

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for Part 556 is revised to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b), unless otherwise noted.

2. In § 556.50 by adding new paragraph (c) to read as follows:

§ 556.50 Amprolium.

(c) In the edible tissues of pheasants:

- (1) 1 part per million in uncooked liver.
- (2) 0.5 part per million in uncooked muscle.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for Part 558 is revised to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b), unless otherwise noted.

4. In § 558.55 by adding new paragraph (e)(3) to read as follows:

§ 558.55 Amprolium.

(e) * * *

(3) *Pheasants*. It is used in complete feed as follows:

(i) *Amount*. 0.0175 percent (159 grams per ton).

(ii) *Indications for use*. For the prevention of coccidiosis in growing pheasants caused by *Eimeria colchici*, *E. duodenalis*, and *E. phasianis*.

(iii) *Limitations*. Feed continuously as sole ration. Use as sole source of amprolium. Fertility, hatchability, and other reproductive data are not available on amprolium in breeding pheasants. Do not use in feeds containing bentonite.

Effective date. May 1, 1985.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))
Dated: April 24, 1985.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

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BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 232 and 235

[Docket No. R-85-1238; FR-2120]

Mortgage Insurance; Changes in Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the maximum allowable interest rate on section 232 (Mortgage Insurance for Nursing Homes) and on section 235 (Homeownership for Lower Income Families) insured loans. This final rule is intended to bring the maximum permissible financing charges for these programs into line with competitive market rates.

EFFECTIVE DATES: April 19, 1985.

FOR FURTHER INFORMATION CONTACT:

John N. Dickie, Chief
Mortgage and Capital Market Analysis Branch, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755-7270. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The following amendments to 24 CFR Ch. II have been made to decrease the maximum interest rate which may be charged on loans insured by this Department under section 232 (fire safety equipment) and section 235 of the National Housing Act. The maximum interest rate on the HUD/FHA section 232 (fire safety equipment) and section 235 insurance programs has been lowered from 13.00 percent to 12.50 percent.

The Secretary has determined that this change is immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1.

As a matter of policy, the Department submits most of its rulemaking to public comment, either before or after effectiveness of the action. In this instance, however, the Secretary has determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this final rule effective immediately.

HUD regulations published at 47 FR 56266 (1982), amending 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusions set forth in paragraph (1) of § 50.20, the preparation of an Environmental Impact Statement or Finding of No Significant Impact is not required for this rule.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides for a small increase in the mortgage interest rate in programs of limited applicability, and thus of minimal effect on small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 22, 1984 (49 FR 41684) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.108, 14.117, and 14.120.

List of Subjects

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs: housing and community development.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs, Health, Loan programs, Housing and community development, Mortgage insurance, Nursing homes, Intermediate care facilities.

Accordingly, the Department amends 24 CFR Parts 232 and 235 as follows:

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

1. The authority citation for 24 CFR Part 232 continues to read as follows:

Authority: Secs. 211, 232(i) and 235(i), National Housing Act, (12 U.S.C. 1715b, 1715w(i), and 1715z(i)); sec. 7(d) of the Department of HUD Act, (42 U.S.C. 3535(d)).

2. In § 232.500, paragraph (a) is revised to read as follows:

§ 232.500 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.50 percent per annum, except that where an application for commitment was received by the Secretary before April 19, 1985, the loan may bear interest at the maximum rate in effect at the time of application.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

3. The authority citation for 24 CFR Part 235 continues to read as follows:

Authority: Secs. 211, 232(i) and 235(i), National Housing Act, (12 U.S.C. 1715b, 1715w(i) and 1715z(i)); sec. 7(d) of the Department of HUD Act, (42 U.S.C. 3535(d)).

4. In § 235.9, paragraph (a) is revised to read as follows:

§ 235.9 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum, except that where an application for commitment was received by the Secretary before April 19, 1985, the loan may bear interest at the maximum rate in effect at the time of application.

5. In § 235.540, paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) On or after April 19, 1985, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.50 percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was

previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

Dated: April 18, 1985.

Shirley McVay Wiseman,

General Deputy Assistant Secretary for Housing—Deputy FHA Commissioner, HD.

[FR Doc. 85-10491 Filed 4-30-85; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 5 and 602

[T.D. 8022]

Qualified Discount Coupons

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to a method of accounting for the redemption costs of qualified discount coupons. Changes to the applicable law were made by the Revenue Act of 1978. The regulations provide the public with the guidance needed to comply with the law and affect all taxpayers who elect to use this method of accounting for qualified discount coupons.

DATES: The regulations are effective for taxable years beginning after December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1984, the *Federal Register* published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 466 of the Internal Revenue Code of 1954 (49 FR 31080). The amendments were proposed to reflect the addition of section 466 to the Code by section 373 of the Revenue Act of 1978 (92 Stat. 2863). In general, section 466 permits certain taxpayers who issue qualified discount coupons to elect to use a special method of accounting for the redemption costs of those coupons.

The proposed amendments also reflected the special election provided under section 373(c) of the Act for certain taxpayers who used a method of

accounting for discount coupons in prior taxable years that is reasonably similar to the method of accounting for premium coupons and trading stamps in § 1.451-4. Those taxpayers generally may elect to have that method of accounting treated as a valid method of accounting for certain taxable years ending before January 1, 1979.

The proposed amendments provided rules and definitions relating to the method of accounting under section 466 and the special election provided under section 373(c) of the Act. The proposed amendments also incorporated the provisions contained in temporary regulations § 5.466-1 and § 5.466-2 (T.D. 7653, 44 FR 63522), relating to the time and manner of making the elections under section 466 of the Code and section 373(c) of the Act. Those temporary regulations are superseded by the publication of this Treasury decision in the *Federal Register*.

No written comments were received with respect to the proposed amendments. A public hearing was neither requested nor held. Therefore, this Treasury decision adopts those proposed amendments without change.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. The Secretary of the Treasury has certified that this rule will not have a significant impact on a substantial number of small entities because the economic and any other secondary or incidental impact flows directly from the underlying statute. A regulatory flexibility analysis therefore is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of these final regulations is Alice M. Bennett 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.

List of Subjects

26 CFR 1.441-1—1.483-2

Income taxes, Accounting, Deferred compensation plans.

26 CFR Part 5

Income taxes, Revenue Act of 1978.

26 CFR Part 602

OMB control numbers under the Paperwork Reduction Act.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1, 5, and 602 are amended by adopting, without change, except for the addition of a technical amendment to 26 CFR Part 602 for the purpose of displaying the OMB control number, the regulations proposed as a notice of proposed rulemaking published in the *Federal Register* on August 3, 1984 (49 FR 31080).

This Treasury decision is issued under the authority contained in sections 466 and 7805 of the Internal Revenue Code of 1954 (92 Stat. 2864, 26 U.S.C. 466; 68A Stat. 917, 26 U.S.C. 7805).

Approved by the Office of Management and Budget under control number 1545-0512.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 27, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

PART 1—[AMENDED]

Income Tax Regulations

Paragraph 1. The following new §§ 1.466-1 through 1.466-4 shall be added in the appropriate places as follows:

§ 1.466-1 Method of accounting for the redemption cost of qualified discount coupons.

(a) *Introduction.* Section 466 permits taxpayers who elect to use the method of accounting described in section 466 to deduct the redemption cost (as defined in paragraph (b) of this section) of qualified discount coupons (as defined in paragraph (c) of this section) outstanding at the end of the taxable year and redeemed during the redemption period (within the meaning of paragraph (d)(2) of this section) in addition to the redemption cost of qualified discount coupons redeemed during the taxable year which were not deducted for a prior taxable year. For the taxable year in which the taxpayer first uses this method of accounting, the taxpayer is not allowed to deduct the redemption costs of qualified discount coupons redeemed during the taxable year that would have been deductible

for the prior taxable year had the taxpayer used this method of accounting for such prior year. (See paragraph (e) of this section for rules describing how this amount should be taken into account.) A taxpayer must use the accrual method of accounting for any trade or business for which an election is made under section 466. Furthermore, the taxpayer must make an election in accordance with the rules in section 466(d) and § 1.466-3 for that trade or business. The method of accounting in section 466 is applicable only to the taxpayer's redemption of qualified discount coupons. Section 466 does not apply to trading stamps or premium coupons, which are subject to the method of accounting in § 1.451-4, or to discount coupons that are not qualified discount coupons.

(b) *Redemption costs.*—(1) *Costs deductible under section 466.* The deduction allowed by section 466 applies only to the redemption cost of qualified discount coupons. The term "redemption cost" means an amount equal to:

(i) The lesser of:

(A) The amount of the discount stated on the coupon, or

(B) The cost incurred by the taxpayer for paying the discount; plus

(ii) The amount payable to the retailer (or other person redeeming the coupon from the person receiving the price discount) for services in redeeming the coupon.

The amount payable to the retailer or other person for services in redeeming the coupon is allowed only if the amount payable is stated on the coupon.

(2) *Costs not deductible under section 466.* The term "redemption cost" includes only the amounts stated in paragraph (b)(1) of this section. Amounts other than those mentioned in paragraph (b)(1) of this section cannot be deducted under the method of accounting described in section 466 even though such amounts are incurred in relation to the redemption of qualified discount coupons. Therefore, those amounts must be taken into account as if section 466 did not apply. Examples of such amounts are fees paid to the redemption center or clearinghouse and amounts payable to the retailer in excess of the amount stated on the coupon.

(c) *Qualified discount coupons.*—(1) *General rule.* In order for a discount coupon (as defined in paragraph (c)(2)(i) of this section) to be considered a qualified discount coupon, all of the following requirements must be met:

(i) The coupon must have been issued by and must be redeemable by the taxpayer;

(ii) The coupon must allow a discount on the purchase price of merchandise or other tangible personal property;

(iii) The face amount of the coupon must not exceed five dollars;

(iv) The coupon, by its terms, may not be used with other coupons to bring about a price discount reimbursable by the issuer of more than five dollars with respect to any item; and

(v) There must exist a redemption chain (as defined in paragraph (c)(2)(ii) of this section) with respect to the coupon.

(2) *Definitions.*—(i) *Discount coupon.* A discount coupon is a sales promotion device used to encourage the purchase of a specific product by allowing a purchaser of that product to receive a discount on its purchase price. The term "discount coupon" does not include trading stamps or premium coupons, which are subject to the method of accounting in § 1.451-4. A discount coupon may or may not be issued as part of a prior purchase. A discount coupon normally entitles its holders to receive nothing more than a reduction in the sales price of one of the issuer's products. The discount may be stated in terms of a cash amount, a percentage or fraction of the purchase price, a "two for the price of one" deal, or any other similar provision. A discount coupon need not be printed on paper in the form usually associated with coupons; it may be a token or other object so long as it functions as a coupon.

(ii) *Redemption chain.* A redemption chain exists when the issuer redeems the coupon from some person other than the customer who used the coupon to receive the price discount. Thus, in order to be treated as a qualified discount coupon, the coupon must not be issued by the person that initially redeems the coupon from the customer. For purposes of determining whether a redemption chain exists, corporations that are members of the same controlled group of corporations (as defined in section 1563(a)) as the issuer of the coupon shall be treated as the issuer. Thus, if the issuer of the coupon and the retailer that initially redeems the coupon from the customer are members of the same controlled group of corporations, the coupon shall not be treated as a qualified discount coupon.

(d) *Deduction for coupons redeemed during the redemption period.*—(1) *General rule.* Two special conditions must be met before the cost of redeeming qualified discount coupons during the redemption period can be deducted from the taxpayer's gross income for the taxable year preceding the redemption period. First, the

qualified discount coupons must have been outstanding at the close of such taxable year. Second, the qualified discount coupons must have been received by the taxpayer before the close of the redemption period for that taxable year.

(2) *Redemption period.* The taxpayer can select any redemption period so long as the period does not extend longer than 6 months after the close of the taxpayer's taxable year. A change in the redemption period so selected shall be treated as a change in method of accounting.

(3) *Coupons received.* The deduction provided for in section 466(a)(1) is limited to the redemption costs associated with coupons that are actually received by the taxpayer within the redemption period. For purposes of this paragraph, if the issuer uses a redemption agent or clearinghouse to group, count, and verify coupons after they have been redeemed by a retailer, the coupons received by the redemption agent or clearinghouse will be considered to have been received by the issuer. Nothing in section 466, however, allows deductions to be made on the basis of estimated redemptions, whether such estimates are made by either the issuer or some other party.

(e) *Transitional adjustment—(1) In general.* An election to change from some other method of accounting for the redemption of discount coupons to the method of accounting described in section 466 is a change in method of accounting that requires a transitional adjustment. Unless the taxpayer can qualify for a waiver of the suspense account requirement as provided for in section 373(c) of the Revenue Act of 1978 (92 Stat. 2865), the taxpayer should compute the transitional adjustment described in section 481(a)(2) according to the rules contained in this section. This adjustment should be taken into account according to the special rules in subsections (e) and (f) of section 466.

(2) *Net increase in taxable income.* In the case of a transitional adjustment that would result in a net increase in taxable income under section 481(a)(2) for the year of change, that increase should be taken into income over a ten-year period consisting of the year of change and the immediately succeeding nine taxable years. For example, assume that A, a calendar year taxpayer, makes an election to use the method of accounting described in section 466 for the year 1980 and for subsequent years. Assume further that the amount of the transitional adjustment computed under section 481(a)(2) would result in a net increase in taxable income of \$100 for 1980. Under these facts, A should

increase taxable income for 1980 and each of the next nine taxable years by \$10.

(3) *Suspense account—(i) In general.* In the case of a transitional adjustment that would result in a net decrease in taxable income under section 481(a)(2) for the year of change, in lieu of applying section 481, in taxpayer must establish a separate suspense account for each trade or business for which the taxpayer has made an election to use section 466. The computation of the initial opening balance in the suspense account is described in paragraph (e)(3)(ii)(A) of this section. An initial adjustment to gross income for the year of election is described in paragraph (e)(3)(ii)(B) of this section. Annual adjustments to the suspense account are described in paragraph (e)(3)(iii)(A) of this section, and gross income adjustments are described in paragraph (e)(3)(iii)(B) of this section. Examples are provided in paragraph (e)(4) of this section. The effect of the suspense account is to defer some part of, or all of, the deduction of the transitional adjustment until the taxpayer no longer redeems discount coupons in connection with the trade or business to which the suspense account relates.

(ii) *Establishing a suspense account—(A) Initial opening balance.* To compute the initial opening balance of the suspense account for the first taxable year for which the election to use section 466 is effective, the taxpayer must determine the dollar amount of the deduction that would have been allowed for qualified discount coupon redemption costs during the redemption period for each of the three immediately preceding taxable years had the election to use section 456 been in effect for those years. The initial opening balance of the suspense account is the largest such dollar amount reduced by the sum of the adjustments attributable to the change in method of accounting that increase income for the year of change.

(B) *Initial year adjustment.* If, in computing the initial opening balance, the largest dollar amount of deduction that would have been allowed in any of the three prior years exceeds the actual cost of redeeming qualified discount coupons received during the redemption period following the close of the year immediately preceding the year of election, the excess is included in income in the year of election. Section 481(b) does not apply to this increase in gross income.

(iii) *Annual adjustments—(A) Adjustment to the suspense account.* Adjustments are made to the suspense account each year to account for fluctuations in coupon redemptions. To

compute the annual adjustment, the taxpayer must determine the amount to be deducted under section 466(a)(1) for the taxable year. If the amount is less than the opening balance in the suspense account for the taxable year, the balance in the suspense account is reduced by the difference. Conversely, if such amount is greater than the opening balance in the suspense account for the taxable year, the account is increased by the difference (but not to an amount in excess of the initial opening balance described in paragraph (e)(3)(ii) of this section). Therefore, the balance in the suspense account will never be greater than the initial opening balance in the suspense account determined in paragraph (e)(3)(ii) of this section. However, the balance in the suspense account after adjustments may be less than this initial opening balance in the suspense account.

(B) *Gross income adjustments.* Adjustments to the suspense account for years subsequent to the year of the election also produce adjustments in the taxpayer's gross income. Adjustments which reduce the balance in the suspense account reduce gross income for the year in which the adjustment to the suspense account is made. Adjustments which increase the balance in the suspense account increase gross income for the year in which the adjustment to the suspense account is made.

(4) *Examples.* (i) The provisions of paragraph (e)(3) of this section may be illustrated by the following examples:

Example (1). Assume that the issuer of qualified discount coupons makes a timely election under section 466 for its taxable year ending December 31, 1979, and does not select a coupon redemption period shorter than the statutory period of 6 months. Assume further that the taxpayer's qualified discount coupon redemption costs in the first 6 months of 1977, 1978, and 1979 were \$7, \$13, and \$8 respectively, and that the accounting change adjustments that increase income for 1979 are \$10. Since the accounting change adjustment that increases income for 1979, (\$10), is greater than the taxpayer's discount coupon redemptions during the first 6 months of 1979 (\$8), the net section 481(a)(2) adjustment for the year of change results in a positive adjustment. Because of this, a suspense account is not required. The taxpayer should instead follow the rules in section 466(f) and in paragraph (e)(2) of this section in order to take this positive transitional adjustment into account.

Example (2). Assume the same facts as in example (1), except that the sum of the accounting change adjustments that increase income for 1979 is equal to \$2. Under these facts the initial opening balance in the suspense account on January 1, 1979 would be \$11 (that is, the largest dollar amount of

qualified coupon redemption costs in the pertinent years (\$13), reduced by the sum of the accounting change adjustments that increase income in the year of change (\$2)). Since the coupon redemption costs taken into account in determining the initial opening balance (\$13 in 1979) exceed the actual redemption costs in the first 6 months of the taxable year for which the election is first effective (\$8 in 1979), the excess of \$5 is added to gross income for the year of election (1979).

Example (3). Assume, in addition to the facts of example (2), that coupon redemption costs during the redemption period for the 1979 taxable year are \$7. Since the qualifying redemption costs (\$7) during the redemption period for the taxable year are less than the opening balance in the suspense account (\$11) the taxpayer must reduce the suspense account balance by the difference (\$4). The taxpayer is also allowed to take a deduction equal to the amount of this adjustment to the suspense account. Thus, the net amount deductible for the 1979 taxable year after taking into account the coupon redemptions during the redemption period, the amount deductible because of the decrease in the suspense account, and the initial year adjustment determined in example (2) is \$6 (\$7 + \$4 - \$5).

Example (4). Assume, in addition to the facts of example (3), that coupon redemption costs during the redemption period for the 1980 taxable year are \$10. Since the qualifying redemption costs during the redemption period for the taxable year (\$10) exceed the opening balance of the suspense account at the beginning of the taxable year (\$7), the suspense account must be increased by the difference (\$3). The taxpayer must also include \$3 in gross income for the taxable year. Thus, the net amount deductible for the 1980 taxable year is \$7 (\$10 - \$3).

Example (5). Assume, in addition to the facts of example (4), that coupon redemption costs during the redemption period for the 1981 taxable year are \$12. Since the qualifying redemption costs for the 1981 taxable year (\$12) exceed the opening balance of the suspense account at the beginning of the taxable year (\$10), the suspense account must be increased by the difference (\$2) but not above the initial opening balance (\$11). Thus, the taxpayer will increase the balance by \$1. The taxpayer must also include \$1 in gross income for the taxable year. Thus, the net amount deductible for the 1981 taxable year is \$11 (\$12 - \$1).

(ii) The following table summarizes examples (2) through (5):

	Years ending Dec. 31—					
	1977	1978	1979	1980	1981	1982
Facts:						
Actual coupon redemption costs in first six months		\$7	\$13	\$8	\$7	\$10
Accounting change adjustments that increase income in year of change			2			
Net adjustment decreasing income in year of change under sec. 461(a)(2)			6			
Adjustment to suspense account:						
Opening balance				11	7	10
Addition to account					3	1
Reduction to account				(4)		
Opening balance for next year				7	10	11
Amount deductible:						
Initial year adjustment				(5)		
Amount of deductible as actual coupon redemptions during redemption period				7	10	12
Adjustment for increase in suspense account					(3)	(1)
Adjustment for decrease in suspense account				4		
Net amount deductible for the year for coupons redeemed during the redemption period				6	7	11

(f) **Subchapter C transactions**—(1) **General rule.** If a transfer of substantially all the assets of a trade or business in which discount coupons are redeemed is made to an acquiring corporation, and if the acquiring corporation determines its bases in these assets, in whole or part, with reference to the basis of these assets in the hands of the transferor, then for the purposes of section 466(e) the principles of section 381 and § 1.381(c)(4)-1 will apply. The application of this rule is not limited to the transactions described in section 381(a). Thus, the rule also applies, for example, to transactions described in section 351.

(2) **Special rules.** If, in the case of a transaction described in paragraph (f)(1)

of this section, an acquiring corporation acquires assets that were used in a trade or business that was not subject to a section 466 election from a transferor that is owned or controlled directly (or indirectly through a chain of corporations) by the same interests, and if the acquiring corporation uses the acquired assets in a trade or business for which the acquiring corporation later makes an election to use section 466, then the acquiring corporation must establish a suspense account by taking into account not only its own experience but also the transferor's experience when the transferor held the assets in its trade or business. Furthermore, the transferor is not allowed a deduction for qualified discount coupons redeemed

after the date of the transfer attributable to discount coupons issued by the transferor before the date of the transfer. Such redemptions shall be considered to be made by the acquiring corporation.

(3) **Example.** The provisions of paragraph (f)(2) of this section may be illustrated by the following example:

Example. Corporation S, a calendar year taxpayer, is a wholly owned subsidiary of Corporation P, a calendar year taxpayer. On December 31, 1982, S acquires from P substantially all of the assets used in a trade or business in which qualified discount coupons are redeemed. P had not made an election under section 466 which respect to the redemption costs of the qualified discount coupons issued in connection with that trade or business. S makes an election to use section 466 for its taxable year ending December 31, 1983, for the trade or business in which the acquired assets are used, and selects a redemption period of 6 months. Assume that P's qualified discount coupon redemption costs in the first 6 months of 1981 and 1982 were \$120 and \$140 respectively. Assume further that S's qualified discount coupon redemption costs in the first 6 months of 1983 were \$130, and that there are no accounting change adjustments that increase income with respect to the election. S must establish a suspense account by taking into account the largest dollar amount of deductions that would have been allowed under section 466(a)(1) for the 3 immediately preceding taxable years of P, including both P's and S's experience with respect to costs actually incurred during the redemption periods relating to those years. Thus, the initial opening balance of S's suspense account is \$140. S must also make an initial year adjustment of \$10 (\$140-\$130), which S must include in income for S's taxable year ending December 31, 1983. P may not take a deduction for the qualified coupon redemptions made after December 31, 1982, that are attributable to coupons issued by P before December 31, 1982. Thus, none of the \$130 qualified discount coupon redemption costs incurred by S during the first six months of 1983 may be deducted by P.

§ 1.456-2 Special protective election for certain taxpayers.

(a) **General rule.** Section 373(c) of the Revenue Act of 1978 (92 Stat. 2865) allows certain taxpayers, who in prior years have accounted for discount coupons under a method of accounting reasonably similar to the method described in § 1.451-4, to elect to treat that method of accounting as a proper one for those prior years. There are several differences between this protective election and the section 466(d) election. First, the protective election applies only to a single continuous period of taxable years the last year of which ends before January 1, 1979. Second, an otherwise qualifying protective election may apply to

coupons which are discount coupons but which would not be treated as qualified discount coupons under Code section 466. Third, certain expenses such as the cost of redemption center service fees, and amounts that are payable to the retailer (or other person redeeming the coupons from the person receiving the price discount) for services in redeeming the coupons but that are not stated on the coupon, can be subtracted from gross receipts for prior years covered by a protective election (if treated as deductible under the accounting method for such years), even though such expenses would not be deductible under Code section 466.

(b) *Requirements.* In order to qualify for this special protective election, the following conditions must be met:

(1) For a continuous period of one or more prior taxable years, (the last year of which ends before Jan. 1, 1979), the taxpayer must have used a method of accounting for discount coupons that is reasonably similar to the method provided in § 1.451-4 or its predecessors under the Internal Revenue Code of 1954;

(2) The taxpayer must make an election under section 466 of the Internal Revenue Code of 1954 according to the rules contained in § 1.466-3 for its first taxable year ending after December 31, 1978; and

(3) The taxpayer must make an election under section 373(c) of the Revenue Act of 1978 according to the rules contained in § 1.466-4 for its first taxable year ending after December 31, 1978.

(c) *Amount to be subtracted from gross receipts.* The amount the taxpayer may subtract under this section for the redemption costs of coupons shall include only:

(1) Costs of the type permitted by § 1.451-4 to be included in the estimated average cost of redeeming coupons, plus

(2) Any amount designated or referred to on the coupon payable by the taxpayer to the person who allowed the discount on a sale by such person to the user of the coupon.

Nothing in this paragraph shall allow an item to be deducted more than once.

(d) *Right to amend prior tax returns.*

This paragraph applies only to those taxpayers who have agreed in a prior year to discontinue the use of the method of accounting described in § 1.451-4 for discount coupon redemptions. If the taxpayer used such method of accounting on the original return filed for the prior taxable year, and if any such year is not closed under the statute of limitations or by reason of a closing agreement with the Internal

Revenue Service, a taxpayer who has made a protective election may file an amended return and a claim for refund for such years. In this amended return, the taxpayer should account for its discount coupon redemptions, according to the method of accounting described in § 1.451-4. This is not to be construed, however, to abrogate in any way the rules regarding the close of taxable years due to the statute of limitations or a binding closing agreement between the Internal Revenue Service and the taxpayer.

(e) *Suspense account not required.* If the following three conditions are satisfied, the taxpayer need not establish the suspense account otherwise required by section 466(e). First, the taxpayer must make a timely election under these rules to protect prior years. Second, the method of accounting used in those years must have been used for all discount coupons issued by the taxpayer in those years in all the taxpayer's separate trades or businesses in which coupons were issued. Third, either before or after an amendment to the taxpayer's tax returns as described in paragraph (d) of this section, a method of accounting reasonably similar to the method of accounting described in § 1.451-4 must have been used for the taxable year ending on or before December 31, 1978. If these conditions are met, the taxpayer will treat the election of the method under section 466 as a change in method of accounting to which the rules in section 481 and the regulations thereunder apply.

(f) *Definition: reasonably similar.* For purposes of paragraphs (b)(1) and (e) of this section, a taxpayer will be considered to have used a method of accounting for discount coupons that is "reasonably similar" to the method of accounting provided in § 1.451-4 if the taxpayer followed the method of accounting described in § 1.451-4 as if that method were a valid method of accounting for discount coupon redemptions.

§ 1.466-3 Manner of and time for making election under section 466.

(a) *In general.* Section 466 provides a special method of accounting for accrual basis taxpayers who issue qualified discount coupons (as defined in section 466(b)). In order to use the special method under section 466, a taxpayer must make an election with respect to the trade or business in connection with which the qualified discount coupons are issued. If a taxpayer issues qualified discount coupons in connection with more than one trade or business, the taxpayer may use the special method of

accounting under section 466 only with respect to the qualified discount coupons issued in connection with a trade or business for which an election is made. The election must be made in the manner prescribed in this section. The election does not require the prior consent of the Internal Revenue Service. An election under section 466 is effective for the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the prior consent of the Internal Revenue Service to revoke such election.

(b) *Manner of and time for making election—(1) General rule.* Except as provided in paragraph (b)(2) of this section, an election is made under section 466 and this section by filing a statement of election containing the information described in paragraph (c) of this section with the taxpayer's income tax return for the taxpayer's first taxable year for which the election is made. The election must be made not later than the time prescribed by law (including extensions thereof) for filing the income tax return for the first taxable year for which the election is made. Thus, the election may not be made for a taxable year by filing an amended income tax return after the time prescribed (including extensions) for filing the original return for such year.

(2) *Transitional rule.* If the last day of the time prescribed by law (including extensions thereof) for filing a taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978, falls before December 3, 1979, and the taxpayer does not make an election under section 466 with respect to such taxable year in the manner prescribed by paragraph (b)(1) of this section, an election is made under section 466 and this section with respect to such taxable year if—

(i) Within the time prescribed by law (including extensions thereof) for filing the taxpayer's income tax return for such taxable year, the taxpayer has made a reasonable effort to notify the Commissioner of the taxpayer's intent to make an election under section 466 with respect to such taxable year, and

(ii) Before January 2, 1980, the taxpayer files a statement of election containing the information described in paragraph (c) of this section to be associated with the taxpayer's income tax return for such taxable year.

For purposes of paragraph (b)(2)(i) of this section, a reasonable effort to notify the Commissioner of an intent to make an election under section 466 with respect to a taxable year includes the timely filing of an income tax return for

such taxable year if the taxable income reported on the return reflects a deduction for the redemption costs of qualified discount coupons as determined under section 466(a).

(c) *Required information.* The statement of election required by paragraph (b) of this section must indicate that the taxpayer (identified by name, address, and taxpayer identification number) is making an election under section 466 and must set forth the following information:

(1) A description of each trade or business for which the election is made;

(2) The first taxable year for which the election is made;

(3) The redemption period (as defined in section 466(c)(2)) for each trade or business for which the election is made;

(4) If the taxpayer is required to establish a suspense account under section 466(e) for a trade or business for which the election is made, the initial opening balance of such account (as defined in section 466(e)(2)) for each such trade or business; and

(5) In the case of an election under section 466 that results in a net increase in taxable income under section 481(a)(2), the amount of such net increase.

The statement of election should be made on a Form 3115, which need contain no information other than that required by this paragraph or paragraph (c) of § 1.466-4.

§ 1.466-4 Manner of and time for making election under section 373(c) of the Revenue Act of 1978.

(a) *In general.* Section 373(c)(2) of the Revenue Act of 1978 (92 Stat. 2865) provides an election for taxpayers who satisfy the requirements of section 373(c)(2)(A) (i) and (ii) of the Act. The election is made with respect to a method of accounting for the redemption costs of discount coupons used by the electing taxpayer in a continuous period of one or more taxable years ending before January 1, 1979. The election must be made in the manner prescribed by this section. The election does not require the prior consent of the Internal Revenue Service.

(b) *Manner of and time for making election—(1) General rule.* Except as provided in paragraph (b)(2) of this section, the election under section 373(c) of the Revenue Act of 1978 is made by filing a statement of election containing the information described in paragraph (c) of this section with the taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978. The election must be made not later than the time prescribed by law (including extensions thereof) for filing

the income tax return for the taxpayer's first taxable year ending after December 31, 1978. Thus, the election may not be made with an amended income tax return for such year filed after the time prescribed (including extensions) for filing the original return.

(2) *Transitional rule.* If the last day of the time prescribed by law (including extensions thereof) for filing a taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978, falls before December 3, 1979, and the taxpayer does not make an election in the manner prescribed by paragraph (b)(1) of this section, an election is made under section 373(c) of the Act and this section with respect to a continuous period if—

(i) Within the time prescribed by law (including extensions thereof) for filing the taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978, the taxpayer has made a reasonable effort to notify the Commissioner of the taxpayer's intent to make election under section 373(c) of the Act with respect to the continuous period; and

(ii) Before January 2, 1980, the taxpayer files a statement of election containing the information described in paragraph (c) of this section to be associated with the taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978.

(c) *Required information.* The statement of election required by paragraph (b) of this section must indicate that the taxpayer (identified by name, address, and taxpayer identification number) is making an election under section 373(c) of the Revenue Act of 1978 and must set forth the taxable years in the continuous period for which the election is made. The statement of election should be made on the same form 3115 on which the taxpayer has made a statement of election under section 466. The Form 3115 need contain no information other than that required by this paragraph or paragraph (c) of § 1.466-3.

PART 5—[AMENDED]

Temporary Income Tax Regulations Under the Revenue Act of 1978

Par. 2. Part 5 of 26 CFR is amended by removing § 5.466 and § 5.466-2.

PART 602—[AMENDED]

§ 602.101 [Amended]

Par. 3. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.466-3 and 1.466-4 . . . 1545-0512" and by removing from the

table § 5.466-1 . . . 1545-0123" and § 5.466.2 . . . 1545-0123".

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Office of the Secretary

31 CFR Part 103

Amendments To Implementing Regulations Currency and Foreign Transactions Reporting Act

AGENCY: Office of the Secretary, Treasury.

ACTION: Final rule.

SUMMARY: The Department of Treasury is amending 31 CFR Part 103 to conform those regulations to recently enacted amendments to the Currency and Foreign Transactions Reporting Act.

EFFECTIVE DATE: May 31, 1985.

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Office of the Assistant Secretary (Enforcement and Operations), Department of the Treasury, Room 1458, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220, (202) 566-8022.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 1984, the Comprehensive Crime Control Act of 1984 was signed into law. (Pub. L. 98-473). As part of that bill, Congress enacted certain amendments to the Currency and Foreign Transactions Reporting Act (Act), (Pub. L. 91-508, Title II, as amended, codified at 31 U.S.C. 5311 *et seq.*).

These amendments increase the maximum civil and criminal penalties that can be imposed for violations of the Act or of the regulations promulgated pursuant to the Act; require the reporting of attempts to transport currency, or to cause currency to be transported, into or outside the United States; increase the threshold amount of monetary instruments required to be reported under the Act and implementing regulations from \$5,000 to \$10,000; permit customs officers to stop and search certain conveyances without search warrants if the officers have reasonable cause to believe that monetary instruments are being transported in violation of the Act; and provide for the payment of rewards to informants.

Part 103 of 31 CFR is hereby amended to reflect these changes in the law.