

Inapplicability of Prior Notice and Comment and Delayed Effective Date Procedures

This temporary rule merely implements an existing agency practice by facilitating the removal, without Federal tax, of tobacco products and cigarette papers and tubes for the use of Federal agencies in law enforcement operations. The regulatory changes address immediate needs of Federal law enforcement agencies and relieve an existing administrative burden on TTB and tobacco industry members. In addition, the supplying of tobacco products and cigarette papers and tubes by manufacturers to Federal agencies continues to be voluntary, and this regulatory change would only ease an existing burden on manufacturers who wish to provide their products for this purpose. Accordingly, pursuant to 5 U.S.C. 553(b)(B), we have determined that prior public notice and comment procedures on this regulation are unnecessary and contrary to the public interest. For the same reasons, pursuant to 5 U.S.C. 553(d) (1) and (3), we find that there is good cause for dispensing with a delayed effective date.

Drafting Information

The principle author of this document is Linda Wade Chapman, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

List of Subjects in 27 CFR Part 45

Authority delegations (Government agencies), Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Tobacco.

Amendments to the Regulations

■ For the reasons discussed in the preamble, we amend part 45 of the TTB regulations (27 CFR part 45) as follows:

PART 45—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES

■ 1. The authority citation for part 45 continues to read as follows:

Authority: 26 U.S.C. 5703, 5704, 5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805, 44 U.S.C. 3504(h).

■ 2. Revise the section heading and text of § 45.31 to read as follows:

§ 45.31 Removals for delivery to a Federal agency.

(a) *Removal of articles.* A manufacturer may remove tobacco products or cigarette papers and tubes without payment of tax, in accordance

with this part, for delivery to a Federal agency if:

(1) The removed articles were purchased by the Federal agency with funds appropriated by the Congress of the United States and are for gratuitous distribution under the supervision of the Federal agency;

(2) The removed articles were purchased by a donor from the manufacturer, or donated directly by the manufacturer, for gratuitous distribution under the supervision of the Federal agency to:

(i) Charges of the United States; or

(ii) Patients in a hospital or institution operated by the Government of a State or the District of Columbia where the Federal agency maintains a program for distribution to members or veterans of the armed forces of the United States in the hospital or institution; or

(3) The removed articles are intended for use by the Federal agency in an investigation or other Federal law enforcement activity.

(b) *Sale prohibited.* Except in the case of articles described in paragraph (a)(3) of this section where a sale is incident to the Federal law enforcement activity, tobacco products and cigarette papers and tubes removed under this section may not be sold after their removal.

■ 3. Amend § 45.46 by removing the word “Every” and adding, in its place, the words “Except in the case of articles described in § 45.31(a)(3), every”.

Signed: January 31, 2005.

John J. Manfreda,
Administrator.

Approved: February 16, 2005.

Timothy E. Skud,
Deputy Assistant Secretary, (Tax, Trade, and Tariff Policy).

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation’s regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest

assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in May 2005. Interest assumptions are also published on the PBGC’s Web site (<http://www.pbgc.gov>).

DATES: *Effective Date:* May 1, 2005.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: The PBGC’s regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC’s historical methodology (found in Appendix C to Part 4022).

Accordingly, this amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during May 2005, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during May 2005, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC’s historical methodology for valuation dates during May 2005.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 3.90 percent for the first 20 years following the valuation date and 4.75 percent thereafter. These interest assumptions represent an increase (from those in

effect for April 2005) of 0.10 percent for the first 20 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 2.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions are unchanged from those in effect for April 2005.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as

accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during May 2005, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 139, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)					
	On or after	Before		i_1	i_2	i_3	n_1	n_2	
*	*	*	*	*	*	*	*	*	*
139	5-1-05	6-1-05	2.75	4.00	4.00	4.00	7	8	

■ 3. In appendix C to part 4022, Rate Set 139, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)					
	On or after	Before		i_1	i_2	i_3	n_1	n_2	
*	*	*	*	*	*	*	*	*	*
139	5-1-05	6-1-05	2.75	4.00	4.00	4.00	7	8	

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for $t =$	i_t	for $t =$	i_t	for $t =$
*	*	*	*	*	*	*
May 20050390	1-20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 11th day of April 2005.

Vincent K. Snowbarger,

Deputy Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 05-7549 Filed 4-14-05; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 10

[TD 9165]

RIN 1545-BA70

Regulations Governing Practice Before the Internal Revenue Service; Correction

AGENCY: Office of the Secretary, Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to (TD 9165), which were published in the Federal Register on Monday, December 20, 2004 (69 FR 75839) revising the regulations governing practice before the Internal Revenue Service (Circular 230).

DATES: This correction is effective December 20, 2004.

FOR FURTHER INFORMATION CONTACT: Heather L. Dostaler at (202) 622-4940 or Brinton T. Warren at (202) 622-7800 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9165) that are the subject of these corrections are under 31 CFR sections 10.33, 10.35, 10.36, 10.37, 10.38, 10.52 and 10.93.

Need for Correction

As published, TD 9165 contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 31 CFR Part 10

Practice before the Internal Revenue Service.

Correction of Publication

Accordingly, 31 CFR Part 10 is corrected by making the following correcting amendments:

PART 10—PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Paragraph 1. The authority citation for 31 CFR, part 10 continues to read in part as follows:

Authority: Sec.3, 23 Stat. 258, secs. 2-12, 60 Stat. 237 et seq.; 5 U.S.C. 301, 500, 551-559; 31 U.S.C. 330; Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280, 3 CFR, 1949-1953 Comp., p. 1017.

§ 10.35 [Corrected]

Par. 2. Section 10.35 is amended by revising paragraphs (b)(2)(ii)(B) introductory text and (b)(4)(i) to read as follows:

10.35 Requirements for covered opinions.

* * * * *

(b) * * *

(2) * * * (ii) * * *

(A) * * *

(B) Written advice, other than advice described in paragraph (b)(2)(i)(A) of this section (concerning listed transactions) or paragraph (b)(2)(i)(B) of this section (concerning the principal purpose of avoidance or evasion) that—

* * * * *

(4) Reliance opinion—(i) Written advice is a reliance opinion if the advice concludes at a confidence level of at least more likely than not (a greater than 50 percent likelihood) that one or more significant Federal tax issues would be resolved in the taxpayer's favor.

* * * * *

Dated: April 11, 2005.

Richard S. Carro,

Senior Advisor to the General Counsel (Regulatory Affairs).

[FR Doc. 05-7552 Filed 4-14-05; 8:45 am]

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