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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 409

[Docket No. 2075S]

Arizona-California Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: Under the authority contained in the Federal Crop Insurance Act, as amended, the Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for crop insurance in Arizona and California on citrus by reopening the sales period through the month of April, effective for the 1986 crop year only. This action is being taken on an experimental basis to determine the increase in participation and any administrative problems that might arise. The intended effect of this notice is to advise all interested parties of the extension of sales closing dates and to comply with the Arizona-California Citrus Crop Insurance Regulations with respect to the authority of the Manager to extend sales closing dates.

EFFECTIVE DATE: March 11, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: Under the provisions contained in the Arizona-California Citrus Crop Insurance Regulations (7 CFR Part 409), the Manager, FCIC, is authorized to extend the sales closing date for accepting applications for crop insurance in any county. In counties in Arizona and California the closing date for accepting applications for the citrus crop insurance is November 30.

FCIC is extending the period for accepting applications for citrus crop insurance by reopening the sales period for the month of April. This action is for the 1986 crop year only, and on an experimental basis to determine increase in participation and any administrative problems. It has been determined that no potential for adverse selection will result from such reopening since all applications would require a pre-acceptance field inspection to determine eligibility. The extended period for accepting applications for citrus crop insurance in Arizona and California will be from April 1 through the close of business on April 30, 1985, effective for the 1986 crop year only.

Notice

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation herewith gives notice of the reopening of the sales period for accepting applications for citrus crop insurance in Arizona and California under the provisions of 7 CFR 409.7(b), effective for the 1986 crop year only, from April 1, 1985, through the close of business on April 30, 1985.

Done in Washington, D.C., on February 28, 1985.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: March 4, 1985.

Approved by:

Merritt W. Sprague,
Manager.

[FR Doc. 85-5655 Filed 3-8-85; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 440

[Docket No. 2081S]

Texas Citrus Tree Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correction.

SUMMARY: Federal Crop Insurance Corporation (FCIC) published a final rule in the **Federal Register** on Friday, April 6, 1984, at 49 FR 13671, issuing a new Part 440 in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 440—Texas Citrus Crop Insurance Regulations (7 CFR Part 440). These regulations, as published, provide that an application for insurance may be made by any person to cover such person's insurable share in the trees as landlord, owner-operator, or tenant. This reference to tenant was inadvertently included. The policy for crop insurance states that the insured share shall be the policyholder's share as landlord or owner-operator with no reference to "tenant." Further, Section 17 of the policy, titled "Meaning of Terms", defines an insured as being the person (owner or owners) who submitted the application accepted by us.

The word "tenant" is clearly in error and should be removed from the regulation. This notice is published to correct that reference.

ADDRESS: Written comments on this correction may be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: FR Doc. 84-9204, appearing at page 13671, is corrected on page 13672 by removing the phrase "or tenant" in the first sentence of 7 CFR 400.7(a), and by adding the word "or" between the words "landlord," and "owner-operator".

The Authority citation for 7 CFR Part 440 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516)

Done in Washington, D.C. on February 28, 1985.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: March 4, 1985.

Approved by:

Merritt W. Sprague,
Manager.

[FR Doc. 85-5656 Filed 3-8-85; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 506]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 280,000 cartons during the period March 10–16, 1985. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

DATES: Effective for the period March 10–16, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on March 5, 1985, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is good on mid sizes and improving on the larger sizes of fruit.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.806 is added as follows:

§ 910.806 Lemon Regulation 506.

The quantity of lemons grown in California and Arizona which may be handled during the period March 10, 1985, through March 16, 1985, is established at 280,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 6, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–5803 Filed 3–8–85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141, 143, 145, 147, 172 and 177

[T.D. 85–39]

Customs Regulations Amendments Relating to Elimination of the Special Customs Invoice, Customs Form 5515

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs regulations relating to invoices by eliminating the Special Customs Invoice and requiring that the commercial invoice identify by name a responsible employee of the exporter, who has knowledge, or who can readily obtain knowledge, of the facts of the transaction.

Because of (1) statutory amendments which simplified the methods used to determine the value of imported merchandise, (2) the fact that the information required on the Special Customs Invoice also appears on the commercial invoice presented at the time of entry, and (3) increased sophistication on the part of the importing community, there is no longer any need to require the Special Customs Invoice.

EFFECTIVE DATE: May 10, 1985.

FOR FURTHER INFORMATION CONTACT: Herbert Geller, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–535–4161).

SUPPLEMENTARY INFORMATION:

Background

This document amends Part 141, Customs Regulations (19 CFR Part 141), relating to invoices, to eliminate the Special Customs Invoice, Customs Form 5515 (SCI),and require that the commercial invoice identify by name a responsible individual who has knowledge, or can readily obtain knowledge, of the facts of the transaction. Conforming amendments are made to other parts of the Customs Regulations referencing the SCI and the commercial invoice.

Section 141.83, Customs Regulations (19 CFR 141.83), provides that a SCI shall be filed for each shipment of merchandise imported into the U.S. if the purchase price exceeds $500 and the rate of duty is dependent in any manner upon the value of the merchandise. The SCI also is required for merchandise not imported pursuant to a purchase, or agreement to purchase, if the value is over $500.

The general information required by section 481(a), Tariff Act of 1930 (19 U.S.C. 1481(a)), to be shown on the SCI and all other invoices for merchandise imported into the U.S., is set forth in § 141.86(a), Customs Regulations (19 CFR 141.86(a)).

Pursuant to section 481(d), Tariff Act of 1930 (19 U.S.C. 1481(d)), such exemptions from the requirements of 19 U.S.C. 1481(a), may be made by the Secretary of the Treasury as he deems advisable.

Furthermore, section 484(b), Tariff Act of 1930, as amended (19 U.S.C. 1484(b)), provides that the Secretary shall provide by regulation for the production of a certified invoice (i.e. SCI) for imported merchandise when he deems it advisable and the terms and conditions under which such merchandise may be permitted entry without the production of a certified invoice.

Because of (1) Pub. L. 96–39, the "Trade Agreements Act of 1979," which simplified the methods used to determine the value of imported merchandise, (2) the fact that the information required on the SCI also appears on the commercial invoice presented at the time of entry, and (3) increased sophistication on the part of the importing community, Customs believed the SCI no longer served a useful purpose. Accordingly, on February 1, 1982, instructions were sent to Customs personnel advising that effective March 1, 1982, a SCI would not be required when a signed commercial invoice is provided which contains the information required by § 141.86, Customs Regulations. The instructions further indicated that when a signed commercial invoice was not provided the SCI could still be waived in accordance with § 141.92, Customs Regulations (19 CFR 141.92).

However, on August 20, 1979, the U.S. accepted the "Recommendation of the Customs Co-operation Council Concerning Customs Requirements Regarding Commercial Invoices", which states that Council members should refrain from requiring a signature, for customs purposes, on commercial invoices. Accordingly, it was decided that the present practice of accepting a signed commercial invoice should be changed to require that the name of a responsible individual who has knowledge of the transaction be placed on the commercial invoice.

Therefore, on April 20, 1984, a notice proposing to amend the Customs Regulations was published in the Federal Register (49 FR 16803), soliciting public comments. It also was proposed to incorporate the present requirements of § 141.86(j) (2), (4), and (8), relating to country of origin of the merchandise, exchange rate and goods and services furnished, respectively, which are not included in the invoice, into § 141.86(a), Customs Regulations, relating to general information required on the invoice. Eleven comments were received in response to the notice. A discussion of these comments and our responses follow.

Discussion of Comments

Comment: Requiring a name on a commercial invoice is contrary to the agreement reached by the Customs Cooperation Council (of which the U.S. is a member) that Council members should refrain from requiring a signature, for Customs purposes, on commercial invoices.

Response: We disagree. The proposed amendment asks that the name of a person who has knowledge of the transaction be shown on the invoice. A signature of an official is not required.

Comment: It would be difficult to provide Customs with the name of any single individual who has knowledge of the transaction. Many transactions are multi-invoiced, i.e., they involve numerous individuals with knowledge of only certain aspects of the transaction. Moreover, the cost and effort sustained by foreign exporters in identifying and placing names of persons with knowledge of transactions on millions of commercial invoices far exceeds any benefit to Customs.

Response: We disagree. The rule does not require the named individual to be knowledgeable of the transaction in every minute detail, but simply requires that the name of a responsible individual who has knowledge of the transaction appear on the invoice. It is reasonable to assume that there is at least one employee of an exporting firm that has general knowledge of the transaction.

Also, we do not believe that it would be costly for exporters merely to identify and type or print in the name of one individual on the commercial invoice. Customs, as well as the importer, would benefit by having a person identified to whom questions could be referred concerning the transaction.

Comment: The naming of an individual on the commercial invoice implies individual liability rather than corporate liability.

Response: We disagree that the mere placing of a name on an invoice implies liability. Placing the name on the invoice is done only for obtaining information about the transaction. The individual named may ultimately be held responsible if, after investigation, the evidence supports this finding. The assessment of liability, however, is not the purpose of the amendment.

Comment: The proposal to name an individual knowledgeable of the transaction on the commercial invoice is vague. One could conclude that the name listed on the invoice could be a broker, an employee of the importer, or an employee of the exporter, as long as that person had knowledge of the transaction.

Response: We agree. The person named on the commercial invoice should be an employee of the exporter so that, for investigative purposes, the person can be contacted quickly. The proposed amendment has been further amended to clarify this point.

Comment: Several commenters proposed that the rule regarding the naming of an individual on the invoice be amended to require the name of a responsible individual who has knowledge of *or who can readily obtain knowledge of* the facts of the transaction.

Response: We concur. The final rule includes this provision.

Comment: One commenter suggested that there should be a 6-month transition period before the SCI is eliminated because exporters have computerized documentation systems based on the use of this invoice.

Response: We disagree. Customs notified brokers and the importing/exporting community in February, 1982, that the SCI would not be required after March 1, 1982. All parties have had ample time, therefore, to adjust to the elimination of the SCI. Customs will continue, however, to accept a SCI prepared in conjunction with a commercial or pro forma invoice.

Comment: The country of origin statement on the commercial invoice is not practical inasmuch as many exporters do not know the country of origin and few problems have arisen on this matter.

Response: We disagree. The country of origin statement is extremely important considering the fact that much imported merchandise is subject to quota limitations and visa requirements. The statement would assist importers in determining the country of origin of goods, thereby alleviating possible liability on domestic importers' parts if a false country of origin were shown on the invoice prepared by the exporter. Therefore, we are retaining this provision in § 141.86(a).

Comment: It is unnecessary to include the exchange rate on the commercial invoice, as proposed in the notice.

Response: We agree. This provision has been eliminated from § 141.86(a)(7).

Comment: Proposed § 141.86(a)(11) should be revised to exclude goods or services undertaken in the U.S. and to include a provision for acceptance of annual reports for goods and services.

Response: We agree. Section 141.86(a)(11) excludes goods or services undertaken in the U.S., and it includes a provision for acceptance of annual reports for goods and services, when approved upon application to the district director.

After consideration of all the comments and further review of the matter, we have decided to adopt the proposed amendments with the modifications noted.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. The amendments remove a regulatory burden and will result in reduced cost to the importing community.

Accordingly, it is certified under the provisions of § 3, Regulatory Flexibility Act (5 U.S.C. 605(b)), that the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collection of information requirements contained in § 141.86(a)(10) and (11) and § 141.86(j) are subject to the provisions of the Paperwork Reduction Act (44 U.S.C. 3504) and have been cleared by the Office of Management and Budget. They have been assigned OMB No. 1515–0120.

Drafting Information

The principal author of this document was Susan Terranova, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Parts 141, 143, 145, 172 and 177

Customs duties and inspection, Imports.

Amendments to the Regulations

Parts 141, 143, 145, 147, 172, and 177, Customs Regulations (19 CFR Parts 141, 143, 145, 147, 172, 177), are amended as set forth below.

William von Raab,
Commissioner of Customs.

Approved: February 21, 1985.

Edward T. Stevenson,
Acting Assistant Secretary of the Treasury.

PART 141—ENTRY OF MERCHANDISE

§ 141.81 [Amended]

1. The first sentence of § 141.81 is amended by removing the words "A special Customs invoice, a" and inserting, in their place, the word "A".

2. Section 141.83 is amended by removing paragraph (a) and reserving it; removing the second sentence of paragraph (b); and revising the first sentence of paragraph (c)(1) to read as follows:

§ 141.83 Type of invoice required.

* * * * *

(c) *Commercial invoice.* (1) A commercial invoice shall be filed for each shipment of merchandise not exempted by paragraph (d) of this section. * * *

3. Section 141.83(d) is amended by removing the words "Special Customs or commercial" in the paragraph heading and inserting, in their place, the word "Commercial", and removing the words "A Special Customs Invoice or a" in the first sentence and inserting, in their place, the word "A".

§ 141.84 [Amended]

4. Section 141.84 is amended by removing the words "original special Customs invoice or" in the first sentence of paragraph (a); the words "a special Customs invoice or" in the first sentence of paragraph (c); and the words "a special Customs invoice or" both times they are used in paragraph (e) and, in the second instance inserting, in their place, the word "the".

§ 141.85 [Amended]

5. The first sentence of the Pro Forma Invoice form set forth in § 141.85 is amended by removing the words "special or".

6. Section 141.86 is amended by removing the words, "except the Special Customs Invoice (Customs Form 5515) (see paragraph (j) of the section)" in the first sentence of paragraph (a); removing the word "and" at the end of paragraph (a)(8); removing the period at the end of paragraph (a)(9), and inserting, in its place, a semicolon; and adding new paragraphs (a)(10) and (a)(11) to read as follows:

§ 141.86 Contents of invoices and general requirements.

(a) * * *

(10) The country of origin of the merchandise; and,

(11) All goods or services furnished for the production of the merchandise (e.g., assists such as dies, molds, tools, engineering work) not included in the invoice price. However, goods or services furnished in the United States are excluded. Annual reports for goods and services, when approved by the district director, will be accepted as proof that the goods or services were provided

* * * * *

7. Section 141–86 is further amended by revising paragraph (j) to read as follows:

§ 141.86 Contents of invoices and general requirements.

* * * * *

(j) *Name of responsible individual.* Each invoice of imported merchandise shall identify by name a responsible employee of the exporter, who has knowledge, or who can readily obtain knowledge, of the transaction.

(The collection of information requirements contained in § 141.86 have been approved by the Office of Management and Budget under Control Number 1515–0120)

(R.S. 251, as amended, secs. 448, 481, 484, 624, 46 Stat. 714, as amended, 719, 722, as amended, 759; 19 U.S.C. 66, 1448, 1481, 1484, 1624)

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

Section 143.27 is revised to read as follows:

§ 143.27 Invoices.

In the case of merchandise imported pursuant to a purchase or agreement to purchase, or intended for sale and entered informally, the importer shall produce the commercial invoice covering the transaction or, in the absence thereof, an itemized statement of value.

(R.S. 251, as amended, secs. 481, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 66, 1481, 1484, 1624))

PART 145—MAIL IMPORTATIONS

§ 145.11 [Amended]

Section 145.11 is amended by removing pararaph (c) and reserving it.

(R.S. 251, as amended, secs. 481, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 66, 1481, 1484, 1624))

PART 147—TRADE FAIRS

Section 147.12 is revised to read as follows:

§ 147.12 Invoices.

Articles intended for a fair under the provisions of the Act are subject to the invoice requirements of Subpart F, Part 141 of this Chapter.

(R.S. 251, as amended, secs. 481, 484, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 66, 1481, 1484, 1624))

PART 172—LIQUIDATED DAMAGES

§ 172.22 [Amended

Section 172.22(b) is amended by removing the words "Special Customs Invoices or" in the paragraph heading; the words "Special Customs Invoice, Customs Form 5515, or a " in the first sentence of paragraph (b); and the words "special Customs or" in paragraph (b)(3)(i).

(R.S. 251, as amended, secs. 481, 484, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 66, 1481, 1484, 1624))

PART 177—ADMINISTRATIVE RULINGS

§ 177.2 [Amended]

Sections 177.2 is amended by removing the words "a Special Customs Invoice" in the first sentence of paragraph (b)(2)(iii) and inserting, in their place, the words "an invoice".

(R.S. 251, as amended, secs. 481, 484, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 66, 1481, 1484, 1624))

[FR Doc. 85-5709 Filed 3-8-85; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[T.D. 8012]

Income Tax; Taxable Years Beginning After December 31, 1953; Aggregation of Certain Activities for Purposes of the At-Risk Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the aggregation of certain activities for purposes of the at-risk rules. Changes to the applicable law were made by the Tax Reform Act of 1984. The regulations provide the public with the guidance needed to comply with the law and affect certain taxpayers engaged in those activities.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1983 and before January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Alice M. Bennett of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3238, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Income Tax Regulations (26 CFR Part 1) to provide rules relating to the aggregation of certain activities under section 465 of the Internal Revenue Code of 1954. Section 465 was added to the Code by section 204 of the Tax Reform Act of 1976 (90 Stat. 1531). Section 465 subsequently was amended by sections 201-204 of the Revenue Act of 1978 (92 Stat. 2763), section 402(e) of the Energy Tax Act of 1978 (92 Stat. 3174), section 102(a)(1) of the Technical Corrections Act of 1979 (94 Stat. 194), section 5(a)(31) of the Subchapter S Revision Act of 1982 (96 Stat. 1669), and section 432 of the Tax Reform Act of 1984 (98 Stat. 811). In general, section 465 provides a limit on the amount of losses a taxpayer may deduct in a taxable year with respect to certain activities.

Prior to the enactment of the Tax Reform Act of 1984, section 465 provided special aggregation rules for partnership and S corporation activities listed in section 465(c)(1). Under those aggregation rules, a partner or S corporation shareholder treated all the films and videotapes of the partnership or S corporation as a single activity for purposes of section 465, and similarly treated all farms, all section 1245 properties leased or held for leasing, all oil and gas properties, and all geothermal properties of the partnership or S corporation as single activities for purposes of section 465. Taxpayers engaged in the activities listed in section 465(c)(1) other than through a partnership or S corporation, however, were required to treat each film, video tape, farm, section 1245 property that is leased or held for leasing, oil and gas property, and geothermal property as a separate activity for purposes of section 465.

The Tax Reform Act of 1984 changed the aggregation rules with respect to the activities listed in section 465(c)(1) for taxable years beginning after December 31, 1983. Section 465(c)(2) (as amended by the Tax Reform Act of 1984) generally requires partners and S corporation shareholders to separate activities listed in section 465(c)(1) that are engaged in by a partnership or S corporation on a property-by-property basis. Thus, partners and S corporation shareholders generally must treat each of the partnership's or S corporation's films, video tapes, farms, oil and gas properties, and geothermal properties as a separate activity. A special aggregation rule applies to section 1245 property that is leased or held for leasing: section 465(c)(2)(B) provides that partners and S corporation shareholders shall aggregate the partnership's or S corporation's section 1245 properties by reference to the taxable year in which the property is placed in service.

Section 465(c)(2) (as amended by the Tax Reform Act of 1984) also provides that taxpayers (including partners and S corporation shareholders) shall aggregate activities listed in section 465(c)(1) under rules similar to the rules provided in section 465(c)(3)(B), relating to active trades or businesses. In addition, the Secretary's authority to aggregate or separate activities by regulations is extended to the activities listed in section 465(c)(1). Prior to the enactment of the Tax Reform Act of 1984, the aggregation rules of section 465(c)(3)(B) and the Secretary's authority to aggregate or separate activities by regulations applied only to activities not listed in section 465(c)(1).

The Service recognizes that the new rules for separating film and video tape, farming, oil and gas, and geothermal activities engaged in by a partnership or S corporation on a property-by-property basis may create difficult allocation problems. In addition, if the aggregation rule under section 465(c)(3)(B) for active trades or businesses does not apply, the paperwork burden associated with the filing of partners' and shareholders' income tax returns may be substantial.

Therefore, the temporary regulations provide that, for taxable years beginning during 1984, partners and S corporation shareholders may aggregate the activities of a partnership or S corporation with respect to films and video tapes, farms, oil and gas properties, and geothermal properties in the same manner as provided under section 465 for taxable years beginning before January 1, 1984. The temporary regulations do not extend this aggregation rule to partnership or S corporation leasing activities since the special aggregation rule provided in section 465(c)(2)(B) reduces substantially the allocation and paperwork burdens.

The temporary regulation applies only to taxable years beginning during 1984. The Service intends to study the problems raised by the aggregation rules (as amended by the Tax Reform Act of 1984) and anticipates issuing guidance for future taxable years in additional temporary or final regulations. One alternative being considered is to allow taxpayers to aggregate these activities in a manner similar to the special aggregation rule provided under section 465(c)(2)(B) for leasing activities.

Special Analyses

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis therefore is not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).