funnel equipped with teflon stopcocks. Reextract the hydrolyzate with two additional 15-milliliter portions of ethyl acetate, and combine the organic extracts.

NOTE: Do not contaminate the ethyl acetate phase with interfacial material during these extractions. Quinoxaline-2-carboxylic acid is unstable in strongly acidic solutions. Continue to process these extracts through the benzene extraction and evaporation steps.

2. Add 5 milliliters of 0.5*M* citric acid buffer (pH 6.0) to the ethyl acetate extract, shake, and allow the lower phase to clarify for about 20 minutes. Collect the aqueous phase in a 50-milliliter glass-stoppered centrifuge tube. Reextract the ethyl acetate phase with an additional 5 milliliters of pH 6 buffer, wait for the aqueous phase to clarify, and combine the aqueous extracts. Acidify ($\leq$ pH 1) the aqueous extract with 2 milliliters of concentrated hydrochloric acid, stopper, and extract with 25 milliliters of benzene. Centrifuge to clarify the benzene layer and transfer the organic phase, using a blowout pipette equipped with a propipette bulb, to a 250-milliliter round bottom flask. Repeat the extraction and centrifugation steps three times. Combine the benzene extracts (about 100 milliliters) and evaporate to near-dryness, using a rotary evaporator equipped with a water aspirator and with a water bath set at 40° C.

NOTE: A rotary evaporator equipped with a vacuum pump and condenser may be used at this point. These residues may be stored overnight.

C. ESTERIFICATION STEP

Reconstitute the residue from the previous step by rinsing the walls of the round bottom flask with 2 x 2 milliliters of 1-propanol-sulfuric acid reagent; transfer each rinse with a disposable pipette to a 50-milliliter centrifuge tube. Stopper and heat the tube in a silicone oil bath at 90° C. for 1 hour. Cool the reaction mixture in an ice bath before proceeding to the following extraction step.

NOTE: Samples and standards may be stored overnight at room temperature in the propanol-sulfuric acid medium.

D. EXTRACTION OF THE ESTER DERIVATIVE

Add 10 milliliters of water and 15 milliliters of n-hexane to the esterification mixture. Extract and centrifuge to clarify the n-hexane phase. Transfer the n-hexane extract to a 65-milliliter round bottom flask; reextract the aqueous-propanol phase with two additional 15-milliliter portions of n-hexane. Centrifuge after each extraction and combine the n-hexane extracts. (NOTE: Avoid taking any of the aqueous phase in this extraction step; otherwise, the n-hexane extracts will have to be washed with 3 x 10 milliliters of water and dried over sodium sulfate.) Concentrate this solution to 0.5 milliliter, using a rotary evaporator equipped with a water aspirator and with a water bath set at 25° C. (NOTE: A rotary evaporator equipped with a vacuum pump and condenser may be used at this point.) Fortify this solution with 0.1 milliliter of acridine marker (1 milligram per 100 milliliters benzene).

NOTE: Do not store the n-hexane extracts of the propyl ester derivative overnight. Continue to process these solutions by the following thin-layer chromatography step E.

E. THIN-LAYER CHROMATOGRAPHY

1. Quantitatively transfer the concentrated n-hexane extract to the "origin" of a 20-centimeters x 20-centimeters silica gel thin-layer plate, using a disposable pipette. When pipetting this extract, streak it in a uniform band approximately 15 centimeters across and approximately 20 millimeters above the lower edge of the plate, making sure not to scratch or remove appreciable portions of absorbent and avoiding application of the sample to the sides of the plate. The applied band should not diffuse or penetrate to the end of the silica gel layer, but should remain 10 millimeters above the lower edge of the silica gel layer. Rinse the round bottom flask (containing residual n-hexane) with three portions of approximately 0.25 milliliter each of ethyl acetate; transfer each portion with the same pipette and cover the same area of the plate as described above. Following each application of the extract and ethyl acetate washes, evaporate the solvent from the plate by directing a stream of cool air to the sample zone ("origin"). Prior to chromatographic development, place an edge (approximately 5 millimeters deep) of the thin-layer plate into a tray of ethyl acetate so that the solvent will rise through the applied sample zone to form it into a narrow band approximately 10 millimeters above the "origin." Air dry this plate before chromatographic development.

2. Place the prepared plate in a chromatographic chamber lined with blotting paper and saturated with the benzene-ethyl acetate system (85:15). Develop the plate twice in this system, maintaining straight solvent fronts and allowing the solvent front to reach the top of the plate during each irrigation. Air dry the thin-layer plate for approximately 5 minutes between the first and second irrigations. Each irrigation takes approximately 75 minutes. Developed plates should not be stored overnight. Examine the developed plate under long wavelength (366 nanometers) ultraviolet light and locate the blue fluorescent band of acridine (R_f approximately 0.5). Mark out a 12-millimeters x 20-centimeters band of silica gel encompassing an area 5 millimeters above and 7 millimeters below the center of the acridine marker and extending from one side of the plate to the other.

NOTE: The relative mobilities of propyl quinoxaline-2-carboxylate and acridine must be checked in each laboratory to determine where a 12-milliliters x 20-centimeters zone of silica gel is to be excised in order to quantitatively recover the propyl ester derivative. This may be accomplished by mixing 0.1 milliliter of acridine solution (1 milligram per 100 milliliters) with 0.4 milliliter of propyl quinoxaline-2-carboxylate (100 micrograms per milliliter) and chromatographing this solution as directed above. Examine the developed plate under long wavelength (366 nanometers) ultraviolet light and locate the blue fluorescent band of acridine (R_f approximately 0.5). Examination of the plate under short wavelength (254 nanometers) ultraviolet light locates the blue absorbing band of propyl quinoxaline-2-carboxylate (R_f approximately 0.5).

3. Reduce the sample zone to a fine powder by making a series of horizontal cuts with a scalpel. Gently transfer this powder with the aid of a stainless steel spatula to glassine paper; pour this material into a burette funnel atop a small glass column packed with a glass wool plug. Elute the adsorbent with ethyl acetate (about 6 milliliters), and collect the eluate to mark in a 5-milliliter volumetric flask. Examine this eluate by gas-liquid chromatography.

NOTE: Contamination of thin-layer chromatographic plates can be checked by gas-liquid chromatographic examination of an eluate prepared by processing a blank plate as in paragraph 1 above, starting at the point: "place a edge (approximately 5 millimeters deep) of the thin-layer plate into a tray of ethyl acetate * * *." If the plate is contaminated, examine alternate lots of precoated thin-layer plates.

F. STANDARD CURVE

Pipette 4-milliliter aliquots of quinoxaline-2-carboxylic acid working standard solutions C, D, and E, respectively, and 4-milliliter portions of 1-propanol-sulfuric acid reagent into 50-milliliter centrifuge tubes; stopper, react, extract, and concentrate as directed in the esterification and extraction steps described in subsections C and D above; however, omit the addition of acridine to the n-hexane concentrate and do not chromatograph it by thin-layer chromatography. Instead, reconstitute the n-hexane concentrate with ethyl acetate and quantitatively transfer this solution to a 5-milliliter volumetric flask to give working standard solutions C, D, and E. The final concentrations of working standard solutions C, D, and E, are 20, 30, and 40 nanograms per milliliter, respectively, and are equivalent to 20, 30, and 40 p.p.b., respectively.

G. GAS-LIQUID CHROMATOGRAPHY

Separately inject 4 microliters of each of the working standard solutions C, D, and E (prepared as described above (F) into the gas-liquid chromatograph to determine the retention time of propyl quinoxaline-2-carboxylate and the relative response of the EC detector. Construct a standard curve by plotting concentration (p.p.b.) versus peak height (millimeters).

(NOTE: The reagent blank must show no interfering gas-liquid chromatographic peaks.) The peak height of propyl quinoxaline-2-carboxylate at the 30-p.p.b. level (working standard solution D) should approximate 10 percent of full-scale deflection with a retention time of 5 minutes. Follow these injections with 4-microliter injections of the tissue eluates, allowing 20 minutes between injections to clear the instrument of background peaks.

Measure the peak heights of samples and determine their concentration (p.p.b.) by reference to the standard curve.

H. CALCULATIONS

From the standard curve and the observed peak height of quinoxaline-2-carboxylic acid in the sample, determine its concentration (p.p.b.).

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER (10–3–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 27, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72–16746 Filed 10–2–72;8:45 am]

PART 164 — CERTIFICATION OF BATCHES OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Increase in Fee for Sterility Testing of Insulin

In a notice published in the FEDERAL REGISTER of June 13, 1972 (37 F.R. 11729), the Commissioner of Food and Drugs proposed that Part 164 be amended to increase the fee for sterility testing of insulin to a level equal to the fee for sterility testing of all antibiotic drugs. Interested persons were invited to submit their comments in response to the notice of proposed rule making within 60 days. No comments were re-

ceived. Accordingly, the Commissioner of Food and Drugs concludes that Part 164 should be amended as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 506, 55 Stat. 851, as amended; 21 U.S.C. 356), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 164 is amended by revising § 164.10(b)(9) to read as follows:

§ 164.10 Fees.

* * * * *

(b) * * *

(9) Ten dollars for each package in the sample of the finished batch submitted for all tests except sterility; $58.80 for all the packages in the sample submitted for the initial sterility test in accordance with § 164.2(d)(10); and $117.60 for all packages in the sample submitted for any repeat sterility test, if necessary, in accordance with the U.S.P. or N.F.

* * * * *

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Sec. 506, 55 Stat. 851, as amended; 21 U.S.C. 356)

Dated: September 26, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-16748 Filed 10-2-72;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7208]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Partnership Elections and Returns

On August 13, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to (1) clarify the time for electing optional adjustment to basis of partnership property under section 754 of the Internal Revenue Code of 1954, (2) clarify the time and provide an additional manner by which certain unincorporated organizations may elect under section 761(a) of such Code to be excluded from subchapter K of chapter 1 of such Code, (3) eliminate the requirements for filing returns and information by certain unincorporated organizations electing under such section, (4) clarify the requirements for filing returns by certain partnerships, and (5) make certain other clarifying changes, was published in the FEDERAL REGISTER (36 F.R. 15123). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment as proposed is hereby adopted subject to the changes which follow:

PARAGRAPH 1. Paragraph (b) of § 1.754–1, as set forth in paragraph 1 of the notice of proposed rule making, is changed to read as set forth below.

PAR. 2. Paragraph (b)(2)(ii)(*b*) of § 1.761–2, as set forth in paragraph 3 of the notice of proposed rule making, is changed to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: September 27, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to (1) clarify the time for electing optional adjustment to basis of partnership property under section 754 of the Internal Revenue Code of 1954, (2) clarify the time and provide an additional manner by which certain unincorporated organizations may elect under section 761(a) of such Code to be excluded from subchapter K of chapter 1 of such Code, (3) eliminate the requirements for filing returns and information by certain unincorporated organizations electing under such section, (4) clarify the requirements for filing returns by certain partnerships, and (5) make certain other clarifying changes, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Paragraph (b) of § 1.754–1 is amended to read as follows:

§ 1.754–1 Time and manner of making election to adjust basis of partnership property.

* * * * *

(b) *Time and method of making election.* (1) An election under section 754 and this section to adjust the basis of partnership property under sections 734(b) and 743(b), with respect to a distribution of property to a partner or a transfer of an interest in a partnership, shall be made in a written statement filed with the partnership return for the taxable year during which the distribution or transfer occurs. For the election to be valid, the return must be filed not later than the time prescribed by paragraph (e) of § 1.6031–1 (including extensions thereof) for filing the return for such taxable year (or before August 23, 1956, whichever is later). Notwithstanding the preceding two sentences, if a valid election has been made under section 754 and this section for a preceding taxable year and not revoked pursuant to paragraph (c) of this section, a new election is not required to be made. The statement required by this subparagraph shall (i) set forth the name and address of the partnership making the election, (ii) be signed by any one of the partners, and (iii) contain a declaration that the partnership elects under section 754 to apply the provisions of section 734(b) and section 743(b). For rules regarding extensions of time for filing elections, see § 1.9100–1.

(2) The principles of this paragraph may be illustrated by the following example:

Example. A, a U.S. citizen, is a member of partnership ABC, which has not previously made an election under section 754 to adjust the basis of partnership property. The partnership and the partners use the calendar year as the taxable year. A sells his interest in the partnership to D on January 1, 1971. The partnership may elect under section 754 and this section to adjust the basis of partnership property under sections 734(b) and 743(b). Unless an extension of time to make the election is obtained under the provisions of § 1.9100–1, the election must be made in a written statement filed with the partnership return for 1971 and must contain the information specified in subparagraph (1) of this paragraph. Such return must be filed by April 17, 1972 (unless an extension of time for filing the return is obtained). The election will apply to all distributions of property to a partner and transfers of an interest in the partnership occurring in 1971 and subsequent years, unless revoked pursuant to paragraph (c) of this section.

* * * * *

PAR. 2. Paragraph (a) of § 1.761–1 is amended to read as follows:

§ 1.761–1 Terms defined.

(a) *Partnership.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and which is not a corporation or a trust or estate within the meaning of the Code. The term "partnership" is broader in scope than the common law meaning of partnership, and may include groups not commonly called partnerships. See section 7701(a)(2). See regulations under section 7701(a)(1), (2), and (3) for the description of those unincorporated organizations taxable as corporations or trusts. A joint undertaking merely to share expenses is not a partnership. For example, if two or more persons jointly construct a ditch merely to drain surface water from their properties, they are not partners. Mere coownership of property which is maintained, kept in repair, and rented or leased does not constitute a partnership. For example, if an individual owner, or tenants in common, of farm property lease it to a farmer for a cash rental or a share of the crops, they do not necessarily create a partnership thereby. Tenants in common, however, may be partners if they actively carry on a trade, business, financial operation, or venture and divide the profits thereof. For example, a partnership exists if coowners of an apartment building lease space and in addition provide services to the occupants either directly or through an agent. For rules relating to the exclusion of certain partnerships from the application of all or part of subchapter K of chapter 1 of the Code, see § 1.761–2.

* * * * *

PAR. 3. There is inserted immediately after § 1.761–1 the following new section:

§ 1.761–2 Exclusion of certain unincorporated organizations from the application of all or part of subchapter K of chapter 1 of the Code.

(a) *Exclusion of eligible unincorporated organizations*—(1) *In general.* Under conditions set forth in this section, an unincorporated organization described in subparagraph (2) or (3) of this paragraph may be excluded from the application of all or a part of the provisions of subchapter K of chapter 1 of the Code. Such organization must be availed of (i) for investment purposes only and not for the active conduct of a business, or (ii) for the joint production, extraction, or use of property, but not for the purpose of selling services or property produced or extracted. The members of such organization must be able to compute their income without the necessity of computing partnership taxable income. Any syndicate, group, pool, or joint venture which is classifiable as an association, or any group operating under an agreement which creates an organization classifiable as an association, does not fall within these provisions.

(2) *Investing partnership.* Where the participants in the joint purchase, retention, sale, or exchange of investment property—

(i) Own the property as coowners,

(ii) Reserve the right separately to take or dispose of their shares of any property acquired or retained, and

(iii) Do not actively conduct business or irrevocably authorize some person or persons acting in a representative capacity to purchase, sell, or exchange such investment property, although each separate participant may delegate authority to purchase, sell, or exchange his share of any such investment property for the time being for his account, but not for a period of more than a year, then

such group may be excluded from the application of the provisions of subchapter K under the rules set forth in paragraph (b) of this section.

(3) *Operating agreements.* Where the participants in the joint production, extraction, or use of property—

(i) Own the property as coowners, either in fee or under lease or other form of contract granting exclusive operating rights, and

(ii) Reserve the right separately to take in kind or dispose of their shares of any property produced, extracted, or used, and

(iii) Do not jointly sell services or the property produced or extracted, although each separate participant may delegate authority to sell his share of the property produced or extracted for the time being for his account, but not for a period of time in excess of the minimum needs of the industry, and in no event for more than 1 year, then

such group may be excluded from the application of the provisions of subchapter K under the rules set forth in paragraph (b) of this section. However, the preceding sentence does not apply to any unincorporated organization one of whose principal purposes is cycling, manufacturir , or processing for persons who are not members of the organization.

(b) *Complete exclusion from subchapter K*—(1) *Time for making election for exclusion.* Any unincorporated organization described in subparagraph (1) and either (2) or (3) of paragraph (a) of this section which wishes to be excluded from all of subchapter K must make the election provided in section 761(a) not later than the time prescribed by paragraph (e) of § 1.6031–1 (including extensions thereof) for filing the partnership return for the first taxable year for which exclusion from subchapter K is desired. Notwithstanding the prior sentence such organization may be deemed to have made the election in the manner prescribed in subparagraph (2)(ii) of this paragraph.

(2) *Method of making election.* (i) Except as provided in subdivision (ii) of this subparagraph, any unincorporated organization described in subparagraphs (1) and either (2) or (3) of paragraph (a) of this section which wishes to be excluded from all of subchapter K must make the election provided in section 761 (a) in a statement attached to, or incorporated in, a properly executed partnership return, Form 1065, which shall contain the information required in this subdivision. Such return shall be filed with the internal revenue officer with whom a partnership return, Form 1065, would be required to be filed if no election were made. Where, for the purpose of determining such officer, it is necessary to determine the internal revenue district (or service center serving such district) in which the electing organization has its principal office or place of business, the principal office or place of business of the person filing the return shall be considered the principal office or place of business of the organization. The partnership return must be filed not later than the time prescribed by paragraph (e) of § 1.6031–1 (including extensions thereof) for filing the partnership return with respect to the first taxable year for which exclusion from subchapter K is desired. Such partnership return shall contain, in lieu of the information required by Form 1065 and by the instructions relating thereto, only the name or other identification and the address of the organization together with information on the return, or in the statement attached to the return, showing the names, addresses, and identification numbers of all the members of the organization; a statement that the organization qualifies under subparagraphs (1) and either (2) or (3) of paragraph (a) of this section; a statement that all of the members of the organization elect that it be excluded from all of subchapter K; and a statement indicating where a copy of the agreement under which the organization operates is available (or if the agreement is oral, from whom the provisions of the agreement may be obtained).

(ii) If an unincorporated organization described in subparagraphs (1) and either (2) or (3) of paragraph (a) of this section does not make the election provided in section 761(a) in the manner prescribed by subdivision (i) of this subparagraph, it shall nevertheless be deemed to have made the election if it can be shown from all the surrounding facts and circumstances that it was the intention of the members of such organization at the time of its formation to secure exclusion from all of subchapter K beginning with the first taxable year of the organization. Although the following facts are not exclusive, either one of such facts may indicate the requisite intent:

(*a*) At the time of the formation of the organization there is an agreement among the members that the organization be excluded from subchapter K beginning with the first taxable year of the organization, or

(*b*) The members of the organization owning substantially all of the capital interests report their respective shares of the items of income, deductions, and credits of the organization on their respective returns (making such elections as to individual items as may be appropriate) in a manner consistent with the exclusion of the organization from subchapter K beginning with the first taxable year of the organization.

(3) *Effect of election*—(i) *In general.* An election under this section to be excluded will be effective unless within 90 days after the formation of the organization (or by October 15, 1956, whichever is later) any member of the organization notifies the Commissioner that the member desires subchapter K to apply to such organization, and also advises the Commissioner that he has so notified all other members of the organization by registered or certified mail. Such election is irrevocable as long as the organization remains qualified under subparagraphs (1) and either (2) or (3) of paragraph (a) of this section, or unless approval of revocation of the election is secured from the Commissioner. Application for permission to revoke the election must be submitted to the Commissioner of Internal Revenue, Attention: T:I, Washington, D.C. 20224, no later than 30 days after the beginning of the first taxable year to which the revocation is to apply.

(ii) *Special rule.* Notwithstanding subdivision (i) of this subparagraph, an election deemed made pursuant to subparagraph (2)(ii) of this paragraph will not be effective in the case of an organization which had a taxable year ending on or before [the last day of the first calendar month which begins after the date of the publication of the Treasury decision in the FEDERAL REGISTER] if any member of the organization notifies the Commissioner that the member desires subchapter K to apply to such organization, and also advises the Commissioner that he has so notified all other members of the organization by registered or certified mail. Such notification to the Com-

missioner must be made on or before [the 90th day after the date of the publication of the Treasury decision in the FEDERAL REGISTER] and must include the names and addresses of all of the members of the organization.

(c) *Partial exclusion from subchapter K.* An unincorporated organization which wishes to be excluded from only certain sections of subchapter K must submit to the Commissioner, no later than 90 days after the beginning of the first taxable year for which partial exclusion is desired, a request for permission to be excluded from certain provisions of subchapter K. The request shall set forth the sections of subchapter K from which exclusion is sought and shall state that such organization qualifies under subparagraphs (1) and either (2) or (3) of paragraph (a) of this section, and that the members of the organization elect to be excluded to the extent indicated. Such exclusion shall be effective only upon approval of the election by the Commissioner and subject to the conditions he may impose.

(d) *Cross reference.* For requirements with respect to the filing of a return on Form 1065 by a partnership, see § 1.6031–1.

PAR. 4. Section 1.6031–1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.6031–1 Return of partnership income.

(a) *In general*—(1) *General rule.* Except as provided in paragraphs (b) and (d) of this section with respect to certain organizations excluded from the application of subchapter K of chapter 1 of the Code and certain partnerships having no U.S. business, an unincorporated organization defined as a partnership in section 761(a), through or by means of which any business, financial operation, or venture is carried on, shall make a return for each taxable year on Form 1065. For purposes of filing a partnership return, an unincorporated organization will not be considered, within the meaning of section 761(a), to carry on a business, financial operation, or venture as a partnership before the first taxable year in which such organization receives income or makes or incurs any expenditures treated as deductions for Federal income tax purposes. Such return shall state specifically the items of partnership gross income and the deductions allowable by subtitle A of the Code and shall include the names and addresses of all the partners and the amount of the distributive shares of income, gain, loss, deduction, or credit allocated to each partner. Such return shall be made for the taxable year of the partnership, irrespective of the taxable years of the partners. For taxable years of a partnership and of a partner, see section 706 and § 1.706–1. For signing of a partnership return, see § 1.6063–1.

(2) *Special rule.* Except in the case of an unincorporated organization deemed to be excluded from the application of subchapter K in the manner described in paragraph (b)(2)(ii) of § 1.761–2 for the first year of its existence, an unincorporated organization described in paragraph (a) of § 1.761–2 shall file a partnership return for the first taxable year in which the participants by a formal agreement undertake to engage in joint operations, or in the absence of a formal agreement for the first taxable year in which the participants with respect to the joint use of property jointly have income, or make or incur any expenditures treated as deductions for Federal income tax purposes. Additionally, if an organization described in paragraph (a) of § 1.761–2 does not elect under section 761 and the regulations thereunder to be excluded from the application of subchapter K or chapter 1 of the Code, it is required to file a return for each taxable year subsequent to its first taxable year in accordance with the requirements of this section until an election is made in accordance with paragraph (b)(2)(i) of § 1.761–2. Where no annual accounting period has been adopted by an organization described in paragraph (a) of § 1.761–2, its taxable year shall be the calendar year in accordance with section 441(g). For special rules in the case of an organization making the election for exclusion under section 761, see paragraphs (b)(2)(i) and (c) of § 1.761–2 and paragraph (b) of this section.

(b) *Unincorporated organizations excluded from the application of subchapter K*—(1) *Wholly excluded.* (i) Any unincorporated organization with respect to which under section 761(a) an election to be excluded from all the provisions of subchapter K of chapter 1 of the Code has been made in the manner described in paragraph (b)(2)(i) of § 1.761–2 shall file Form 1065 for the first year with respect to which such an election has been made and such return shall, in lieu of the information therein required, contain or be accompanied by the information required by such paragraph.

(ii) Except as otherwise provided in subdivision (i) of this subparagraph, an unincorporated organization which is wholly excluded from the application of subchapter K need not file a partnership return.

(2) *Partially excluded.* Any unincorporated organization excluded from the application of part of subchapter K of chapter 1 of the Code shall file a return on Form 1065 containing such information as the Commissioner may require. See section 761 and paragraph (c) of § 1.761–2.

* * * * *

[FR Doc.72–16828 Filed 10–2–72;8:54 am]

[T.D. 7187]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Unit Investment Trusts; Correction

In F.R. Doc 72–9487 filed July 5, 1972; 8:53 a.m., appearing at page 13254 in the issue of Thursday, July 6, 1972, the following change should be made:

An additional sentence should be added at the end of subparagraph (2) of § 1.851–7 (c) appearing at page 13255 of the above issue, reading as follows:

"For purposes of this subparagraph, the basis of the holder's interest in assets sold by the trust or distributed to him shall be an amount which bears the same relationship to the basis of his total interest in the trust that the fair market value of the assets so sold or distributed bears to the fair market value of such total interest in the trust, such fair market value to be determined on the date of such sale or distribution."

JAMES F. DRING,
Director,
Legislation and Regulations Division.

[FR Doc.72–16827 Filed 10–2–72;8:50 am]

[T.D. 7210]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Gain on Straddle Transactions

In order to make minor corrections to and clarify the rules relating to gain on the lapse of an option issued as part of a straddle in the case of multiple options under section 1234(c) of the Internal Revenue Code of 1954, paragraphs (c)(1) and (c)(2)(ii) of § 1.1234–2 of the Income Tax Regulations (26 CFR Part 1) are hereby amended to read as follows:

§ 1.1234–2 Special rule for grantors of straddles.

* * * * *

(c) *Special rules in the case of a multiple option.* (1) If, in the case of a multiple option, the number of the options to sell and the number of the options to buy are the same and if the terms of all of the options are identical (as to the quantity of the security, price, and period of time), then each of the options contained in the multiple option shall be deemed to be a component of a straddle for purposes of section 1234(c)(1) and paragraph (a) of this section.

(2) * * *

(ii) It is clear from the facts and circumstances that the lapsed option was part of a straddle. See example (6) of paragraph (f) of this section. A multiple option to which this subdivision applies may not be regarded as consisting of a number of straddles which exceeds the lesser of the options to sell or the options to buy as the case may be. For example, if a multiple option of five puts and four calls is granted it may not be regarded as consisting of more than four straddles, although the particular facts and circumstances could dictate that the option consists of less than four straddles.

* * * * *

Because this Treasury decision amends existing regulations merely by making minor corrections to and clarifying the rules relating to gain on the lapse of a multiple option granted by the taxpayer as part of a straddle, it is hereby found