(C) Does not increase the existing naturally occurring hydraulic head of the natural water feature more than five (5) percent.

* * * * *

3. In § 4.103, paragraph (d) is redesignated as paragraph (d)(1) and a new paragraph (d)(2) is added to read as follows:

§ 4.103 General provisions for case-specific exemption.

* * * * *

(d) (1) *Waiver.* In applying for case-specific exemption from licensing, a qualified exemption applicant may petition under § 385.207 of this chapter for waiver of any specific provision of §§ 4.102 through 4.107. The Commission will grant a waiver only if consistent with Section 408 of the Energy Security Act of 1980.

(2) For any small hydroelectric power project that would utilize a natural water feature, as defined in § 4.102(l)(2), a qualified exemption applicant may obtain a waiver, under this paragraph, of the height limitation in § 4.102(l)(2)(iii)(A) or the water retention limitation in § 4.102(l)(2)(iii)(B), or both, only if that applicant has demonstrated, based on adequate environmental and engineering information in its exemption application and petition for waiver, that it is reasonable to waive these limitations. In no case may a diversion or intake structure for such project exceed ten feet in total height.

4. In § 4.107, paragraph (e)(3) is revised to read as follows:

§ 4.107 Contents of application for exemption from licensing.

* * * * *

(e) * * *

(3) Letters or other documentation showing that the applicant consulted or attempted to consult with each of the relevant fish and wildlife agencies (specify each agency) before filing the application, including any terms or conditions of exemption that those agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act. If any fish or wildlife agency fails to provide the applicant with documentation of the consultation process within a reasonable time, in no case less than 30 days after documentation is requested, the applicant must submit a written summary of the consultation identifying the agency and office contacted, the date of the contact, and any determinations of the agency or office. Any exemption application that does not contain the information required in this subparagraph will be considered patently deficient and be rejected pursuant to § 4.31(d) of this part. The applicant may obtain a list of fish and wildlife agencies from the Director of the Division of Hydropower Licensing or any Regional Engineer.

* * * * *

[FR Doc. 82-24057 Filed 8-31-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 282

[Docket No. RM 79-14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: September 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Issued: August 27, 1982.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of September 1982 is issued by the publication of a price table for the applicable month.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Calendar Year 1980												
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.560
Calendar Year 1981												
Incremental Pricing Threshold	$1.891	$1.908	$1.925	$1.942	$1.954	$1.967	$1.980	$1.990	$2.000	$2.010	$2.025	$2.041
NGPA Section 102 Threshold	2.667	2.698	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA Section 109 Threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130% of No. 2 Fuel Oil in New York City Threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	9.260	8.860	8.700	8.930	8.990
Calendar Year 1982												
Incremental Pricing Threshold	$2.057	$2.071	$2.085	$2.099	$2.106	$2.113	$2.120	$2.129	$2.139			
NGPA Section 102 Threshold	3.003	3.003	3.063	3.093	3.112	3.132	3.152	3.176	3.200			
NGPA Section 109 Threshold	2.128	2.143	2.158	2.173	2.180	2.187	2.194	2.204	2.214			
130% of No. 2 Fuel Oil in New York City Threshold	9.180	9.340	9.470	9.340	9.280	8.000	8.170	8.670	8.660			

[FR Doc. 82-24060 Filed 8-31-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7828]

Income Tax; Taxable Years Beginning After December 31, 1953; Charitable Contribution of Property Elected Under the Asset Depreciation Range System

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the treatment of eligible property elected under the Asset Depreciation Range system and retired by charitable contribution. The regulations correct a distortion with respect to the treatment of such property arising under prior rules. The regulations would affect donors of such property.

DATE: The regulations are effective with respect to property retired after December 30, 1980.

FOR FURTHER INFORMATION CONTACT: Harold T. Flanagan, Jr. of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1980, the **Federal Register** published a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 167 of the Internal Revenue Code of 1954 (45 FR 85787). The regulations were proposed to clarify the regulations under section 167. A public hearing was not requested or held. One comment was received with respect to the proposed regulations. After consideration of that comment, the amendment is adopted as proposed.

In General

The regulation requires that a charitable contribution of eligible property which is elected under the Asset Depreciation Range systems be treated as an extraordinary retirement. Upon retirement of the asset, the unadjusted basis of the contributed property shall be removed from the vintage account and an adjustment shall be made to depreciation reserve.

The one comment received suggested that charitable contributions be treated in a manner similar to the treatment of casualty losses. In effect, the taxpayer would be entitled to elect that no charitable contribution deduction be taken in the year of the contribution and that the property remain in the ADR account. If no election were made, then the charitable contribution deduction would be allowed, and the contribution would be treated as an extraordinary retirement. A casualty loss is a sudden, unexpected occurrence, while a charitable contribution is the result of a planned action of the taxpayer to retire the asset. To allow the taxpayer to make an election to retire the asset, as suggested, could give rise to undue manipulation of the timing of tax deductions. Accordingly, this Treasury decision does not adopt the suggested alternative treatment.

Evaluation of the effectiveness of this regulation will be based on comments received from offices within the Treasury and the Internal Revenue Service, other governmental agencies, and the public. This regulation will not impose new reporting or recordkeeping requirements.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this final regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the order dated April 28, 1982.

Regulatory Flexibility Act

The Internal Revenue Service has concluded that the final regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of this regulation is Harold T. Flanagan of the Legislation and Regulations 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.

List of Subjects in 26 CFR Part 1

Income taxes, Taxable income, Deductions, Exemptions, Depreciation.

Adoption of amendment to the regulations:

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

Accordingly, the regulation proposed to be prescribed as final Income Tax Regulations (26 CFR Part 1) published as a notice of proposed rulemaking in the **Federal Register** for December 30, 1980 (45 FR 85787), is hereby adopted as proposed.

This Treasury decision is issued under the authority contained in sections 167 and 7805 of the Internal Revenue Code (85 Stat. 508, 26 U.S.C. 167; 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: August 23, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

Section 1.167(a)-11(d)(3)(ii) (relating to definitions of ordinary and extraordinary retirements) is amended by adding a new subdivision (*d*) after subdivision (*c*) to read as follows:

§ 1.167(a)-11 Depreciation based on class lives and asset depreciation ranges for property placed in service after December 31, 1970.

* * * * *

(d) *Special rules for salvage, repairs and retirements.* * * *

(3) *Treatment of retirements.* * * *

(ii) *Definitions of ordinary and extraordinary retirements.* * * *

(*d*) The asset is section 1245 property which is retired after December 30, 1980 by a charitable contribution for which a deduction is allowable under section 170.

* * * * *

[FR Doc. 82-24009 Filed 8-31-82; 8:45 am]

BILLING CODE 4830-01-M

---

26 CFR Part 1

[T.D. 7829]

Income Tax; Taxable Years Beginning After December 31, 1953; Inclusion of Timber, Coal, and Domestic Iron Ore Within the Definition of "Property Used in the Trade or Business"

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides an amendment which clarifies the

regulations including the terms "timber", "coal", and "domestic iron ore" within the definition of "property used in the trade or business". The amendment affects sellers of coal, domestic iron ore, and standing timber.

DATE: This regulation applies to taxable years beginning after December 31, 1953.

FOR FURTHER INFORMATION CONTACT:
John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document provides an amendment to the Income Tax Regulations (26 CFR Part 1) under section 1231(b)(2) of the Internal Revenue Code of 1954. This regulation is being issued without prior notice because it was determined that no notice and public comment procedure is necessary since this document will not be detrimental to any taxpayer.

Explanation of Provision

This amendment revises § 1.1231-1(a)(2) to provide that timber, coal, and iron ore to which section 631 of the Code applies are treated as "property used in the trade or business" subject to section 1231 treatment. This revision also clarifies that timber, coal, and iron ore to which section 631 does not apply are also subject to section 1231 treatment if they otherwise meet the requirements of section 1231 of the Code.

Evaluation of the effectiveness of this regulation will be based on comments received from offices within the Treasury and Internal Revenue Service, other governmental agencies, and the public. These regulations will impose no new reporting or recordkeeping requirements.

Drafting Information

The principal author of this regulation is John A. Tolleris of the Legislation and Regulations 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 regulations, both on matters of substance and style.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the order dated April 28, 1982.

Regulatory Flexibility Act

The Internal Revenue Service has concluded that the regulations promulgated herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

List of Subjects in 26 CFR Part 1

Income taxes, Capital gains and losses, Recapture.

Adoption of amendment to the regulations

Accordingly, 26 CFR Part 1 is amended as follows:

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

Paragraph (a) of § 1.1231-1 is amended by revising subparagraph (2) thereof, to read as follows:

§ 1.1231-1 Gains and losses from the sale or exchange of certain property used in the trade or business.

(a) *In general.* * * * (2) timber, coal, and iron ore which do not otherwise meet the requirements of section 1231 but with respect to which section 631 applies; * * *

* * * * *

Because this Treasury decision will not be determental to any taxpayer, it is found unnecessary to issue this Treasury decision with notice and public procedures thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: August 23, 1982.

David G. Glickman,
Acting Assistant Secretary of the Treasury.

[FR Doc. 82-24010 Filed 8-31-82; 8:45 am]
BILLING CODE 4830-01-M

---

26 CFR Parts 30 and 31

[T.D. 7827]

Penalty for False Information With Respect to Withholding

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary employment tax regulations relating to the civil penalty for false information with respect to withholding of income tax at source on wages. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981. The regulations would provide guidance to officers and employees of the Internal Revenue Service with respect to the application of third civil penalty. In addition, the text contained in the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register.**

DATE: These temporary regulations are effective with respect to acts and failures to act occurring after December 31, 1981.

FOR FURTHER INFORMATION CONTACT:
Barry L. Wold of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3828).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary employment tax regulations relating to the civil penalty for false information with respect to withholding of income tax at source on wages. These regulations are being issued because of the changes made by section 721 (a) of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34; 95 Stat. 172, 340) to section 6682 of the Internal Revenue Code of 1954. Further, a new Part 30, Temporary Employment Tax Regulations under the Economic Recovery Tax Act of 1981, is added by this document to Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

General Rule

The regulations describe the application of the $500 civil penalty to be paid by an individual who makes a

statement under section 3402 (relating to withholding of inome tax at source on wages) which results in reduced withholding and for which there was no reasonable basis.

There was a reasonable basis for a statement of the number of exemptions an individual claimed on a Form W–4 if the individual properly completed the Form W–4 by taking into account only allowable amounts for items which are allowable and by computing the number of exemptions in accordance with the instructions on the Form W–4.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this temporary regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553 (b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations is Barry L. Wold of the Legislation and Regulations 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 regulations, on matters of both substance and style.

List of Subjects

26 CFR Part 30

Employment taxes, Income taxes, Withholding, Penalties.

26 CFR Part 31

Employment taxes, Income taxes, Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding, Penalties.

Adoption of Amendments to the Regulations

Accordingly, a new Part 30, Temporary Employment Tax Regulations under the Economic Recovery Tax Act of 1981, is added to Title 26 of the Code of Federal Regulations, and the following amendments are made to the regulations:

1. A new Part 30, Temporary Employment Tax Regulations under the Economic Recovery Tax Act of 1981, is added to Title 26 of the Code of Federal Regulations. Part 30 reads as follows:

PART 30—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

Sec.

30.6682–1 False information with respect to withholding.

Authority: Sec. 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805.

§ 30.6682–1 False information with respect to withholding.

(a) *Civil penalty.* If any individual makes a statement under section 3402 (relating to income tax collected at source) which results in a lesser amount of income tax actually deducted and withheld than is properly allowable under section 3402 and, at the time the statement was made, there was no reasonable basis for the statement, the individual shall pay a penalty of $500 for the statement. There was a reasonable basis for a statement of the number of exemptions an individual claimed on a Form W–4 if the individual properly completed the Form W–4 by taking into account only allowable amounts for items which are allowable and by computing the number of exemptions in accordance with the instructions on the Form W–4. This penalty is in addition to any criminal penalty provided by law. This penalty may be assessed at any time after the statement is made, until the expiration of the applicable statute of limitations.

(b) *Deficiency procedures not to apply.* The civil penalty imposed by section 6682 may be assessed and collected without regard to the deficiency procedures provided by subchapter B of chapter 63 of the Code.

PART 31—EMPLOYMENT TAXES; APPLICABLE ON OR AFTER JANUARY 1, 1955

§ 31.6682–1 [Removed]

2. Section 31.6682–1 (relating to false information with respect to withholding allowances based on itemized deductions) is removed.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: August 23, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82–23960 Filed 8–31–82; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–113; Ref: Notice No. 385]

Finger Lakes Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in the State of New York, to be named "Finger Lakes." This final rule was initiated as a result of a petition filed by the Finger Lakes Wine Growers Association. The final rule resulted from two notices of proposed rulemaking, Notice Nos. 356 and 385, published in the Federal Register on November 6, 1980 (45 FR 73694) and October 7, 1981 (46 FR 49597), and a public hearing held in Geneva, New York, on February 11, 1981. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Finger Lakes as a viticultural area and its subsequent use as an appellation of origin in wine labeling and advertising will allow local wineries to better designate their specific grape-growing area and will enable consumers to better identify the wine they purchase.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692), which added a new Part 9 to 27