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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR 1

REG-153319-03

RIN 1545-BC74

Guidance Under Section 1502; Application of Section 108 to Members of a Consolidated Group

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations relating to section 1502.

The text of those regulations also serves as the text of these proposed regulations .

DATES: Written or electronic comments must be received by January 12, 2004.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-153319-03), room 5203, Internal Revenue Service, POB 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-153319-03), Courier's Desk, Internal

Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively,

taxpayers may submit comments electronically directly to the IRS Internet site at

www.irs.gov/regs.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Amber Renee Cook or Marie C. Milnes-Vasquez at (202) 622-7530; concerning submission of comments, La Nita Van Dyke at (202) 622-7180 (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 text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

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 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 businesses. Moreover, the number of taxpayers affected and the average burden are minimal. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue 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 Request for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury

Department specifically request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Marie C. Milnes-Vasquez of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department 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 continues to read in part as follows:

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

Section 1.1502-28 also issued under 26 U.S.C. 1502. * * *

Par. 2. Section 1.1502-28 is added to read as follows:

§1.1502-28 Consolidated section 108.

[The text of this proposed section is the same as the text of §1.1502-28T published elsewhere in this issue of the **Federal Register**].

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.