclosing person agree to toll the statute of limitations with respect to violations disclosed in the initial notification or discovered during the review for or preparation of the narrative account, and/or require the disclosing person to undertake specified interim remedial compliance measures.

(B) *Contents of Request.* (1) In most instances 180 days should be adequate to complete the narrative account. Requests to extend the 180-day deadline set forth in paragraph (c)(2)(iii) of this section will be determined by the Director of OEE pursuant to his or her authority under this paragraph (c)(2)(iv) based upon his consideration and evaluation of U.S. Government interests and the facts and circumstances surrounding the request and any related

investigations. Such requests should show specifically that the person making the request:

- (i) Began its review promptly after discovery of the violations;
- (ii) Has been conducting its review and preparation of the narrative account as expeditiously as can be expected, consistent with the need for completeness and accuracy;
- (iii) Reasonably needs the requested extension despite having begun its review promptly after discovery of the violations and having conducted its review and preparation of the narrative account as expeditiously as can be expected consistent with the need for completeness and accuracy; and
- (iv) Has considered whether interim compliance or other corrective measures may be needed and has undertaken such measures as appropriate to prevent recurring or additional violations.

(2) Such requests also should set out a proposed timeline for completion and submission of the narrative account that is reasonable under the applicable facts and circumstances, and should also designate a contact person regarding the request and provide that contact person's current business street address, email address, and telephone number. Requests may also include additional information that the person making the request reasonably believes is pertinent to the request under the applicable facts and circumstances.

(C) *Timing of requests.* Requests for an extension should be made before the 180-day deadline and as soon as possible once a disclosing person determines that it will be unable to meet the deadline or the extended deadline where an extension previously has been granted, and possesses the information needed to prepare an extension request in accordance with paragraph (c)(2)(iv)(B) of this section. Requests for extension that are not received before the deadline for completing the narrative account has passed will not be considered. Parties who request an extension shortly before the deadline incur the risk that the Director of OEE will be unable to consider the request, determine whether or not to grant the extension, and communicate his or her decision before the deadline, and that any subsequently submitted narrative account will be considered untimely under paragraph (c)(2)(iii) of this section.

\* \* \* \* \*

**PART 766—[AMENDED]**

■ 3. The authority citation paragraph for part 766 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 15, 2012, 77 FR 49699 (August 16, 2012).

■ 4. Section 766.3 is amended by revising paragraphs (b)(1) and (c) to read as follows:

**§ 766.3 Institution of administrative enforcement proceedings.**

\* \* \* \* \*

(b) \* \* \*

(1) By sending a copy by registered or certified mail or by express mail or commercial courier or delivery service addressed to the respondent at the respondent's last known address;

\* \* \*

(c) The date of service of notice of the issuance of a charging letter instituting an administrative enforcement proceeding, or service of notice of the issuance of a supplement or amendment to a charging letter, is the date of its delivery, or of its attempted delivery, by any means described in paragraph (b)(1) of this section.

Dated August 5, 2013.

**Kevin J. Wolf,**  
*Assistant Secretary for Export Administration.*

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9622]

RIN 1545-BI96

**Guidance Regarding Deferred Discharge of Indebtedness Income of Corporations and Deferred Original Issue Discount Deductions; Correction**

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

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to final regulations and removal of temporary regulations (TD 9622) that were published in the **Federal Register** on Wednesday, July 3, 2013 (78 FR 39984). The final regulations provide necessary guidance regarding the accelerated inclusion of deferred discharge of indebtedness (also known as cancellation of debt (COD)) income (deferred COD income) and the accelerated deduction of deferred original issue discount (OID) (deferred OID deductions) under section 108(i)(5)(D) (acceleration rules), and the calculation of earnings and profits as a

result of an election under section 108(i). In addition, these regulations provide rules applicable to all taxpayers regarding deferred OID deductions under section 108(i) as a result of a reacquisition of an applicable debt instrument by an issuer or related party.

**DATES:** This correction is effective on August 9, 2013 and is applicable on or after July 2, 2013.

**FOR FURTHER INFORMATION CONTACT:** Robert M. Rhyne, at (202) 622-7790 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations and removal of temporary regulations (TD 9622) that are the subject of this correction are under section 108(i) of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations and removal of temporary regulations (TD 9622) contains errors that may prove to be misleading and are 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 amendments:

**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 1.108(i)-0 is amended by revising paragraph (b) to read as follows:

**§ 1.108(i)-0 Definitions and effective/applicability dates.**

\* \* \* \* \*

(b) *Effective/Applicability dates*—(1) *In general.* The rules of this section, § 1.108(i)-1, and § 1.108(i)-2, apply on or after July 2, 2013, to reacquisitions of applicable debt instruments in taxable years ending after December 31, 2008. In addition, the rules of § 1.108(i)-3 apply on or after July 2, 2013, to debt instruments issued after December 31, 2008, in connection with reacquisitions of applicable debt instruments in taxable years ending after December 31, 2008.

(2) *Prior periods.* For rules applying before July 2, 2013, see § 1.108(i)-0T, § 1.108(i)-1T, § 1.108(i)-2T, and § 1.108(i)-3T, as contained in 26 CFR part 1, revised April 1, 2013.

■ **Par. 3.** Section 1.108(i)-1 is amended by revising the third and fourth sentences of paragraph (b)(2)(iii)(D), and the fifth and seventh sentences of paragraph (c) *Example 3* (ii) to read as follows:

**§ 1.108(i)-1 Deferred discharge of indebtedness income and deferred original issue discount deductions of C corporations.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(D) \* \* \* Appropriate adjustments must be made to take into account any issuances or redemptions of stock, or similar transactions, occurring during the taxable year of distribution or any of the preceding three taxable years. If the electing corporation has a short taxable year for the year of the distribution or for any of the preceding three taxable years, the amounts are determined on an annualized basis. \* \* \*

\* \* \* \* \*

(c) \* \* \*

*Example 3.* \* \* \*

(ii) \* \* \* However, under paragraph (b)(2)(iii)(A) of this section, S's distribution to P is an impairment transaction and the net value acceleration rule is applied with respect to the assets, liabilities, and deferred items of P (S's successor). \* \* \* Accordingly, under the net value acceleration rule of paragraph (b)(2)(iii)(A) of this section, S is required to take into account its \$400 of deferred COD income immediately before the distribution, unless value is restored to P pursuant to paragraph (b)(2)(iii)(C) of this section.

\* \* \* \* \*

**Martin V. Franks,**

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

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1 and 602**

**[TD 9622]**

**RIN 1545-BI96**

**Guidance Regarding Deferred Discharge of Indebtedness Income of Corporations and Deferred Original Issue Discount Deductions; Correction**

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

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

**SUMMARY:** This document contains corrections to final regulations and removal of temporary regulations (TD 9622) that were published in the **Federal Register** on Wednesday, July 3, 2013 (78 FR 39984). The final regulations provide necessary guidance regarding the accelerated inclusion of deferred discharge of indebtedness (also known as cancellation of debt (COD)) income (deferred COD income) and the accelerated deduction of deferred original issue discount (OID) (deferred OID deductions) under section 108(i)(5)(D) (acceleration rules), and the calculation of earnings and profits as a result of an election under section 108(i). In addition, these regulations provide rules applicable to all taxpayers regarding deferred OID deductions under section 108(i) as a result of a reacquisition of an applicable debt instrument by an issuer or related party.

**DATES:** This correction is effective on August 9, 2013 and applicable on or after July 2, 2013.

**FOR FURTHER INFORMATION CONTACT:** Robert M. Rhyne, at (202) 622-7790 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations and removal of temporary regulations (TD 9622) that are the subject of this correction are under section 108(i) of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations and removal of temporary regulations (TD 9622) contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the final regulations and removal of temporary regulations (TD 9622), that are the subject of FR Doc. 2013-15881, are corrected as follows:

1. On page 39986, column 2, in the preamble, under the paragraph heading "Special Analyses", lines 19 and 20, the language "and the deduction of deferred original issue discount that is otherwise" is corrected to read "and the deduction of deferred OID that is otherwise".

**Martin V. Franks,**

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

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