

1979.² These Guides address numerous sales practices for outdoor plants, including deceptive claims as to quantity, size, grade, kind, species, age, maturity, condition, vigor, hardiness, growth ability, price, and origin or place where grown.

In 1994, as part of its periodic review, the Commission amended the Nursery Guides.³ Specifically, the Commission amended Guide 6 and the definitions section to advise sellers of plants that it is an unfair or deceptive act or practice to offer for sale or to sell plants collected from the wild state without disclosing that fact, with the proviso that plants propagated from plants lawfully collected from the wild state may be designated as “nursery-propagated.” Additionally, the Commission amended Guides 1–8 to update their legal terminology. Specifically, the Commission deleted the expressions “it is an unfair trade practice” and “has the capacity and tendency or effect of deceiving purchasers,” neither of which the Commission uses in its orders, rules, or guides. The Commission substituted the language “it is an unfair or deceptive act or practice” and “misrepresents directly or by implication.”⁴

II. Regulatory Review Program

The Commission reviews all Commission rules and guides periodically. These reviews seek information about the costs and benefits of the Commission’s rules and guides and their economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Therefore, the Commission solicits comment on, among other things, the economic impact of and the continuing need for its Nursery Guides; possible conflict between the Guides and state, local, federal, or international laws; and the effect of any technological, economic, environmental, or other industry changes on the Guides.

III. Request for Comment

The Commission is particularly interested in receiving comments and supporting data on the following questions. These questions are designed to assist the public and should not be construed as a limitation on the issues

on which public comment may be submitted:

(1) Is there a continuing need for the Nursery Guides as currently promulgated?

(2) Has the nursery industry adopted the Nursery Guides as part of its routine business practice? If so, how, and what effect, if any, does this have on the continuing need for the Guides?

(3) What benefits have the Nursery Guides provided to purchasers of the products affected by the Guides?

(4) Have the Guides imposed costs on purchasers? If so, explain.

(5) How have the 1994 amendments to Guide 6 affected the nursery industry? How have the 1994 amendments to Guide 6 affected purchasers?

(6) What changes, if any, should be made to the Nursery Guides to increase their benefits to purchasers? How would these changes affect the costs the Guides impose on businesses? How would these changes benefit purchasers?

(7) What burdens or costs, including costs of compliance, have the Guides imposed on businesses subject to their requirements? What burdens or costs have the Guides imposed on small businesses in particular? Have the Guides provided benefits to businesses? If so, what benefits?

(8) What changes, if any, should be made to the Guides to reduce the burdens or costs imposed on businesses? How would these changes affect the benefits provided by the Guides?

(9) Do the Guides overlap or conflict with other federal, state, or local laws or regulations? Do the Guides overlap or conflict with any international laws or regulations?

(10) Have consumer perceptions or preferences changed since these Guides were issued, and, if so, do these changes warrant revising the Guides?

(11) Since the Guides were issued, what effects, if any, have changes in relevant technology, economic conditions, or environmental conditions had on the Guides?

List of Subjects in 16 CFR Part 18

Advertising, Nursery, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E6–9185 Filed 6–12–06; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–134317–05]

RIN 1545–BF16

Guidance Necessary To Facilitate Business Electronic Filing and Burden Reduction; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains corrections to a notice of proposed rulemaking by cross-reference to temporary regulations that was published in the **Federal Register** on Tuesday, May 30, 2006 (71 FR 30640) relating to guidance necessary to facilitate business electronic filing and burden reduction.

FOR FURTHER INFORMATION CONTACT: Grid Glycer, (202) 622–7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking by cross-reference to temporary regulations (REG–134317–05) that are the subject of these corrections is under sections 1502 and 1563 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking by cross-reference to temporary regulations (REG–134317–05) contains errors that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the notice of proposed rulemaking by cross-reference to temporary regulations (REG–134317–05), that was the subject of FR Doc. 06–4872, is corrected as follows:

1. On page 30640, column 3, under the heading “Background and Explanation of Provisions”, the fourth through sixth lines from the bottom of the Paragraph, the language “1.1502–76T, 1.1502–95T, 1.1563–1T, 1.1563–3T, and amend part 602 to add § 1.6012–2T.” is corrected to read “1.1502–95T, 1.1563–1T, 1.1563–3T, and revise § 1.1502–76T; and amend part 602 to add § 1.6012–2T.”

2. On page 30642, column 1, under Par. 22., the language “paragraph (c)(2)”

² Industry guides are administrative interpretations of laws administered by the Commission. 16 CFR 1.5.

³ 59 FR 64546.

⁴ See the Commission’s 1983 Statement on Deception found in the appendix to Cliffdale Associates, 103 F.T.C. 110, 174 (1984).

is corrected to read “paragraph (c)(2)(i) through (iii)”.

Cynthia E. Grigsby,

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Publications and Regulations Branch,
Associate Chief Counsel (Procedure and
Administration).*

[FR Doc. 06–5350 Filed 6–8–06; 3:47 pm]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–118775–06]

RIN 1545–BF64

Revisions to Regulations Relating To Repeal of Tax on Interest of Nonresident Alien Individuals and Foreign Corporations Received From Certain Portfolio Debt Investments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations under sections 871 and 881 of the Internal Revenue Code (Code) relating to the exclusion from gross income of portfolio interest paid to a nonresident alien individual or foreign corporation. These regulations clarify how the portfolio interest rules apply with respect to interest paid to a partnership (or simple or grantor trust) that has foreign partners (or beneficiaries or owners). This document also provides notice of a public hearing.

DATES: Written or electronic comments must be received by August 14, 2006. Outlines of topics to be discussed at the public hearing scheduled for Thursday, September 7, 2006, at 10 a.m., must be received by August 24, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–118775–06), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions also may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–118775–06), 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/reg> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG–118775–06). The public hearing will be held in IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Jason Kleinman, (202) 622–3840; concerning the submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard Hurst, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 871(a) of the Code imposes a tax of 30 percent on United States (U.S.) source fixed or determinable annual or periodic (FDAP) income received by a nonresident alien individual to the extent the amount so received is not effectively connected with the conduct of a trade or business within the U.S. Section 881(a) imposes a similar tax with respect to FDAP income received by a foreign corporation. Pursuant to these sections, U.S. source interest generally is considered FDAP income and is subject to tax. See sections 871(a)(1)(A) and 881(a)(1)(A). This tax generally is collected by means of withholding under sections 1441 and 1442, which require a payor of FDAP income to withhold 30 percent of the gross amount of such payment, unless the beneficial owner claims a reduced rate of tax on such interest under an applicable Code or treaty provision. See §§ 1.1441–1(b)(4) and 1.1441–6.

Notwithstanding the general imposition of tax on U.S. source interest under sections 871(a) and 881(a), sections 871(h) and 881(c), respectively, provide that no tax is imposed in the case of portfolio interest received by a nonresident individual or foreign corporation. Under section 871(h)(2) and section 881(c)(2), respectively, portfolio interest includes any interest (including original issue discount) that would be subject to tax under section 871(a) or section 881(a) but for section 871(h) or section 881(c).

However, both sections 871(h)(3)(A) and 881(c)(3)(B) provide, among other limitations, that portfolio interest does not include interest received by a 10-percent shareholder, as defined in section 871(h)(3)(B). Section 871(h)(3)(B) provides that the term 10-percent shareholder means, in the case of an obligation issued by a corporation, any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote, or, in the case of an obligation issued by a partnership, any person who owns 10 percent or more of the capital or profits interest in such partnership.

Section 871(h)(3)(C) provides that the attribution rules of section 318 apply, with three modifications, for purposes

of determining whether a person is a 10-percent shareholder (the 10-percent shareholder test) of the obligor. The first modification provides that the attribution of stock from a corporation is made without regard to the 50 percent threshold set forth in section 318(a)(2)(C). The second modification provides that the attribution of stock to a corporation is made without regard to the 50 percent threshold set forth in section 318(a)(3)(C), but if a corporation would not be attributed a shareholder’s stock in another corporation but for the removal of the 50 percent threshold, then the corporation is only attributed that portion of the shareholder’s stock in such other corporation as the value of the shareholder’s stock in the corporation bears to the value of all stock in the corporation. The third modification provides that if a person is treated as owning stock after the application of section 318(a)(4) (relating to options to acquire stock being treated as stock actually owned), then such stock shall not be treated as actually owned by such person for purposes of attributing ownership to other persons under section 318(a)(2) or (3). The flush language of section 871(h)(3) also provides that, under regulations, rules similar to the rules described above shall apply when determining the ownership of the capital or profits interest in a partnership obligor for purposes of applying the 10-percent shareholder test.

Notwithstanding the general definition of a 10-percent shareholder and the application of section 318 described in section 871(h)(3), neither the Code nor the legislative history applicable to section 871(h)(3) specifically addresses how the 10-percent shareholder test is to apply when interest is paid to a partnership that has foreign partners. That is, neither the Code nor the legislative history explicitly provides whether the 10-percent shareholder test should be applied at the foreign partner level, the partnership level, or both levels.

Explanation of Provisions

1. In General

These proposed regulations address the application of the 10-percent shareholder test in section 871(h)(3) when a nonresident alien individual or foreign corporation is a partner in a partnership that is paid interest. In doing so, the proposed regulations address the two key points needed to apply the test. First, the regulations address the issue of which person “receives” interest for purposes of the 10-percent shareholder test. Second, the