

mission's policy as to wetlands of the basin. In the case of a project affecting less than 25 acres for which there has been issued a State or Federal permit, a determination to undertake review and action by the Commission shall be made no later than 30 days following notification of the Commission of such permit action. The Executive Director, with the approval of the chairman, may at any time within the 30-day period inform any permit-holder, signatory party, or other interested party that the Commission will decline to undertake review and action concerning any such project.

W. BRINTON WHITALL,
Secretary.

[No. 78-10]

A resolution to amend the comprehensive plan and rules of practice and procedure by the addition of new policy relating to protection of wetlands.

Whereas, the compact provides that the Commission's comprehensive plan for the basin will provide for the propagation of fish and game, for the promotion of soil conservation, and for the protection and aid to fisheries dependent upon water resources, among other objectives; and

Whereas, large areas of wetlands of the basin have been lost or despoiled by uncontrolled draining, dredging, or filling; and

Whereas, the loss or despoliation of wetlands will impair their use as habitat for plants, waterfowl, and animals of significant economic and ecological value; and

Whereas, wetlands possess recreational, educational, scientific, and esthetic values, and draining, dredging, or filling of wetlands could adversely affect these values; and

Whereas, the vegetation supported by wetlands assists in converting residuals from treated waste discharges to forms of nutrients usable in the food chain; and

Whereas, the continued loss or modification of such lands will adversely affect their value as sources of nutrients for fish and shellfish which play an important role in the economy of the basin in the areas of commercial and sport fishing; and

Whereas, wetlands play an important ecological role for floodwater and runoff storage and the loss of wetlands could increase the severity of flood-related damages; and

Whereas, the further loss or despoliation of wetlands will impair their natural ability to absorb sediment, and will result in the increased silting of channels and harbors to the detriment of navigation; and

Whereas, State and Federal agencies have plans and programs which affect or regulate wetlands to different extents; and

Whereas, it is in the interest of the Delaware River Basin and consistent with the Commission's regional responsibilities under the compact to encourage and insure a comprehensive approach to the protection and preservation of wetlands; and

Whereas, proposed policy to insure a comprehensive approach to protection of wetlands has been considered by the Commission and was the subject of a public hearing held on May 24, 1978; now therefore

Be it resolved by the Delaware River Basin Commission:

I. The comprehensive plan is amended by the addition of a new section, wetlands protection, to read as follows:

WETLANDS PROTECTION

1. DEFINITION

Wetlands shall mean those areas which are inundated by surface or ground water with a frequency sufficient to support a prevalence of vegetative or aquatic life that requires saturated soil conditions for growth and reproduction, or are delineated as wetlands by a signatory State.

2. POLICY OF PROTECTION AND PRESERVATION

It shall be the policy of the Commission to support the preservation and protection of wetlands by (1) minimizing adverse alterations in the quantity and quality of the underlying soils and natural flow of waters that nourish wetlands; (2) safeguarding against adverse draining, dredging, or filling practices, liquid or solid waste management practices, and siltation; (3) preventing the excessive addition of pesticides, salts, or toxic materials arising from nonpoint source wastes; and (4) preventing destructive construction activities generally.

3. SAFEGUARD PUBLIC INTEREST

Review and consideration of any project affecting wetlands conducted pursuant to this policy shall include balanced assessment of the environmental and economic impact of the project. Encroachment on wetlands shall not be permitted unless such assessment shall establish that no feasible alternative exists and that overriding public interest has been demonstrated. Project encroachments having no alternatives and demonstrating an overriding public interest shall be planned, constructed, and operated in a manner to safeguard the present and future public interest in the environmental values derived from such areas.

4. COMMISSION JURISDICTION

The Commission shall exercise its jurisdiction over wetlands in a manner which will assist, supplement, and overview actions of agencies signatory to the Delaware River Basin compact and in a manner that will avoid unnecessary regulatory activity.

To avoid duplication or conflicting regulatory activity the Commission will undertake review and action on projects affecting 25 or more acres of wetlands as provided for in section 2-3.5 of the rules of practice and procedure. Projects affecting less than 25 acres of wetlands will be subject to Commission review and action only under the following circumstances: (1) Where neither a State nor a Federal level review and permit system is in effect, and the Executive Director determines that a project is of major regional or interstate significance requiring action by the Commission, or (2) when a Commissioner or the Executive Director determines that the final action of a State or Federal permitting agency may not adequately reflect the Commission's policy as to wetlands of the basin.

In the case of a project affecting less than 25 acres for which there has been issued a State or Federal permit, a determination to undertake review and action by the Commission shall be made no later than 30 days following notification of the Commission of such permit action. The Executive Director,

with the approval of the Chairman, may at any time within the 30-day period inform any permit-holder, signatory party, or other interested party that the Commission will decline to undertake review and action concerning any such project.

II. The rules of practice and procedure are amended in the following respects:

(1) Section 2-3.5(a) is changed to read:

(a) Except as the [Commission] Executive Director may specially direct by notice to the project owner or sponsor, or as a State or Federal agency may refer under paragraph (c) of this section, a project in any of the following classifications will be deemed not to have a substantial effect on the water resources of the basin and is not required to be submitted under section 3.8 of the compact:

(2) Section 2-3.5(a)(15) is changed to read:

(15) Draining, filling, or otherwise altering marshes or wetlands when the area affected is less than 25 acres: *Provided, however, That areas less than 25 acres shall be subject to Commission review and action (1) where neither a State nor a Federal level review and permit system is in effect, and the Executive Director determines that a project is of major regional or interstate significance requiring action by the Commission, or (2) when a Commissioner or the Executive Director determines that the final action of a State or Federal permitting agency may not adequately reflect the Commission's policy as to wetlands of the basin. In the case of a project affecting less than 25 acres for which there has been issued a State or Federal permit, a determination to undertake review and action by the Commission shall be made no later than 30 days following notification of the Commission of such permit action. The Executive Director, with the approval of the Chairman, may at any time within the 30-day period inform any permit-holder, signatory party or other interested party that the Commission will decline to undertake review and action concerning any such project.*

Adopted: June 28, 1978.

SHERMAN W. TRIBBITT,
Chairman.

W. BRINTON WHITALL,
Secretary.

[FR Doc. 78-24469 Filed 8-30-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-302]

NOTICE THAT FINAL COURT DECISIONS ADVERSE TO THE CUSTOMS SERVICE WILL NOT BE GIVEN GENERAL EFFECT UNTIL A NOTICE OF ACQUIESCENCE IS PUBLISHED

AUGUST 24, 1978.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The Customs regulations provide that a decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals adverse to the Government generally may be limited to the particular merchandise, circumstances, or entries which were the subject of the decision. This notice implements the regulations by establishing a uniform procedure to inform Customs officers and the public that the general application of a final decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals adverse to the Government will be delayed until a notice of acquiescence or a limiting ruling is published in the Customs Bulletin.

A final court decision which is adverse to the Government will not be applied (1) to any transaction not the subject of the litigation, (2) to any person not a party to the litigation, or (3) to any merchandise or circumstance not specifically the subject of the litigation, until the Customs Service publishes a notice of its acquiescence in that decision in the Customs bulletin. If an adverse decision may affect the liquidation of any entry or the action to be taken on any protest, the liquidation or action will be suspended until a notice of acquiescence or, in the alternative, a limiting ruling, is published.

DATE: The policy set forth in this notice shall be effective with respect to all transactions or protests pending on, or arising on or after, the date of its publication in the Customs Bulletin.

FOR FURTHER INFORMATION CONTACT:

James C. Hill, Classification and Value Division, Office of Regulations and Rulings, Headquarters, U. S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5786.

SUPPLEMENTARY INFORMATION:

BACKGROUND

DISCUSSION OF APPLICABLE CUSTOMS REGULATIONS

Section 176.31, Customs regulations (19 CFR 176.31), provides that entries which are the subject of litigation which has been concluded with a decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals shall be reliquidated in accordance with that decision. However, § 152.16(e), Customs regulations (19 CFR 152.16(e)), provides that the Customs Service may limit the application of the principles of any decision of the Customs Court or the Court of Customs and Patent Appeals which is adverse to the Government, except a decision upholding a petition of an American manufacturer, producer, or

wholesaler under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), to the specific entries of merchandise which were the subject of the decision. Section 152.16(e) of the regulations also states that the Customs Service may provide for the application of the decision, in a manner which it considers appropriate, to unliquidated entries and protested entries that have not been denied, in whole or in part, which involve the same issue as that decided by the court. Section 177.10(d), Customs regulations (19 CFR 177.10(d)), similarly provides that the Customs Service may limit the application of a decision of the Customs Court or the Court of Customs and Patent Appeals which is adverse to the Government to the particular merchandise, circumstances, or entries which were the subject of the litigation by publication of a limiting ruling.

NEED FOR UNIFORM PROCEDURE

If (1) the Customs Service does not accept the reasons upon which an adverse decision is based, (2) the Government does not file an appeal, and (3) a limiting ruling is published after a decision not to appeal is made or the time for filing an appeal has expired, transactions pending on, or occurring on or after, the date of the court decision, but before the date of publication of a limiting ruling, may be treated differently from transactions occurring after the limiting ruling is published. For this reason, there may be doubt on the part of the public as to the effect of a court decision adverse to the Government.

NOTICE OF ACQUIESCENCE OR LIMITING RULING

The Assistant Commissioner, Regulations and Rulings, to whom the authority has been delegated by Customs Delegation Order No. 1 (Revision 1), as amended by Treasury Decision 78-111, will announce in the Customs bulletin the Customs Service decision to acquiesce in, or to limit, any final adverse decision of the Customs Court or the Court of Customs and Patent Appeals, except abstracted decisions and decisions which involve only the rules and procedures of the court. A notice of acquiescence or limiting ruling will be published at the earliest practicable date, generally within 180 days, after each adverse court decision.

Acquiescence in an adverse decision means that the Customs Service will accept the conclusions reached by the court for general application to transactions not specifically the subject of the litigation, but does not necessarily mean acceptance or approval of all of the reasons assigned by the court for its conclusions. When the Customs Service does not acquiesce in an ad-

verse decision, or acquiesces only in part of a decision, a limiting ruling clarifying the position of the Customs Service will be published.

LIQUIDATION OF ENTRIES OR ACTION ON PROTEST SUSPENDED

Liquidation of entries or action on protests which are pending when an adverse court decision is issued and which may be affected by the decision will be suspended pending publication of a notice of acquiescence or a limiting ruling. When a notice of acquiescence is published before an adverse court decision becomes final, however, the conclusions reached in the decision may be applied immediately to transactions which were not the subject of the litigation.

G. R. DICKERSON,
Acting Commissioner of Customs.
[FR Doc. 78-24673 Filed 8-30-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 710—RIGHT-OF-WAY—GENERAL

State Highway Department Responsibilities

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) deletes the requirement that State highway agencies submit annual real property acquisition reports.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Kennedy, Office of Right-of-Way, 202-426-0142; or Marguerite L. Price, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Because OMB approval has expired relative to State highway department preparation and submissions of form FHWA 1434, Title 23 of the Code of Federal Regulations, Chapter I, Subchapter H, Part 710, Subpart B is hereby amended by deleting from the table of sections the heading "§ 710.206 Real Property Acquisition

Report" and by deleting the corresponding section within the subpart.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

(23 U.S.C. 315; 49 CFR 1.48(b).)

Issued on: July 11, 1978.

L. P. LAMM,
Executive Director.

[FR Doc. 78-24465 Filed 8-30-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER 1—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7562]

INCOME, ESTATE AND GIFT TAXES

Certain Armed Forces Survivor Annuities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to certain armed forces survivor annuities. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974 ("ERISA"). The regulations conform existing regulations with ERISA and affect all personnel contributing to armed forces survivor annuities.

DATES: The regulations are effective for taxable years ending, and apply to individuals dying, after September 20, 1972.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C., 20224, Attention: CC:EE-6-78 (202-566-3651) (not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 18, 1978, the Internal Revenue Service published in the FEDERAL REGISTER proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 122 of the Internal Revenue Code of 1954, to the Estate Tax Regulations (26 CFR Part 20) under section 2039 of the Code, and to the Gift Tax Regulations (26 CFR Part 25) under section 2517. These amendments were proposed to conform the regulations to section 2008 of

the Employee Retirement Income Security Act of 1974 (88 Stat. 994). A public hearing was not held. Also, there were no written comments on the proposals. Therefore, the proposals are adopted without change as final regulations.

DRAFTING INFORMATION

The principal author of these proposed regulations was Thomas Rogan of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 122, the Estate Tax Regulations (26 CFR Part 20) under section 2039, and the Gift Tax Regulations (26 CFR Part 25) under section 2517, as published in the FEDERAL REGISTER (43 FR 21465) on May 18, 1978, are adopted without change.

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: August 24, 1978.

DONALD C. LUBICK,
Assistant Secretary
of the Treasury.

SUBCHAPTER A—INCOME TAX

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

§ 1.122 [Deleted]

PARAGRAPH 1. Section 1.122 is deleted.

PAR. 2. Paragraph (a) of § 1.122-1 is amended by inserting "subchapter I of" immediately preceding "chapter 73 of title 10 of the United States Code".

PAR. 3. Paragraph (b)(1) of § 1.122-1 is amended to read as follows:

§ 1.122-1 Applicable rules relating to certain reduced uniformed services retirement pay.

(b) Rule applicable after December 31, 1965.—(1) In a case of a member or former member of the uniformed services of the United States (as defined in 37 U.S.C. 101(3)), gross income shall not include the amount of any reduction made in his or her retired or retainer pay after December 31, 1965, by reason of—

(i) An election made under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431), or

(ii) The provisions of subchapter II of chapter 73 of title 10 of the United States Code (also referred to in this section as the Survivor Benefit Plan (10 U.S.C. 1447)).

PAR. 4. Paragraph (b)(2)(iii) of § 1.122-1 is amended by inserting in subdivision (a) "subchapter I of" immediately preceding "chapter 73 of title 10 of the United States Code"; and by substituting in subdivision (b) "sections 1438 or 1452(d)" for "section 1438".

PAR. 5. Paragraph (c) of section 1.122-1 is amended by inserting in subparagraphs (1), (3), and (4) "or the Survivor Benefit Plan (10 U.S.C. 1447)" immediately after "Retired Serviceman's Family Protection Plan (10 U.S.C. 1431)" and by inserting in subparagraph (4) "or Survivor Benefit Plan" after "whether or not reduced under the Retired Serviceman's Family Protection Plan".

PAR. 6. Paragraph (d) of § 1.122-1 is amended by deleting "(as defined in § 1.79-2(b)(3))" in Example (5) and by revising the material immediately preceding "Example (1)" to read as follows:

§ 1.122-1 Applicable rules relating to certain reduced uniformed services retirement pay.

(d) Examples with respect to the Retired Serviceman's Family Protection Plan. The rules discussed in this section relating to the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431) may be illustrated by the following examples:

PAR. 7. Section 1.122-1 is amended by adding at the end thereof a new paragraph (e) to read as follows:

§ 1.122-1 Applicable rules relating to certain reduced uniformed services retirement pay.

(e) Principles applicable to the Survivor Benefit Plan. The principles illustrated by the examples set forth in paragraph (d) of this section apply to an annuity under the Survivor Benefit Plan (10 U.S.C. 1447).

SUBCHAPTER B—ESTATE AND GIFT TAXES

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

§ 20.2039 [Deleted]

PAR. 8. Section 20.2039 is deleted.

§ 20.2039-2 [Amended]

PAR. 9. Paragraph (b)(4) of § 20.2039-2 is amended by deleting “, also referred to as the Retired Serviceman's Family Protection Plan”.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

§ 25.2517 [Deleted]

PAR. 10. Section 25.2517 is deleted.

§ 25.2517-1 [Amended]

PAR. 11. Paragraph (b)(1)(iv) of section 25.2517-1 is amended by deleting “, also referred to as the Retired Serviceman's Family Protection Plan”.

[FR Doc. 78-24621 Filed 8-30-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Civil Division Directive 110-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart Y—Authority to Compromise and Close Civil Claims and Responsibility for Judgments, Fines, Penalties, and Forfeitures

APPENDIX TO SUBPART Y—REDELEGATIONS OF AUTHORITY TO BRANCH DIRECTORS, HEADS OF OFFICES AND U.S. ATTORNEYS IN CIVIL DIVISION CASES

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Civil Division Directive supersedes Civil Division Directives No. 18-71 and 31-72, and Civil Division Memorandum No. 374, regarding redelegation of the Assistant Attorney General's authority to section chiefs, unit chiefs, heads of offices, and U.S. attorneys in Civil Division cases. This directive increases settlement authority of branch directors, heads of offices, and U.S. attorneys, and consolidates the previous directives and memorandum into a single directive.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William G. Schaffer, Deputy Assistant Attorney General, Civil Division,

Department of Justice, Washington, D.C. 20530, 202-739-3303.

By virtue of the authority vested in me by part O of title 28 of the Code of Federal Regulations, particularly §§ 0.45, 0.46, 0.160, 0.162, 0.164, 0.166, and 0.168, it is hereby ordered that Civil Division Directives No. 18-71 and 31-72, and Civil Division Memorandum No. 374, are superseded by the following:

CIVIL DIVISION DIRECTIVE NO. 110-78

SECTION 1. *Delegations of authority to branch directors, unit chiefs, and heads of field offices.* Authority delegated to the Assistant Attorney General in charge of the Civil Division to accept or reject offers in compromise, or to close claims other than by compromise or entry of judgment, is hereby redelegated, in part, to the several branch directors, unit chiefs, and to the attorneys in charge of field offices of the Civil Division as follows (subject to the exceptions set forth in section 2 of this directive): Branch directors are authorized to compromise, reject offers in compromise, or close any claim, in all cases against the Government, in which the amount to be paid by the Government pursuant to the offer does not exceed \$100,000, and in all cases involving claims asserted by the Government in which the differences between the gross amount of the original claim and the proposed settlement does not exceed \$100,000. Unit chiefs and attorneys in charge of field offices have similar authority, except that the comparable figure is \$60,000. In addition, pursuant to 28 CFR 172, the Directors of the Torts Branch are authorized to adjust, determine compromise, and settle administrative claims involving the Department of Justice under the Federal Tort Claims Act, in which the amount to be paid by the Government does not exceed \$100,000.

SEC. 2. *Delegations of authority to U.S. attorneys.* The Assistant Attorney General has the ultimate responsibility for the proper handling and administration of all civil litigation (excepting certain areas of specialized civil litigation assigned to other divisions of this Department—see part O of title 28 of the Code of Federal Regulations) involving the United States, and certain of its officers and employees. Each U.S. attorney shall be immediately responsible for the proper handling of each claim involving an exercise of any authority delegated to him by this directive. The Assistant Attorney General will provide U.S. attorneys with such advice or assistance as may be deemed necessary. The Assistant Attorney General may, at any time, withdraw any authority delegat-

ed by this memorandum as it relates to any particular case, or part thereof, or to any particular category of cases.

(a) *Cases routinely referred.* U.S. attorneys are authorized to take all necessary steps, with respect to money claims by or against the Government under the jurisdiction and authority of the Assistant Attorney General (excluding those covered by section 3 of this directive), to protect the interests of the United States, including the institution, conduct, compromise, and termination of appropriate legal proceedings without prior approval of the Assistant Attorney General or his representative, where the amount claimed or the current lien interest of the Government does not exceed \$60,000 (including forfeitures, if any, but excluding double damages, attorney fees, interest, and costs), and for which the Civil Division has not retained primary litigation responsibility.

(b) *Direct referral by agencies.* The following civil actions under the jurisdiction and authority of the Assistant Attorney General will be referred by the concerned agency directly to U.S. attorneys for handling and U.S. attorneys are authorized to take all necessary steps to protect the interest of the United States, without prior approval of the Assistant Attorney General or his representative, regardless of the amount claimed, if any, by or against the Government. When constitutional questions or other significant issues arise in the course of such litigation, however, the Civil Division should be consulted.

(1) Suits by social security beneficiaries under title II of the Social Security Act, 42 U.S.C. 402, et seq.

(2) Social security disability suits under 42 U.S.C. 423, et seq.

(3) Black lung beneficiary suits under title IV of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 921, et seq.

(4) Suits by medicare beneficiaries under 42 U.S.C. 1395ff.

(5) Single family dwelling house foreclosures arising out of loans made or insured by the Department of Housing and Urban Development.

(6) Garnishment actions authorized by 42 U.S.C. 659 for child support or alimony payments.

(7) Suits to enjoin violations of, and to collect penalties under, the Agricultural Adjustment Act of 1938, 7 U.S.C. 1376, the Packers and Stockyards Act, 7 U.S.C. 203, 207(g), 216, and 222, and the Perishable Agricultural Commodities Act, 7 U.S.C. 499c(a), 499h(d).

(8) Judicial review of actions of the Secretary of Agriculture under the food stamp program, pursuant to the provisions of 7 U.S.C. 2022 involving retail food stores.

(9) Cases referred by the Department of Labor for the collection of