

meaning of § 1.150-1(b) of which is a user of proceeds of the bonds. All purchases or sales of an investment in a defeasance escrow must be made at the fair market value of the investment within the meaning of § 1.148-5(d)(6).

(C) *Additional rules—(1) Limitation on source of funding.* Proceeds of qualified zone academy bonds (other than unspent proceeds of the issue for which the failure to properly use proceeds occurs) must not be used to redeem or defease nonqualified bonds under paragraph (h)(7)(ii)(B) of this section.

(2) *Rebate requirement.* The issuer must pay to the United States, at the same time and in the same manner as rebate amounts are required to be paid under § 1.148-3 (or at such other time or in such other manner as the Commissioner may prescribe), 100 percent of the investment earnings on amounts in a defeasance escrow established under paragraph (h)(7)(ii)(B) of this section. For this purpose, the first computation period begins on the date on which the failure to properly use proceeds occurs under paragraph (h)(7)(ii)(D) of this section.

(3) *Notice of defeasance.* The issuer must provide written notice to the Commissioner, at the place designated in § 1.150-5(a), of the establishment of the defeasance escrow within 90 days of the date the defeasance escrow is established.

(D) *When a failure to properly use proceeds occurs—(1) Proceeds not spent.* For proceeds that are not spent, a failure to properly use proceeds occurs on the earlier of—

(i) The first date on which the public school (or academic program within the public school) does not constitute a qualified zone academy; and

(ii) The first date on which the issuer reasonably expects that less than 95 percent of the proceeds of the issue will be expended with due diligence for a qualified purpose with respect to a qualified zone academy.

(2) *Proceeds spent for rehabilitation, repair or equipment.* For proceeds that have been spent for a purpose described in section 1397E(d)(5)(A) or (B) with respect to a qualified zone academy, a failure to properly use proceeds occurs on the earlier of—

(i) The first date on which the public school (or academic program within the public school) does not constitute a qualified zone academy; and

(ii) The first date on which an action is taken that causes less than 95 percent of the proceeds of the issue to be used for a qualified purpose with respect to a qualified zone academy.

(3) *Proceeds spent for course materials or training.* If proceeds have been spent for a purpose described in section 1397E(d)(5)(C) or (D) with respect to a qualified zone academy, no event subsequent to such expenditure shall constitute a failure to properly use such proceeds.

(iii) *Alternative use of disposition proceeds.* A remedial action is taken under this paragraph (h)(7)(iii) if all of the requirements of paragraphs (h)(7)(iii)(A) through (D) are met—

(A) The failure to properly use proceeds (as determined under paragraph (h)(7)(ii)(D) of this section) is a disposition of financed property described in section 1397E(d)(5)(A) or (B) and the consideration for the disposition is exclusively cash;

(B) The issuer reasonably expects as of the date of the disposition that—

(1) All of the disposition proceeds (as defined in § 1.141-12(c)(1)), plus any amounts received from investing the disposition proceeds, will be expended within two years after the date of the disposition for a qualified purpose with respect to a qualified zone academy; or

(2) To the extent not expected to be so expended, used within 90 days after the date of the disposition to redeem or defease bonds in a manner that meets the requirements of paragraph (h)(7)(ii) of this section;

(C) The disposition proceeds, plus any amounts received from investing the disposition proceeds, are treated as proceeds for purposes of section 1397E; and

(D) If all of the disposition proceeds, plus any amounts received from investing the disposition proceeds, are not actually used in the manner described in paragraph (h)(7)(iii)(B) of this section, the remainder of such amounts are used within 90 days after the end of the two-year period described in paragraph (h)(7)(iii)(B)(1) of this section for a remedial action that meets the requirements of paragraph (h)(7)(ii) of this section.

(iv) *Allocating disposition proceeds among multiple funding sources.* For purposes of this paragraph (h)(7), if property has been financed with an issue of qualified zone academy bonds and one or more other funding sources, any disposition proceeds from that property are allocated to the issue under the principles of § 1.141-12(c)(3).

(8) *Definition of proceeds—(i) In general.* Except as provided in paragraph (h)(8)(ii) of this section, for purposes of section 1397E and this section, proceeds means sale proceeds as defined in § 1.148-1(b), plus any amounts received from investing sale proceeds.

(ii) *Private business contribution requirement.* For purposes of the private business contribution requirement of section 1397E(d)(2), proceeds means sale proceeds as defined in § 1.148-1(b).

(9) *Payment of principal, interest or redemption price.* The use of proceeds of a bond to pay principal, interest or redemption price of the bond or another bond is not a qualified purpose within the meaning of section 1397E(d)(5).

(10) *Reimbursement.* An expenditure for a qualified purpose may be reimbursed with proceeds of a qualified zone academy bond. For this purpose, rules similar to those in § 1.150-2 shall apply.

\* \* \* \* \*

(k) *Effective dates—(1) In general.*

\* \* \*

(2) *Special effective dates for paragraphs (d) and (h)—(i) In general.* Except as otherwise provided in this paragraph (k)(2), paragraphs (d) and (h) of this section apply to bonds sold on or after the date that is 60 days after publication of final regulations in the **Federal Register**.

(ii) *Permissive application—(A) In general.* Except as provided in paragraphs (k)(2)(ii)(B) and (C) of this section, issuers may apply paragraphs (d) and (h) of this section in whole, but not in part, to bonds sold before the date that is 60 days after publication of final regulations in the **Federal Register**.

(B) *Definition of proceeds.* Issuers may apply paragraphs (d) and (h) of this section, without regard to the definition of proceeds in paragraph (h)(8) of this section, to bonds sold before the date that is 60 days after publication of final regulations in the **Federal Register**.

(C) *Bonds issued before July 1, 1999.* Paragraphs (d) and (h)(10) of this section may not be applied to bonds issued before July 1, 1999.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 04-6623 Filed 3-25-04; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-129447-01]

RIN 1545-BA02

#### Allocation and Apportionment of Expenses; Alternative Method for Determining Tax Book Value of Assets

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations providing an alternative method of valuing assets for purposes of apportioning expenses under the tax book value method of § 1.861-9T. The alternative tax book value method, which is elective, allows taxpayers to determine, for purposes of apportioning expenses, the tax book value of all tangible property that is subject to a depreciation deduction under section 168 by using the straight line method, conventions, and recovery periods of the alternative depreciation system under section 168(g)(2). The alternative method provided in the temporary regulations is intended to minimize basis disparities between foreign and domestic assets of taxpayers that may arise when taxpayers use adjusted tax basis to value assets under the tax book value method of expense apportionment. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides a notice of public hearing on these proposed regulations.

**DATES:** Written or electronic comments must be received by June 24, 2004. Outlines of topics to be discussed at the public hearing scheduled for July 19, 2004, at 10 a.m. must be received by June 28, 2004.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-129447-01), Room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-129447-01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically, via the IRS Internet site at <http://www.irs.gov/regs>. The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Margaret A. Hogan, (202) 622-3850; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Robin Jones, (202) 622-7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background and Explanation of Provisions

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1. The temporary regulations provide an alternative method of valuing assets for purposes of apportioning expenses under the tax book value method of § 1.861-9T. The text of the temporary regulations also serves as the text of these regulations. The preamble of the temporary regulations explains the temporary regulations and these proposed regulations.

### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on its impact on small businesses.

### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rule and how it can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for July 19, 2004, beginning at 10 a.m. in the IRS Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For more information about having your name placed on the building access list to attend the hearing, see the **FOR**

**FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments by June 24, 2004, and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by June 28, 2004. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### Drafting Information

The principal author of these proposed regulations is Margaret A. Hogan, Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for § 1.861-9 is amended by adding entries in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805. \* \* \*

Sections 1.861-9 and 1.861-9T also issued under 26 U.S.C. 863(a), 26 U.S.C. 864(e), 26 U.S.C. 865(i), and 26 U.S.C. 7701(f). \* \* \*

**Par. 2.** Section 1.861-9 is amended by revising paragraph (g)(1)(ii) introductory text, and adding paragraphs (h)(6), (i) and (j) to read as follows:

#### § 1.861-9 Allocation and apportionment of interest expense.

\* \* \* \* \*

(g) \* \* \* (1) \* \* \* (i) \* \* \*

(ii) \* \* \* [The text of the proposed revision of § 1.861-9(g)(1)(ii) is the same as the second sentence of § 1.861-9T(g)(1)(ii) published elsewhere in this issue of the **Federal Register**.] \* \* \*

\* \* \* \* \*

(h)(6) [Reserved]. For further guidance see, § 1.861-9T(h)(6).

(i) [The text of the proposed addition of § 1.861-9(i) is the same as § 1.861-9T(i)(1) through (i)(3)(i) published

elsewhere in this issue of the **Federal Register**.]

(j) [Reserved]. For further guidance, see § 1.861–9T(j).

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 04–6620 Filed 3–25–04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 61 and 63

[LA–69–2–7617b; FRL–7638–6]

#### Approval of the Clean Air Act Section 112(I) Program for Hazardous Air Pollutants and Delegation of Authority to the State of Louisiana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Louisiana Department of Environmental Quality (LDEQ) has submitted updated regulations for receiving delegation of EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources (both part 70 and non-part 70 sources). These regulations apply to certain NESHAPs promulgated by EPA, as amended through July 1, 2002. The delegation of authority under this notice does not apply to sources located in Indian Country. EPA is providing notice that proposes to approve the delegation of certain NESHAPs to LDEQ.

**DATES:** Written comments must be received by April 26, 2004.

**ADDRESSES:** Comments must be submitted to Mr. Jeffery Robinson, Air Permits Section, Multimedia Planning and Permitting Division (6PD–R), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in section I.B. of the Supplementary Information section of the direct final rule located in the Rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeffery Robinson, Air Permit Section, Air Permits Section, Multimedia Planning and Permitting Division (6PD–R), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, at (214) 665–6435, or at [robinson.jeffrey@epa.gov](mailto:robinson.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving LDEQ's request for delegation of authority to implement and enforce certain NESHAPs for all sources (both part 70 and non-part 70 sources). LDEQ has adopted certain NESHAPs by reference into Louisiana's state regulations. In addition, EPA is waiving its notification requirements so sources will only need to send notifications and reports to LDEQ.

The EPA is taking direct final action without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the preamble to the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is published in the Rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 7412.

Dated: March 9, 2004.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 04–6300 Filed 3–25–04; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 421

[CMS–1219–P]

**RIN 0938–AL76**

#### Medicare Program; Durable Medical Equipment Regional Carrier (DMERC) Service Areas and Related Matters

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would allow us to change the geographical boundaries served by the regional contractors that process durable medical equipment claims and to make other minor changes in the contract administration of the durable medical equipment regional carriers (DMERCs). It would allow us to increase or decrease the number of DMERCs, to change the boundaries of DMERCs based on criteria other than the boundaries of the Common Working File, and to name new contractors to perform statistical analysis or maintain the national supplier clearinghouse. We would publish the changes and their justifications in a **Federal Register** notice, rather than through notice and comment rulemaking.

Although we are proposing to allow changes to the number and configuration of regional carriers, we are not proposing to alter the criteria and factors that we use in awarding contracts.

The intent of this proposed rule would be to improve the contract process by swiftly meeting the challenges of the changing healthcare industry, addressing the changing needs of beneficiaries, suppliers, and the Medicare program, and facilitating our efforts to provide interested parties with the best value Medicare claims processing services. While we are not proposing to reconfigure the DMERC service boundaries at this time, the changes set forth in this proposed rule would provide a mechanism to swiftly make these kinds of changes without repeatedly invoking full rulemaking.

**DATES:** We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on May 25, 2004.

**ADDRESSES:** In commenting, please refer to file code CMS–1219–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit electronic comments to <http://www.cms.hhs.gov/regulations/ecomments> or to <http://www.regulations.gov>; or you may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1219–P, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) to one of