11. On page 51319, in the sixth line of § 276.10(a)(1), the amount of "$250,000" is corrected to read "$120,000".

12. On page 51327, in the fifth and sixth lines of section C.1.a.(1) of Appendix B of Part 276, the phrase "have the bursement (paragraph 2 a)" is corrected to read "have the option of not requiring a Financial Status Report when a request for advance or reimbursement (paragraph 2 a)".

13. On page 51328, in the fourth line and last line of § 277.12(c), the word "representatives" is corrected to read "representative".

14. On page 51328, in the last line of § 277.13(b), the word "includes" is corrected to read "include".

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.76-3318 Filed 2-3-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7399]

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

Deductions From Gross Income

By notices of proposed rule making appearing in the FEDERAL REGISTER for May 6, 1972 (37 FR 9295), February 21, 1975 (40 FR 7661), April 30, 1975 (40 FR 18798) and October 31, 1975 (40 FR 50720) amendments to the Income Tax Regulations (26 CFR Part 1) under section 62 of the Internal Revenue Code of 1954 were proposed in order to conform the regulations to section 531(b) of the Tax Reform Act of 1969 (83 Stat. 655), sections 2002(a)(2) and 2005(c)(9) of the Employee Retirement Income Security Act of 1974 (88 Stat. 859 and 992) and section 6 of the Act of October 26, 1974 (88 Stat. 1458).

The purpose of these amendments is to provide certain deductions from gross income with respect to pension, etc., plans of electing small business corporations, retirement savings, certain portion of lump sum distributions for pension plans under section 402(e), and penalties forfeited because of premature withdrawal of funds from time savings accounts on deposit.

There were no written comments received in response to those proposed amendments and no public hearings were held.

Adoption of amendments to regulations. Amendments to § 1.62 and § 1.62–1 (c) of the Income Tax Regulations (26 CFR Part 1) as proposed by paragraphs (1) and (2) of notices of proposed rule making for May 6, 1972 (37 FR 9295), February 21, 1975 (40 F.R. 7661), April 30, 1975 (40 FR 18798), and October 31, 1975 (40 FR 50720) are hereby adopted. The remaining paragraphs contained in the appendices of the notices of proposed rule making for May 6, 1972, February 21, 1975 and April 30, 1975 are to remain outstanding.

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

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 29, 1976.

DAVID F. BRADFORD,
Acting Assistant Secretary of the Treasury.

Paragraph 1. Section 1.62 is amended by adding paragraphs (9), (10), (11), and (11) [(12)] and by revising the historical note. These added and revised provisions read as follows:

§ 1.62 Statutory provisions; deductions from adjusted gross income.

Sec. 62. *Adjusted gross income defined.* For purposes of this subtitle, the term "adjusted gross income" means, in the case of an individual, gross income minus the following deductions:

* * * * *

(9) *Pension, etc., plans of electing small business corporations.* The deduction allowed by section 1379(b)(3).

(10) *Retirement savings.* The deduction allowed by section 219 (relating to deduction for certain retirement savings).

(11) *Certain portion of lump-sum distributions from pension plans taxed under section 402(e).* The deduction allowed by section 402(e)(3).

(11) [(12)] *Penalties forfeited because of premature withdrawal of funds from time savings accounts or deposits.* The deductions allowed by section 165 for losses incurred in any transaction entered into for profit, though not connected with a trade or business [,] to the extent that such losses include amounts forfeited to a bank, mutual savings bank, savings and loan association, building and loan association, cooperative bank or homestead association as a penalty for premature withdrawal of funds from a time savings account, certificate of deposit, or similar class of deposit.

[Sec. 62 as amended by sec. 7(b), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 828); sec. 213(b), Rev. Act 1964 (78 Stat. 52); sec. 531(b) Tax Reform Act 1969 (83 Stat. 655); secs. 2002(a)(2) and 2005(c)(9), Employee Retirement Income Security Act 1974 (88 Stat. 959, 992); sec. 6(a) Act of Oct. 26, 1974 (Pub. L. 93-483, 88 Stat. 1458)]

Par. 2. Section 1.62–1(c) is amended by adding at the end thereof paragraphs (12), (13), (14) and (15). The added provisions to read as follows:

§ 1.62–1 Deductions from adjusted gross income.

* * * * *

(c) * * *

(12) The deduction allowed by section 1379(b)(3) to an individual or his beneficiaries upon the termination of rights to receive benefits prior to excludable recovery of amounts which were included in the gross income of a shareholder-employee as excess employer contributions to a pension, etc., plan of an electing small business corporation;

(13) The deduction allowed by section 219 for contributions to an individual retirement account described in section 408(a), for an individual retirement annuity described in section 408(b), or for a retirement bond described in section 409.

(14) The deduction allowed by section 402(e)(3) for the ordinary income portion of a lump sum distribution.

(15) For taxable years beginning after December 31, 1972, the deduction allowed by section 165 for losses incurred in any transaction entered into for profit though not connected with a trade or business, to the extent that such losses include amounts forfeited to a bank, mutual savings bank, savings and loan association, building and loan association, cooperative bank or homestead association as a penalty for premature withdrawal of funds from a time savings account, certificate of deposit or similar class of deposit.

[FR Doc.76-3346 Filed 2-3-76;8:45 am]

[T.D. 7401]

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

Reinsurance Transactions

By a notice of proposed rule making appearing in the FEDERAL REGISTER for August 14, 1975 (40 FR 34128), an amendment to the Income Tax Regulations (26 CFR Part 1) was proposed in order to modify example (1) as set forth in § 1.817–4(d)(3) relating to reinsurance transactions, to revise § 1.817–4(d)(2) and to add a new example (3) under § 1.817–4(d)(3) in order to clarify the change made in example (1).

Several comments were received on the proposed regulations and a public hearing was held on November 6, 1975.

Adoption of amendments to the regulations. On August 14, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 34128), relating to deductions made pursuant to reinsurance transactions by life insurance companies. After consideration of all relevant matter presented by interested persons regarding the proposed rules, the proposed amendment of the regulations is hereby adopted as proposed.

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

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 17, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

By a notice of proposed rule making appearing in the FEDERAL REGISTER for August 14, 1975 (40 FR 34128), an amendment to the Income Tax Regulations (26 CFR Part 1) was proposed in order to modify example (1) as set forth in § 1.817–4(d)(3) relating to reinsurance transactions, to revise § 1.817–4(d)(2) and to add a new example (3) under § 1.817–4(d)(3) in order to clarify the change made in example (1).

Several comments were received on the proposed regulations and a public hearing was held on November 6, 1975.

Adoption of amendments to the regulations. On August 14, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 34128), relating to deductions made pursuant to reinsurance transactions by life insurance companies. After consideration of all relevant matter presented by interested persons regarding the proposed rules, the proposed amendment of the regulations is hereby adopted as proposed.

Paragraph 1. Paragraph (d) of § 1.817–4 is amended as follows: Paragraph (d)(2) is revised by redesignating (iii) as (iv), amending (ii) and adding a new (iii); paragraph (d)(3) is revised by redesignating examples (3) and (4) as examples (4) and (5), respectively, revising example (1), and adding a new example (3). The revised and added provisions read as follows:

§ 1.817–4 Special rules.

* * * * * *

(d) *Certain other reinsurance transactions.* * * *

(2) * * *

(ii) In connection with an assumption reinsurance (as defined in paragraph (a)(7)(ii) of § 1.809–5) transaction, a reinsurer shall in any taxable year beginning after December 31, 1957—

(A) Treat the consideration received from the reinsured in any such taxable year as an item of gross amount under section 809(c)(1), and

(B) Treat any amount paid to the reinsured for the purchase of such contracts, to the extent such amount meets the requirements of section 162, as a deferred expense that may be amortized over the reasonably estimated life (as defined in paragraph (d)(2)(iv) of this section) of the contracts reinsured and treat the portion of the expense so amortized in each taxable year as a deduction under section 809(d)(12) irrespective of the taxable year in which such amount was paid to the reinsured.

(iii) For purposes of paragraph (d)(2)(ii) of this section where the reinsured transfers to the reinsurer in connection with the assumption reinsurance transaction a net amount which is less than the increase in the reinsurer's reserves resulting from the transaction, the reinsurer shall be treated as—

(A) Having received from the reinsured consideration in an amount equal to the net amount of the increase in the reinsurer's reserves resulting from the transaction, and

(B) Having paid the reinsured an amount for the purchase of the contracts equal to the excess of the amount of such increase in the reinsurer's reserves over the net amount received from the reinsured.

* * * * *

(3) * * *

Example (1). On June 30, 1959, X, a life insurance company, reinsured a portion of its insurance contracts with Y, a life insurance company, under an agreement whereby Y agreed to assume and to become solely liable under the contracts reinsured. The reserves on the contracts reinsured by X were $100,000. Under the reinsurance agreement X agreed to pay Y $100,000 for assuming such contracts and Y agreed to pay X $17,000 for the right to receive future premium payments under this block of contracts. Rather than exchange payments of money, X agreed to pay Y a net amount of $83,000 in cash. Assuming that the reasonably estimated life of the contracts reinsured is 17 years, that there are no other insurance transactions by X or Y during the taxable year, and assuming that X and Y compute the reserves on the contracts reinsured on the same basis, X has income of $100,000 under section 809(c)(2) as a result of the net decrease in its reserves. X has a net deduction of $83,000 ($100,000—$17,000) under section 809(d)(7). For the taxable year 1959, Y has income of $100,000 under section 809(c)(1) as a result of the consideration received from X and a deduction of $100,000 under section 809(d)(2) for the net increase in reserves and $1,000 ($17,000 divided by 17, the reasonably estimated life of the contracts reinsured), under section 809(d)(12). The remaining $16,000 shall be amortized over the next 16 succeeding taxable years (16×$1,000=$16,000) under section 809(d)(12) at the rate of $1,000 for each such taxable year.

* * * * *

Example (3). The facts are the same as in Example (1), except that the reinsurance agreement does not specifically provide that X agreed to pay Y $100,000 for assuming the contracts reinsured and Y agreed to pay X $17,000 for the right to receive future premium payments under such contracts. Instead, X agreed to pay Y a net amount of $83,000 in cash for assuming such contracts. Nevertheless, Y is treated as having received from X consideration equal to $100,000, the amount of the increase in Y's reserves, and as having paid $17,000 ($100,000 less $83,000) for the purchase of such contracts. Therefore, for the taxable year 1959, Y has income of $100,000 under section 809(c)(1). Y also has a deduction of $100,000 under section 809(d)(2) for the net increase in its reserves and an amortization deduction under section 809(d)(12) of $1,000 ($17,000 divided by 17, the reasonably estimated life of the contracts reinsured). The remaining $16,000 shall be amortized by Y over the next 16 succeeding years at the rate of $1,000 for each such year. For 1959, X has income of $100,000 under section 809(c)(2) as a result of the net decrease in its reserves and a deduction of $83,000 under section 809(d)(7) for the net amount of consideration paid to Y for assuming the contracts reinsured.

[FR Doc.76-3347 Filed 2-3-76;8:45 am]

[T.D. 7400]

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

Disposition of Qualified Low-Income Housing

Preamble. By notice of proposed rule making published in the FEDERAL REGISTER for June 20, 1975 (40 FR 26040), amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to conform such regulations to the provisions of section 910(b) of the Tax Reform Act of 1969, relating to gain from dispositions of certain qualified low-income housing projects. A notice of correction appeared in the FEDERAL REGISTER for July 2, 1975 (40 FR 27943), correcting two typographical errors in the proposed amendments.

Section 910(b) of the Act amends section 1250 of the Internal Revenue Code to provide that if qualified low-income housing is disposed of and gain is not recognized in whole or in part under section 1039 of the Code (relating to certain sales of low-income housing projects), then the amount of gain recognized under section 1250(a) is limited to the greater of (1) the amount of gain recognized on the disposition (determined without regard to section 1250), or (2) the excess of the amount of gain that would be taken into account under section 1250(a) over the cost of the section 1250 property acquired in the transaction.

Section 1039 of the Code, which was added by section 910(a) of the Act, limits the amount of gain (if the taxpayer so elects) recognized from certain sales of low-income housing projects to the tenants of such projects, provided that the taxpayer constructs, reconstructs, or acquires another qualified housing project within a specified period. Regulations under section 1039 have already been promulgated.

The amendments to the regulations set forth the statutory requirements and give several examples of how the statute applies in particular factual situations.

Section 1.1250–3(h)(3)(i) of the proposed amendments, relating to the determination of the basis of the replacement housing project, has been revised. The revision makes it clear that the basis of the replacement property that is not section 1250 property is not reduced below zero by certain gain not recognized in the disposition of the first housing project, and that the basis of the "additional cost element" (as defined in § 1.1250–3(h)(2)) of the replacement property is determined by taking into account the remaining amount (if any) of nonrecognized gain. A conforming change is made to example (3) in § 1.1250–3(h)(3)(ii).

Adoption of amendments to the regulations. On June 20, 1975, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to the provisions of section 910(b) of the Tax Reform Act of 1969 (83 Stat. 720), relating to gain from dispositions of certain low-income housing projects, was published in the FEDERAL REGISTER (40 FR 26040). A notice of correction with respect to two typographical errors in the proposed amendments was published in the FEDERAL REGISTER for July 2, 1975 (40 FR 27943). No written comments were received with respect to the proposed regulations and no public hearing was held. The amendments as proposed are hereby adopted, subject to the following changes:

Section 1.1250–3(h)(3) is amended by revising the third, fourth, and fifth sentences of subdivision (i), and by adding a new sentence at the end of example (3) in subdivision (ii). The revision and

the additional sentence read as set forth below:

(Secs. 1250(d)(8)(F)(ii) and 7805 of the Internal Revenue Code of 1954 (83 Stat. 721, 68A. Stat. 917; 26 U.S.C. 1250(d)(8)(F)(ii), 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 28, 1976.

WILLIAM M. GOLDSTEIN,
Acting Assistant
Secretary of the Treasury.

1. Section 1.1039–1(a) is amended by adding two new sentences immediately before the last sentence, to read as follows:

§ 1.1039–1 Certain sales of low-income housing projects.

(a) *Nonrecognition of gain.* * * * However, notwithstanding section 1039, gain may be recognized by reason of the application of section 1245 or 1250 to the sale or disposition. (See § 1.1245–6(b) and § 1.1250–3(h).) * * *

* * * * *

2. Section 1.1245–6(b) is amended by revising the first sentence to read as follows:

§ 1.1245–6 Relation of section 1245 to other sections.

* * * * *

(b) *Nonrecognition sections overridden.* The nonrecognition provisions of subtitle A of the Code which section 1245 overrides include, but are not limited to, sections 267(d), 311(a), 336, 337, 501(a), 512(b)(5), and 1039. * * *

* * * * *

3. Section 1.1250–3 is amended by adding the following new paragraph (h) at the end thereof:

§ 1.1250–3 Exceptions and limitations.

* * * * *

(h) *Limitation for disposition of qualified low-income housing*—(1) *Limitation on gain.* (i) Under section 1250(d)(8)(A), if section 1250 property is disposed of and gain (determined without regard to section 1250) is not recognized in whole or in part under section 1039 (relating to certain sales of low-income housing projects), then the amount of gain recognized by the transferor under section 1250 (a) shall not exceed the greater of—

(*a*) The amount of gain recognized under section 1039 (determined without regard to section 1250), or

(*b*) The excess, if any, of the amount of gain which would, but for section 1250(d)(8)(A), be taken into account under section 1250(a), over the cost of the section 1250 property acquired in the transaction.

For purposes of this paragraph the term "qualified housing project", "approved disposition", "reinvestment period", and "net amount realized" shall have the same meaning as in section 1039 and § 1.1039–1.

(ii) The principles of this subparagraph may be illustrated by the following examples:

Example (*1*). (i) Taxpayer A owns a qualified housing project and makes an approved disposition of the project on January 1, 1971. The net amount realized upon the disposition is $550,000, of which $475,000 is attributable to section 1250 property. The adjusted basis of the section 1250 property is $250,000 and the gain realized on the disposition of section 1250 property is $225,000. The additional depreciation for the property is $100,000, the applicable percentage is 48 percent, and if section 1250(d)(8)(A) did not apply to the disposition, $48,000 of gain would be recognized under section 1250(a). Within the reinvestment period, A purchases a replacement qualified housing project at a cost of $525,000, of which $425,000 is attributable to section 1250 property. A properly elects under section 1039(a) and the regulations thereunder to limit the recognition of gain (determined without regard to section 1250) to $25,000, that is, the excess of the net amount realized ($550,000) over the cost of the replacement housing project ($525,000).

(ii) The amount of gain recognized under section 1250(a) is limited to $25,000, that is, the greater of (*a*) the amount of gain recognized without regard to section 1250(a) ($25,000), or (*b*) the excess of (*1*) the amount of gain which would be taken into account under section 1250(a) if section 1250(d)(8)(A) did not apply ($225,000), over (*2*) the cost of the replacement section 1250 property ($425,000), or zero.

Example (*2*). The facts are the same as in example (1) except that only $180,000 of the cost of the replacement housing project is attributable to section 1250 property. Thus, the gain recognized under section 1250(a) is limited to $45,000, the greater of (*a*) the excess of (*1*) the amount of gain which would be taken into account under section 1250(a) if section 1250(d)(8)(A) did not apply ($225,000), over (*2*) the cost of the replacement section 1250 property ($180,000), or (*b*) the amount of gain recognized without regard to section 1250 ($25,000).

(2) *Replacement project consisting of more than one element.* (i) If [(h)(1)(i)](*a*) section 1250 property is disposed of, [(h)(1)(i)](*b*) any portion of the gain which would have been recognized under section 1250(a) is not recognized by reason of section 1250(d)(8)(A), and (*c*) the cost of the replacement section 1250 property constructed, reconstructed, or acquired during the reinvestment period exceeds the net amount realized attributable to the section 1250 property disposed of, then the section 1250 property shall consist of two elements. For purposes of this paragraph, the "reinvestment element" is that portion of the section 1250 property constructed, reconstructed, or acquired during the reinvestment period the cost of which does not exceed the net amount realized attributable to the section 1250 property disposed of, reduced by any gain recognized with respect to such property. The "additional cost element" is that portion of the section 1250 property constructed, reconstructed, or acquired during the reinvestment period whose cost exceeds the net amount realized attributable to the section 1250 property disposed of.

(ii) The principles of this subparagraph may be illustrated by the following example:

Example. (1)(i) Taxpayer B disposes of a qualified housing project consisting of section 1250 property with an adjusted basis of $500,000 and land with a basis of $100,000. The amount realized on the disposition is $750,000 of which $650,000 is attributable to the section 1250 property. B constructs a replacement housing project at a cost of $1,000,000 of which $850,000 is attributable to section 1250 property. B elects in accordance with the provisions of section 1039(a) and the regulations thereunder not to recognize the $150,000 gain realized.

(ii) Under section 1250(d)(8)(A) no gain is recognized under section 1250(a). The replacement section 1250 property consists of the two elements. The reinvestment element has a cost of $650,000, *i.e.*, that portion of the replacement section 1250 property the cost of which does not exceed the amount realized attributable to the section 1250 property disposed of ($650,000), reduced by any gain recognized with respect to such property (zero). The additional cost element has a cost of $200,000, that is, the excess of the cost of the replacement section 1250 property ($850,000) over the amount realized attributable to the section 1250 property disposed of ($650,000).

(3) *Basis of property acquired.* (i) If section 1250 property is disposed of and gain (determined without regard to section 1250) is not recognized in whole or in part under section 1039 (relating to certain sales of low-income housing projects), then the basis of the section 1250 property and other property acquired in the transaction shall be determined in accordance with the rules of this subparagraph. Generally, the basis of the property acquired in a transaction to which section 1039(a) applies is its cost reduced by the amount of any gain not recognized attributable to the property disposed of (see section 1039(d)). In a case where the replacement section 1250 property constructed, reconstructed, or acquired within the reinvestment period is treated as consisting of more than one element under section 1250(d)(8)(E), the aggregate basis of the property determined under section 1039(d) shall be allocated as follows: first, to the reinvestment element of the section 1250 property, in an amount equal to the amount determined under section 1250(d)(8)(E)(i) reduced by the amount of any gain not recognized attributable to the section 1250 property disposed of; second, to the other replacement property (other than section 1250 property) in an amount equal to the amount of its cost reduced (but not below zero) by any remaining amount of gain not recognized; and finally, to the additional cost element of the section 1250 property, in an amount equal to the amount determined under section 1250(d)(8)(E)(ii) reduced by any amount of gain not recognized which has not been taken into account in determining the basis of the reinvestment element and the other replacement property that is not section 1250 property. See paragraph (h)(2) of this section for definition of the terms "reinvestment element" and "additional cost element".

(ii) The principles of this subparagraph may be illustrated by the following examples:

Example (*1*). The facts are the same as in example (1) of subparagraph (1)(ii) of this paragraph. The basis of the replacement

section 1250 property is $225,000, the amount of the reinvestment element ($425,000) minus the gain not recognized attributable to the section 1250 property disposed of ($200,000).

Example (2). Taxpayer C disposes of a qualified housing project on January 1, 1971. The adjusted basis for the project is $3,800,000, of which $3,000,000 is attributable to section 1250 property and $800,000 is attributable to land. The amount realized on the disposition is $5,000,000, of which $4,000,000 is attributable to the section 1250 property and $1,000,000 is attributable to the land. The gain realized upon the disposition is $1,200,000, that is, amount realized ($5,000,000) minus adjusted basis ($3,800,000), of which $1,000,000 is attributable to the section 1250 property disposed of. Within the reinvestment period, C purchases another qualified housing project at a cost of $5,500,000, of which $4,000,000 is attributable to section 1250 property and $1,500,000 is attributable to other property. C makes an election under section 1039(a) and the regulations thereunder and none of the $1,200,000 gain realized on the disposition is recognized (determined without regard to section 1250). Under section 1250(d)(8)(A), none of the gain realized is recognized under section 1250(a). The basis of the replacement section 1250 property is $3,000,000, that is, the amount of the reinvestment element ($4,000,000) less the amount of gain not recognized attributable to section 1250 property disposed of ($1,000,000). The basis of the other property acquired is $1,300,000, that is, its cost ($1,500,000) reduced by the remaining gain not recognized ($200,000).

Example (3). The facts are the same as in example (2) except that the cost of the replacement section 1250 property is $4,500,000 and the cost of the other property is $1,000,000. Thus, the replacement section 1250 property consists of two elements under section 1250(d)(8)(E). The reinvestment element (section 1250(d)(8)(E)(i)) has a basis of $3,000,000, that is, $4,000,000 (that portion of the section 1250 property acquired the cost of which does not exceed the net amount realized attributable to the section 1250 property disposed of. This amount ($500,000) is not reduced by any amount of gain not recognized because all of the gain not recognized has already been taken into account in determining the basis of the reinvestment element and the other replacement property that is not section 1250 property.

(4) *Additional depreciation for property acquired.* (i) If a qualified housing project is disposed of in a transaction to which section 1039(a) applies, the additional depreciation for the replacement property immediately after the transaction shall be an amount equal to (*a*) the amount of additional depreciation for the property disposed of, minus (*b*) the amount of additional depreciation necessary to produce the amount of gain recognized under section 1250(a). Thus, if no gain is recognized upon a disposition of a qualified housing project, the additional depreciation for the property acquired will be the same as for the property disposed of. On the other hand, if upon disposition of a project, gain of $40,000 was recognized under section 1250(a), and if the additional depreciation for the project and the applicable percentage were $100,000 and 80 percent, respectively, the additional depreciation for the replacement housing project would be $50,000, that is, $100,000 minus $50,000, the amount of additional depreciation necessary to produce $40,000 of recognized gain where the applicable percentage is 80 percent.

(ii) If the property acquired in the transaction consists of more than one element of section 1250 property by reason of section 1250(d)(8)(E), the additional depreciation under subdivision (i) of this subparagraph shall be allocated solely to the reinvestment element.

(5) *Additional limitation.* If, in a transaction to which section 1039(a) applies, gain is recognized by the taxpayer, the amount of gain recognized which is attributable to section 1250 property disposed of is, under section 1250(d)(8)(F)(i), limited to an amount equal to the net amount realized attributable to the section 1250 property disposed of reduced by the greater of (i) the adjusted basis of the section 1250 property disposed of, or (ii) the cost of the section 1250 property acquired. The limitation of section 1250(d)(8)(F)(i) may be illustrated by the following example:

Example. Taxpayer D owns property constituting a qualified housing project under section 1039(b)(1). In an approved disposition, the project is sold for $225,000. The net amount realized on the disposition is $225,000 of which $175,000 is attributable to the section 1250 property disposed of. The adjusted basis of such property is $150,000 and thus the gain realized upon the disposition of the section 1250 property is $25,000. Assume that the total gain realized upon disposition of the project is $45,000. Within the reinvestment period, D purchases another qualified housing project at a cost of $200,000, of which $160,000 is attributable to section 1250 property. D elects, in accordance with section 1039(a) and the regulations thereunder, to limit the recognition of gain to $25,000, that is, the net amount realized ($225,000), minus the cost of the replacement housing project ($200,000). Under this subparagraph, $15,000 of the $25,000 gain recognized is attributable to the section 1250 property disposed of, that is, the net amount realized attributable to the section 1250 property disposed of ($175,000), reduced by $160,000, the greater of the adjusted basis of the section 1250 property disposed of ($150,000) or the cost of the section 1250 property acquired ($160,000).

(6) *Allocation rule.* (i) If, in a transaction to which paragraph (h)(1) of this section applies, the section 1250 property disposed of is treated as consisting of more than one element by reason of the application of section 1250(d)(8)(E) with respect to a prior transaction, then the amount of gain recognized, the net amount realized, and the additional depreciation with respect to each such element shall be allocated to the elements of the replacement section 1250 property in accordance with the provisions of this subparagraph.

(ii) The portion of the net amount realized upon such a disposition which shall be allocated to each element of the section 1250 property disposed of is that amount which bears the same ratio to the net amount realized attributable to all the section 1250 property disposed of in the transaction as the additional depreciation for that element bears to the total additional depreciation for all elements disposed of. If any gain is recognized upon disposition of the section 1250 property, such gain shall be allocated to each element in the same proportion as the gain realized for that element bears to the gain realized for all elements disposed of. The additional depreciation for each reinvestment element of the replacement section 1250 property shall be the same as for the corresponding element of the property disposed of, decreased by the amount of additional depreciation necessary to produce the amount of gain recognized for such element. The additional depreciation for any additional cost element shall be zero.

(iii) The principles of this subparagraph may be illustrated by the following example:

Example. Taxpayer E disposes of a qualified housing project in an approved disposition. The net amount realized is $1,090,000 of which $900,000 is attributable to section 1250 property. The section 1250 property consists of (1) a reinvestment element with an adjusted basis of $300,000, additional depreciation of $100,000, and an applicable percentage of 50 percent, and (2) an additional cost element with an adjusted basis of $200,000, additional depreciation of $50,000, and an applicable percentage of 80 percent. Gain of $400,000 is realized on the disposition of the section 1250 property, that is, amount realized ($900,000) minus adjusted basis ($500,000). Within the reinvestment period, E purchases another qualified housing project at a cost of $1,000,000 of which $840,000 is attributable to section 1250 property. E elects, in accordance with section 1039 and the regulations thereunder, to limit recognition of gain (determined without regard to section 1250) to $90,000, that is, the excess of the net amount realized ($1,090,000) over the cost of the replacement project ($1,000,000). Under section 1250(d)(8)(A), the amount of gain recognized under section 1250(a) is limited to $90,000 (see subparagraph (1) of this paragraph). Under section 1250(d)(8)(F)(ii) and this subparagraph, $600,000 of the $900,000 net amount realized attributable to the section 1250 property is allocated to the reinvestment element, that is, additional depreciation for the element ($100,000) over total additional depreciation ($150,000) times the net amount realized ($900,000). The remaining $300,000 is allocated to the additional cost element. Thus, the gain realized attributable to the reinvestment element is $300,000, that is, net amount realized ($600,000) minus adjusted basis ($300,000). The gain realized attributable to the additional cost element is $100,000, that is, net amount realized ($300,000) minus adjusted basis ($200,000). Under subparagraph (5) of this paragraph, the gain recognized attributable to the section 1250 property is limited to $60,000, that is, the net amount realized attributable to the section 1250 property disposed of ($900,000) minus the greater of the adjusted basis of such property ($500,000) or the cost of the section 1250 property acquired in the transaction ($840,000). Under section 1250(d)(8)(F)(ii) and this subparagraph, $45,000 of the $60,000 gain recognized is attributable to the reinvestment element, that is, $60,000 multiplied by a fraction whose numerator is the gain realized attributable to the reinvestment element ($300,000) and whose denominator is the total gain realized attributable to all the section 1250 property ($400,000). The remaining $15,000 of the

gain recognized is attributable to the additional cost element. The new property acquired has no additional cost element. The reinvestment element of the new property acquired consists of 2 subelements corresponding to the reinvestment element and additional cost element of the property disposed of. The subelement corresponding to the reinvestment element has additional depreciation of $10,000, that is, its additional depreciation immediately before the disposition ($100,000), minus $90,000, the amount of additional depreciation necessary to produce $45,000 of section 1250(a) gain where the applicable percentage is 50 percent. The subelement corresponding to the additional cost element has additional depreciation of $31,250, that is, its additional depreciation immediately before the disposition ($50,000), minus $18,750, the amount of additional depreciation necessary to produce $15,000 of section 1250(a) gain where the applicable percentage is 80 percent.

4. Section 1.1250–4 is amended by adding a new paragraph (f) to read as follows:

§ 1.1250–4 Holding period.

* * * * *

(f) *Qualified low-income housing project acquired in certain transactions.* The holding period of a "reinvestment element" (and of subelements thereof) of section 1250 property (as defined in paragraph (h)(2) of § 1.1250–3) acquired in a transaction to which sections 1039(a) and 1250(d)(8)(A) apply includes the holding period of the corresponding element of the section 1250 property disposed of. See section 1250(e)(4). The holding period of the "additional cost element" (as defined in paragraph (h)(2) of § 1.1250–3) begins on the date the replacement project is acquired. The holding period of a "reinvestment element" of section 1250 property does not include the period beginning on the day after the date of the disposition and ending (1) on the date of the acquisition of the replacement housing project, or (2) on the date the replacement housing project constructed or reconstructed by the taxpayer is placed in service.

* * * * *

5. Section 1.1250–5 is amended by revising paragraph (c)(1) and by redesignating paragraph (c)(6) as (c)(7) and adding a new paragraph (c)(6). These revised and added provisions read as follows:

§ 1.1250–5 Property with two or more elements.

* * * * *

(c) *Element*—(1) *General.* For purposes of this section, in the case of section 1250 property there shall be treated as separate elements the separate improvements, units, remaining property, special elements, and low-income housing elements which are respectively referred to in paragraphs (c) (2), (3), (4), (5), and (6) of this section.

* * * * *

(6) *Low-income housing elements.* If, in an approved disposition of a qualified housing project, a replacement qualified housing project is treated as consisting of more than one element of section 1250 property by reason of section 1250(d)(8)(E) (see paragraph (h)(2) of § 1.1250–3), the elements determined under such section shall be treated as elements for purposes of this section. For definition of the terms "qualified housing project" and "approved disposition", see section 1039(b) and the regulations thereunder.

* * * * *

[FR Doc.76–3348 Filed 2–3–76;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF–24]

PART 194—LIQUOR DEALERS

Adjusted Rate of Interest

Under Public Law 93–625, effective July 1, 1975, a new rate of interest on taxpayment deficiencies and excesses of 9% was established. Further, the Public Law provided for future adjusted rates of interest to be established by the Secretary of the Treasury or his delegate.

In the November 10, 1975, issue of the Internal Revenue Bulletin, there was published Revenue Ruling 75–487, which established an adjusted rate of interest of 7% effective February 1, 1976. This rate will remain in effect until at least January 31, 1978. As prescribed by law, the new rate is equal to the adjusted prime rate charged by banks (rounded to the nearest full percent) in September, 1975.

The purpose of the amendments made by this Treasury decision is to implement the new adjusted interest rate. Accordingly, 27 CFR 194.110 is revised to reflect the new 7 percent interest rate. As revised, § 194.110 reads as follows:

§ 194.110 Interest on unpaid tax.

(a) *General.* Interest is due on delinquent special tax from the date the tax is required to be paid to the date paid.

(b) *Rates of interest.* (1) An annual rate of 6 percent shall apply to interest accruing before July 1, 1975.

(2) An annual rate of 9 percent shall apply to interest accruing within the period commencing July 1, 1975, through January 31, 1976.

(3) An annual rate of 7 percent shall apply to interest accruing on or after February 1, 1976. This rate shall apply to interest accruing up to the effective date of any future adjusted rate of interest established under 26 U.S.C. 6621(a).

(c) *Example.* A retail liquor dealer fails to pay its $54.00 special tax for the period July 1, 1974, through June 30, 1975. If the retailer pays the delinquent special tax on January 1, 1977, interest would be computed as follows:

(1) The 6 percent rate would be assessed on $54.00 from the date the special tax was due, July 1, 1974, to the effective date of the 9 percent rate, July 1, 1975.

(3) The 7 percent rate would be assesed on $54.00 from July 1, 1975, to the effective date of the 7 percent rate, February 1, 1976.

(2) The 9 percent rate would be assessed on $54.00 from February 1, 1976 to the date the tax was paid, January 1, 1977.

In this example, the retail liquor dealer would pay a total of $9.54 in interest: 6 percent of $54.00 for one year ($3.24) plus 9 percent of $54.00 for seven months ($2.84) plus 7 percent of $54.00 for eleven months ($3.46).

(Sec. 7, Pub. L. 93–625, 88 Stat. 2114 (26 U.S.C. 6621); 68A Stat. 817 (26 U.S.C. 6601))

Because this Treasury decision merely implements the interest rate adjustment prescribed in accordance with statutory provisions, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitations of 5 U.S.C. 553(d).

Accordingly, this Treasury decision shall become effective on February 1, 1976, which is the date on which the adjusted interest rate is to take effect.

This Treasury decision is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: January 20, 1976.

REX D. DAVIS,
Director.

Approved: January 30, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76–3410 Filed 2–3–76;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Secretary and Confidential Assistant to the U.S. Attorney is reestablished under Schedule C.

Effective February 4, 1976, § 213.3310 (o)(1) is amended as set forth below:

§ 213.3310 Department of Justice.

* * * * *

(o) *Office of the U.S. Attorney.*

(1) Secretary and Confidential Assistant to the U.S. Attorney (24 positions).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76–3299 Filed 2–3–76;8:45 am]