

[4830-01-u]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8840]

RIN 1545-AX61

Reopenings of Treasury Securities; Original Issue Discount

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the Federal income tax treatment of reopenings of Treasury securities. The temporary regulations change the definition of a qualified reopening. 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 of this issue of the **Federal Register**. The regulations in this document provide needed guidance to holders of reopened Treasury securities.

DATES: The regulations are effective November 5, 1999.

FOR FURTHER INFORMATION CONTACT: William E. Blanchard, (202) 622-3950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Sections 163(e) and 1271 through 1275 of the Internal Revenue Code (Code) provide rules for the Federal income tax treatment of interest and original issue discount (OID). On February 2, 1994, final regulations relating to these sections of the Code (TD 8517, 1994-1 C.B. 38) were published in the **Federal Register** (59 FR 4799). Section 1.1275-2(d)(2) of the regulations provides rules for the treatment of certain reopenings of Treasury securities.

On January 6, 1997, temporary regulations relating to the Federal income tax treatment of inflation-indexed debt instruments (TD 8709, 1997-1 C.B. 167) were published in the **Federal Register** (62 FR 615). Section 1.1275-7T(g) of those temporary regulations provided rules for the treatment of certain reopenings of Treasury Inflation-Indexed Securities. On September 7, 1999, §1.1275-7T was redesignated as §1.1275-7 (TD 8838, 64 FR 48545).

Explanation of provisions

The Secretary of the Treasury is authorized to issue Treasury securities, including Treasury Inflation-Indexed Securities, and to prescribe terms and conditions for their issuance and sale. The Treasury Department sells securities throughout the year.

In January 1992, the Treasury Department determined that it will be prepared to provide additional quantities of a security to the public when an acute, protracted shortage develops. These reopenings are necessary to preserve the integrity and efficient functioning of the market in Treasury securities. See Department of the

Treasury, Securities and Exchange Commission, and Board of Governors of the Federal Reserve System, Joint Report on the Government Securities Market (January 1992).

In order to ensure that the original and additional Treasury securities are fungible, §1.1275-2(d) provides that the additional Treasury securities issued in a reopening are part of the same issue as the original Treasury securities if (1) the additional Treasury securities have the same terms as the original Treasury securities, (2) the additional Treasury securities are issued not more than 12 months after the original Treasury securities were first issued to the public, and (3) the additional Treasury securities are issued in a reopening intended to alleviate an acute, protracted shortage of the original Treasury securities (a qualified reopening). As a result, any discount generated upon the issuance of the additional Treasury securities in the reopening is market discount rather than OID.

Under §1.1275-7(g), a reopening of Treasury Inflation-Indexed Securities is a qualified reopening for purposes of §1.1275-2(d) even though the reopening is not intended to alleviate an acute, protracted shortage of the original Treasury securities.

For debt management and liquidity concerns, the Treasury Department has decided that it needs the ability to reopen an issue of Treasury securities within one year. Therefore, the temporary regulations in this document (§1.1275-2T) revise the rules for when a reopening is a qualified reopening by eliminating the acute, protracted shortage requirement. As a result, the Treasury Department can reopen an issue of outstanding Treasury securities at any time within 12 months after the issue date of the

securities for any reason and the securities will be fungible for Federal income tax purposes.

The temporary regulations also revise the rules to determine the issue price and issue date of an issue of Treasury securities auctioned on or after November 2, 1998, to reflect changes in how Treasury securities are sold. On November 2, 1998, the Treasury Department switched from an average price auction to a single price auction for selling Treasury securities.

In response to comments, the IRS is proposing rules for reopenings of debt instruments other than Treasury securities. See the Proposed Rules section of this issue of the **Federal Register**.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has 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 the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these temporary 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 the regulations is William E. Blanchard, Office of Assistant Chief Counsel (Financial Institutions and Products). 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.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.1275-2T also issued under 26 U.S.C. 1275(d). * * *

Par. 2. Section 1.1271-0 is amended by:

1. Revising the entry for §1.1275-2(d) in paragraph (b).
2. Adding an entry for §1.1275-2T in numerical order in paragraph (b).
3. Revising the entry for §1.1275-7(g) in paragraph (b).

The revisions and additions read as follows:

§1.1271-0 Original issue discount; effective date; table of contents.

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(b) * * *

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§1.1275-2 Special rules relating to debt instruments.

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(d) [Reserved]

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§1.1275-2T Special rules relating to debt instruments (temporary).

(a) through (c) [Reserved]

(d) Special rules for Treasury securities.

(1) Issue price and issue date.

(2) Reopenings of Treasury securities.

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§1.1275-7 Inflation-indexed debt instruments.

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(g) [Reserved]

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Par. 3. Section 1.1275-2 is amended by revising paragraph (d) to read as follows:

§1.1275-2 Special rules relating to debt instruments.

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(d) [Reserved] For further guidance, see §1.1275-2T(d).

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Par. 4. Section 1.1275-2T is added to read as follows:

§1.1275-2T Special rules relating to debt instruments (temporary).

(a) through (c) [Reserved] For further guidance, see §1.1275-2(a) through (c).

(d) Special rules for Treasury securities--(1) Issue price and issue date--(i) In general. The issue price of an issue of Treasury securities is the price of the securities

sold at auction. In addition, the issue date of the issue is the first settlement date of a substantial amount of the securities.

(ii) Treasury securities auctioned before November 2, 1998. For an issue of Treasury securities auctioned before November 2, 1998, the issue price of the issue is the average price of the securities sold. In addition, the issue date of the issue is the first settlement date on which a substantial amount of the securities in the issue is sold.

(2) Reopenings of Treasury securities--(i) Treatment of additional Treasury securities. Additional Treasury securities issued in a qualified reopening are part of the same issue as the original Treasury securities and have the same issue price and issue date as the original Treasury securities. This paragraph (d)(2) applies to qualified reopenings that occur on or after March 25, 1992.

(ii) Definitions--(A) Additional Treasury securities. Additional Treasury securities are Treasury securities with terms that are in all respects identical to the terms of the original Treasury securities.

(B) Original Treasury securities. Original Treasury securities are securities comprising any issue of outstanding Treasury securities.

(C) Qualified reopening. A qualified reopening is a reopening that occurs not more than one year after the original Treasury securities were first issued to the public. For reopenings of Treasury securities (other than Treasury Inflation-Indexed Securities) that occur prior to November 5, 1999, a qualified reopening is a reopening of Treasury securities that satisfies the preceding sentence and that was intended to alleviate an acute, protracted shortage of the original Treasury securities.

§1.1275-7 [Amended]

Par. 5. Section 1.1275-7 is amended by removing and reserving paragraph (g).

David A. Mader

Acting Deputy Commissioner of Internal Revenue

Approved: October 29, 1999

Jonathan Talisman

Acting Assistant Secretary of the Treasury