

[4820-01-p]

Published January 26, 2006

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

REG-138879-05

RIN 1545-BE87

Treatment of Excess Loss Accounts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rule making 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 provide guidance under section 1502 that governs certain basis determinations and adjustments of subsidiary stock in certain transactions involving members of a consolidated group. 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 April 26, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-138879-05), 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-138879-05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW Washington, DC, or sent electronically, via the IRS internet site at [www.irs.gov/regs](http://www.irs.gov/regs) or via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS and REG-138879-05).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Theresa M. Kolish, (202) 622-7530, concerning submissions of comments, Sonya Cruse, (202) 622-4693 (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 relating to section 1502. The temporary regulations add § 1.1502-19T. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments included in these proposed regulations.

#### **Special Analysis**

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. Further, it is hereby certified that these proposed 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 will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger business. Moreover, the number of taxpayers affected and the average burden are minimal. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its 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 copies) that are submitted timely to the IRS. Alternatively, taxpayers may submit comments electronically via the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs) or via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). The IRS and Treasury Department request comments on the clarity of the proposed rules 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 who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

## **Drafting Information**

The principal authors of these regulations are Emidio J. Forlini, Jr. and Theresa M. Kolish of the Office of Associate Chief Counsel (Corporate). Other personnel from Treasury 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 \* \* \*

Section 1.1502-19 also issued under 26 U.S.C. 1502. \* \* \*

Par. 2. Section 1.1502-19 is amended by:

1. Revising paragraph (d).
2. Revising paragraph (g) Example 2.
3. Revising the paragraph heading for paragraph (h).
4. Adding paragraph (h)(2)(iv).
5. Adding new paragraph (h)(3).

The revisions and additions read as follows:

§1.1502-19 Excess Loss Accounts.

[The text of the proposed §1.1502-19 is the same as the text for §1502-19T published elsewhere in this issue of the **Federal Register**].

Mark E. Matthews

Deputy Commissioner for Services and Enforcement.