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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

TD 9138

RIN 1545-BD12

Transitional Rule for Vested Accrued Vacation Pay

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Removal of temporary regulation

SUMMARY: This document removes a temporary regulation that provides a rule for an election to deduct vested accrued vacation pay for the first taxable year ending after July 18, 1984. The repeal of the underlying code section in 1987 has rendered the temporary regulation obsolete. The removal of this regulation will not affect taxpayers.

DATES: This Treasury decision is effective on July 15, 2004.

FOR FURTHER INFORMATION CONTACT: Jamie J. Kim at (202) 622-4950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Prior to repeal in 1987, section 463 of the Internal Revenue Code (Code) permitted taxpayers to elect to deduct reasonable additions to a reserve account for vacation pay, including amounts earned by employees before the close of the taxable year that, because of contingencies, would not be deductible under section 162(a) as an accrued expense. In connection with the enactment of the economic performance rules

under section 461(h), section 91(i) of the Tax Reform Act of 1984, Public Law 98-369 (98 Stat. 494, 609), provided a transitional rule under which certain taxpayers could make an election under section 463 for the first taxable year ending after July 18, 1984. On February 4, 1986, the IRS and Treasury published temporary regulation §1.463-1T (TD 8073) in the **Federal Register** (51 FR 4312), as amended on April 2, 1986, (51 FR 11302), to provide guidance on making the election under section 463 pursuant to the transitional rule. The repeal of section 463 by section 10201(a) of the Revenue Act of 1987, Public Law 100-203 (101 Stat. 1330-382, 1330-387), has rendered temporary regulation §1.463-1T obsolete.

Special Analyses

It has been determined that the removal of this regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Because this rule merely removes regulatory provisions made obsolete by statute, prior notice and comment and a delayed effective date are unnecessary and contrary to the public interest. 5 U.S.C 553(b)(B) and (d)(3). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

Drafting Information

The principal author of this Treasury decision is Jamie J. Kim of the Office of Associate Chief Counsel (Income Tax and Accounting), IRS.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements

Removal of Temporary Regulation

Accordingly, 26 CFR Part 1 is 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 * * *

§1.463-1T [Removed]

Par. 2. Section 1.463-1T is removed.

Mark E. Matthews,
Deputy Commissioner for Services and Enforcement.

Approved:

Gregory F. Jenner,
Acting Assistant Secretary of the Treasury (Tax Policy).