To address this situation, the following text is added as a new paragraph d. at the end of Part III.2:

d. What should a lender do if a borrower submits documentation of eligible costs that exceed a borrower's PPP loan amount?

The amount of loan forgiveness that a borrower may receive cannot exceed the principal amount of the PPP loan. Whether a borrower submits SBA Form 3508, 3508EZ, 3508S, or lender's equivalent form, a lender should confirm receipt of the documentation the borrower is required to submit to aid in verifying payroll and nonpayroll costs, and, if applicable (for SBA Form 3508, 3508EZ, or lender's equivalent form), confirm the borrower's calculations on the borrower's Loan Forgiveness Application, up to the amount required to reach the requested Forgiveness Amount.

3. Additional Information

SBA may provide further guidance, if needed, through SBA notices that will be posted on SBA's website at *www.sba.gov.* Questions on the Paycheck Protection Program may be directed to the Lender Relations Specialist in the local SBA Field Office. The local SBA Field Office may be found at *https://www.sba.gov/tools/local-assistance/districtoffices.*

Compliance With Executive Orders 12866, 12988, 13132, 13563, and 13771, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Orders 12866, 13563, and 13771

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563, and is considered a major rule under the Congressional Review Act. SBA, however, is proceeding under the emergency provision at Executive Order 12866 Section 6(a)(3)(D) based on the need to move expeditiously to mitigate the current economic conditions arising from the COVID–19 emergency. This rule's designation under Executive Order 13771 will be informed by public comment.

Executive Order 12988

SBA has drafted this rule, to the extent practicable, in accordance with the standards set forth in Section 3(a) and 3(b)(2) of Executive Order 12988, to minimize litigation, eliminate ambiguity, and reduce burden. The rule has no preemptive or retroactive effect.

Executive Order 13132

SBA and Treasury have determined that this rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various layers of government. Therefore, SBA has determined that this rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Chapter 35

SBA and Treasury have determined that this rule modifies an existing information collection. This rule reduces the burden associated with lender review of borrower documentation of eligible costs for forgiveness. Additionally, SBA has developed a second streamlined Paycheck Protection Program—PPP Loan Forgiveness Application Form 3508S (SBA Form 3508S), which is available for borrowers meeting criteria described in the instructions accompanying the form. SBA has obtained Office of Management and Budget (OMB) approval of the modification to the existing information collection, which is currently approved as an emergency request under OMB Control Number 3245–0407 until October 31, 2020.

Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to Section 553(b) of the APA or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604. Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. Such analysis must address the consideration of regulatory options that would lessen the economic effect of the rule on small entities. The RFA defines a ''small entity'' as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA); (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. 5 U.S.C. 601(3)–(6). Except for small government jurisdictions with a population of less than 50,000, neither State nor local governments are ''small entities.''

The requirement to conduct a regulatory impact analysis does not apply if the head of the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). The agency must, however, publish the certification in the **Federal Register** at the time of publication of the rule, ''along with a statement providing the factual basis for such certification.'' If the agency head has not waived the requirements for a regulatory flexibility analysis in accordance with the RFA's waiver provision, and no other RFA exception applies, the agency must prepare the regulatory flexibility analysis and publish it in the **Federal Register** at the time of promulgation or, if the rule is promulgated in response to an emergency that makes timely compliance impracticable, within 180 days of publication of the final rule. 5 U.S.C. 604(a), 608(b).

Rules that are exempt from notice and comment are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. SBA Office of Advocacy guide: *How to Comply with the Regulatory Flexibility Act, Ch.1. p.9.* Since this rule is exempt from notice and comment, SBA is not required to conduct a regulatory flexibility analysis.

Jovita Carranza,

Administrator Small Business Administration.

Michael Faulkender,

Assistant Secretary for Economic Policy Department of the Treasury.

[FR Doc. 2020–23091 Filed 10–14–20; 4:15 pm]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2019–D–0725]

The Declaration of Allulose and Calories From Allulose on Nutrition and Supplement Facts Labels; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a final guidance for industry entitled ''The

Declaration of Allulose and Calories from Allulose on Nutrition and Supplement Facts Labels.'' The guidance describes FDA's views on the declaration of allulose on Nutrition Facts and Supplement Facts labels and the caloric content of allulose. The guidance also announces our intent to exercise enforcement discretion for the exclusion of allulose from the amount of Total Sugars and Added Sugars declared on the Nutrition Facts and Supplement Facts label and use of a general factor of 0.4 calories per gram (kcal/g) for allulose when calculating declarations on Nutrition and Supplement Facts labels.

DATES: The announcement of the guidance is published in the **Federal Register** on October 19, 2020.

ADDRESSES: You may submit either electronic or written comments on FDA guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–0725 for ''The Declaration of Allulose and Calories from Allulose on Nutrition and Supplement Facts Labels.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Nutrition and Food Labeling, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Blakeley Fitzpatrick, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1450.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''The Declaration of Allulose and Calories from Allulose on Nutrition and Supplement Facts Labels.'' We are issuing this guidance consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternate approach if it satisfies the requirements of the applicable statutes and regulations.

In the **Federal Register** of April 18, 2019 (84 FR 16272), we published a notice announcing the availability of a draft guidance for industry entitled ''The Declaration of Allulose and Calories from Allulose on Nutrition and Supplement Facts Labels.'' The draft guidance: (1) Described our tentative views on the declaration of allulose on Nutrition Facts and Supplement Facts labels and on the caloric content of allulose; and (2) announced our tentative intent to exercise enforcement discretion for the exclusion of allulose from the amount of Total Sugars and Added Sugars declared on the label and use of a general factor of 0.4 kcal/g for allulose when calculating declarations on Nutrition and Supplement Facts labels pending review of the issues in a rulemaking.

The draft guidance gave interested parties an opportunity to submit comments by June 17, 2019, for us to consider before beginning work on the final version of the guidance. We received approximately 30 comments from industry, health professionals, consumer advocacy groups, scientists, trade associations, and consumers. We are finalizing the positions in the draft guidance and have made technical corrections and editorial changes throughout the guidance to improve clarity. We also added language clarifying that allulose must still be declared in the ingredient statement

even if it is excluded from certain label declarations. Finally, we reorganized the section detailing our consideration of allulose as a sugar.

The guidance announced in this notice finalizes the draft guidance with respect to: (1) Our views on the declaration of allulose on Nutrition Facts and Supplement Facts labels and on the caloric content of allulose; and (2) our intent to exercise enforcement discretion for the exclusion of allulose from the amount of Total Sugars and Added Sugars declared on the label and use of a general factor of 0.4 kcal/g for allulose when calculating declarations on Nutrition and Supplement Facts labels pending review of the issues in a rulemaking.

II. Paperwork Reduction Act of 1995

This guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required.

However, this guidance refers to previously approved FDA collections of information. These collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 101 have been approved under OMB control number 0910–0381.

II. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/FoodGuidances* or *https://www.regulations.gov*. Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: October 9, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–22901 Filed 10–16–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9918]

RIN 1545–BO87

Effect of Section 67(g) on Trusts and Estates

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations clarifying that the following deductions allowed to an estate or non-grantor trust are not miscellaneous itemized deductions: Costs paid or incurred in connection with the administration of an estate or non-grantor trust that would not have been incurred if the property were not held in the estate or trust, the personal exemption of an estate or non-grantor trust, the distribution deduction for trusts distributing current income, and the distribution deduction for estates and trusts accumulating income. Therefore, these deductions are not affected by the suspension of the deductibility of miscellaneous itemized deductions for taxable years beginning after December 31, 2017, and before January 1, 2026. The final regulations also provide guidance on determining the character, amount, and allocation of deductions in excess of gross income succeeded to by a beneficiary on the termination of an estate or non-grantor trust. The final regulations affect estates, non-grantor trusts (including the S portion of an electing small business trust), and their beneficiaries.

DATES:

Effective date: These regulations are effective on October 19, 2020.

Applicability dates: For dates of applicability, see §§ 1.67–4(d), 1.642(h)–2(f) and 1.642(h)–5(c).

FOR FURTHER INFORMATION CONTACT: Margaret Burow at (202) 317–5279 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to Income Tax Regulations (26 CFR part 1) under sections 67 and 642 of the Internal Revenue Code (Code). On May 11, 2020, the Department of Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking (REG–113295–18) in the **Federal Register** (85 FR 27693) containing proposed regulations under sections 67 and 642(h) (proposed regulations). The Summary of Comments and Explanation of Revisions section of this preamble summarizes the provisions of sections 67 and 642(h) and the provisions of the proposed regulations, which are explained in greater detail in the preamble to the proposed regulations.

On July 17, 2020, the Treasury Department and the IRS published in the **Federal Register** (85 FR 43512) a notice of public hearing on the proposed regulations scheduled for August 12, 2020. The Treasury Department and the IRS received no requests to speak at a hearing in response to that notice. On August 5, 2020, the Treasury Department and the IRS published in the **Federal Register** (85 FR 47323) a cancellation of the notice of public hearing.

The Treasury Department and the IRS received written and electronic comments in response to the proposed regulations. All comments were considered and are available at *www.regulations.gov* or upon request. After full consideration of the comments received, this Treasury decision adopts the proposed regulations with modifications described in the Summary of Comments and Explanation of Revisions.

Summary of Comments and Explanation of Revisions

Most of the comments addressing the proposed regulations are summarized in this Summary of Comments and Explanation of Revisions. Comments merely summarizing or interpreting the proposed regulations or recommending statutory revisions are not discussed in this preamble. The Treasury Department and the IRS continue to study comments on issues related to sections 67 and 642(h) that are beyond the scope of these regulations, which may be discussed in future guidance if guidance on those issues is published. The scope of the proposed regulations and these regulations is limited to the effect of section 67(g) on the deductibility of certain expenses described in section 67(b) and (e) that are incurred by estates and non-grantor trusts and the treatment of excess deductions on termination of an estate or trust under section 642(h). This Summary of Comments and Explanation of Revisions also describes each of the final rules contained in this document.

A. Section 67

Section 67(g) was added to the Code on December 22, 2017, by section 11045(a) of Public Law 115–97, 131 Stat. 2054, 2088 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA). Section 67(g) prohibits individual taxpayers from claiming miscellaneous itemized deductions for any taxable year beginning after December 31, 2017, and before January 1, 2026. Prior to the TCJA, miscellaneous itemized deductions were allowable for any taxable year only to the extent that the sum of such deductions exceeded two percent of adjusted gross income. See section 67(a). Section 67(b) defines miscellaneous itemized deductions as itemized deductions other than those listed in section 67(b)(1) through (12).