

(f) The term “*subsidiary*” means any company which is controlled, directly or indirectly, by another company.

(g) The terms “*company*” and “*insured depository institution*” have the meanings given them in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813.

#### § 354.3 Written agreement.

No industrial bank may become a direct or indirect subsidiary of a Non-FCBS Financial Company unless the Non-FCBS Financial Company enters into one or more written agreements with the FDIC and the subsidiary industrial bank which contain commitments by the company to comply with each of paragraphs (a) through (h) in § 354.4 and such other provisions as the FDIC deems appropriate in the particular circumstances.

#### § 354.4 Conditions and provisions of written agreement.

The commitments required to be made in the written agreements referenced in § 354.3 by each Non-FCBS Financial Company that will control an industrial bank are listed as paragraphs (a) through (h) of this section. In addition, each grant of deposit insurance and each issuance of a non-disapproval of a change in control with respect to an industrial bank subject to this part will be conditioned on each parent Non-FCBS Financial Company complying with paragraphs (a) through (h) of this section:

(a) Submitting to the FDIC an initial listing of all of the company’s subsidiaries, and updating that list annually;

(b) consenting to examination of the company and each of its subsidiaries to monitor compliance with the provisions of the Federal Deposit Insurance Act or any other Federal law that the FDIC has specific jurisdiction to enforce against such company or subsidiary and those governing transactions and relationships between any depository institution subsidiary and its affiliates;

(c) engaging, directly or indirectly, only in financial activities;

(d) submitting to the FDIC an annual report regarding the company’s operations and activities, in the form and manner prescribed by the FDIC, and such other reports as may be requested by the FDIC to keep the FDIC informed as to financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the company; and compliance by the company or subsidiary with applicable provisions of the Federal Deposit

Insurance Act or any other Federal Law that the FDIC has specific jurisdiction to enforce against such company or subsidiary;

(e) maintaining such records as the FDIC may deem necessary to assess the risks to the industrial bank or to the Deposit Insurance Fund;

(f) causing an independent annual audit of each subsidiary industrial bank to be performed during the first three years after the industrial bank becomes a subsidiary of the company;

(g) limiting its representation, direct and indirect, on the board of directors or board of managers, as the case may be, of each subsidiary industrial bank to no more than 25% of the members of such board of directors or board of managers, in the aggregate, and, in the case of a subsidiary industrial bank that is organized as a member-managed limited liability company, limiting its representation as a managing member to no more than 25% of the managing member interests of the subsidiary industrial bank, in the aggregate;

(h) maintaining the subsidiary industrial bank’s capital and liquidity at such levels as the FDIC deems appropriate, and/or taking such other actions as the FDIC deems appropriate to provide the industrial bank with a resource for additional capital and liquidity including, for example, pledging assets, obtaining and maintaining a letter of credit, and indemnifying the industrial bank.

#### § 354.5 Restrictions on industrial bank subsidiaries of financial companies.

Without the FDIC’s prior written approval, no industrial bank that becomes a subsidiary of a Non-FCBS Financial Company after the effective date of the rules shall:

(a) Make a material change in its business plan during the first three years after becoming a subsidiary industrial bank,

(b) add or replace a member of the board of directors, board of managers, or a managing member, as the case may be, of the subsidiary industrial bank during the first three years after becoming a subsidiary industrial bank,

(c) add or replace a senior executive officer during the first three years after becoming a subsidiary industrial bank,

(d) employ a senior executive officer who is associated in any manner (e.g., as a director, officer, employee, agent, owner, partner, or consultant) with an affiliate of the industrial bank, or

(e) enter into any contract for services essential to the operations of the industrial bank (for example, loan servicing function) with its parent

financial company or any subsidiary thereof.

Dated at Washington, DC, this 31st day of January, 2007.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E7-1854 Filed 2-2-07; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-147144-06]

RIN 1545-BG09

### Certain Transfers of Stock or Securities by U.S. Persons to Foreign Corporations

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

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations under section 367(a) of the Internal Revenue Code (Code) regarding gain recognition agreements. These regulations are necessary to respond to comments requested in Notice 2005-74. The regulations primarily affect U.S. persons that transfer stock or securities to foreign corporations or corporations engaged in transactions that affect existing gain recognition agreements. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by May 7, 2007.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-147144-06), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-147144-06), 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/regs> or via the Federal eRulemaking Portal at <http://www.federalregister.gov>

[www.regulations.gov](http://www.regulations.gov) (IRS REG-147144-06).

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Daniel McCall, (202) 622-3860; concerning submissions of comments, requests for a public hearing, and/or to be placed on the building access list to attend a hearing, contact Richard Hurst at (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by May 7, 2007.

Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital and start-up costs of operation, maintenance, and purchase of service to provide information.

The collections of information in this proposed regulation is in § 1.367(a)-8(b)(3)(iii), (e)(1) through (e)(8), and (g). Responses to these collections of information are required to prevent triggering gain recognition agreements—for example, by submitting new gain recognition agreements or by submitting elections to reduce basis in certain stock. Responses are also required to facilitate electronic filing. These

regulations include a rule requiring that gain or interest due under section 367(a) be included in a schedule that can be attached to a taxpayer's electronically-filed return. Response to these collections of information is mandatory. The likely respondents are large corporations.

*Estimated total annual reporting burden:* 240.

*Estimated average annual burden hours per respondent:* from 1 hour to 2 hours, depending on individual circumstances.

*Estimated number of respondents:* 170.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to these collections of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 367(a) of the Internal Revenue Code (Code) and gain recognition agreements. The text of those regulations also serves as the text of these proposed regulations. The preamble to 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 is hereby certified that the collections of information contained in these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. These regulations primarily will affect United States persons that are large corporations engaged in cross-border corporate transactions. Thus, the number of affected small entities—in whichever of the three categories defined in the Regulatory Flexibility Act (small businesses, small organizations, and small governmental jurisdictions)—

will not be substantial. The IRS and Treasury Department estimate that small organizations and small governmental jurisdictions are likely to be affected only insofar as they might hold a portfolio interest in stock or securities and in the unlikely event that they transfer such stock or securities to a foreign corporation. While a certain number of small entities may transfer stock or securities to a foreign corporation in connection with an acquisition or reorganization, the IRS and Treasury Department do not anticipate the number to be substantial. Furthermore, the IRS and Treasury Department estimate that those small entities that are affected by the regulations will likely face a burden of approximately two hours at an hourly rate of \$200. Considering that the collections of information enable taxpayers to defer or avoid the recognition of potentially large amounts of gain that is subject to a gain recognition agreement, IRS and Treasury believe that \$400 is not a significant economic impact. Comments about the accuracy of this certification may be submitted to the addresses provided in the preamble. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rules and how they can be made easier to understand. For additional requests for comments, see the section "Request for Comments," in the preamble to the cross-referenced temporary regulations of this issue of the **Federal Register**. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these proposed regulations is Daniel McCall of the Office of Associate Chief Counsel

(International). However, other personnel from the IRS and the 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 part 1 is amended by adding the following new entries:

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

Section 1.367(a)–3T(e) also issued under 367(a) and (b). \* \* \*

Section 1.367(a)–8T also issued under 367(a) and (b). \* \* \*

**Par. 2.** Section 1.367(a)–3 is amended by revising paragraphs (e) and (f) to read as follows:

#### § 1.367(a)–3 Treatment of transfers of stock or securities to foreign corporations.

\* \* \* \* \*

(e) [The text of this proposed amendment is the same as the text of § 1.367(a)–3T(e) published elsewhere in this issue of the **Federal Register**.]

(f) [The text of this proposed amendment is the same as the text of § 1.367(a)–3T(f) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

**Par. 3.** Section 1.367(a)–8 is revised to read as follows:

#### § 1.367(a)–8 Gain recognition agreement requirements.

[The text of proposed § 1.367(a)–8 is the same as the text of § 1.367(a)–8T published elsewhere in this issue of the **Federal Register**.]

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 07–496 Filed 2–1–07; 10:34 am]

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## POSTAL REGULATORY COMMISSION

### 39 CFR 3001

[Docket No. RM2007–1; Order No. 2]

#### Administrative Practice and Procedure, Postal Service

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** Recent legislation alters the postal ratemaking process, and tasks the Postal Regulatory Commission to develop regulations to implement this process. This notice invites public comment, in advance of formulating substantive rule proposals, to guide this process.

**DATES:** Initial comments due April 6, 2007; reply comments due May 7, 2007.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Stephen L. Sharfman, General Counsel, 202–789–6820 and [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

**SUPPLEMENTARY INFORMATION:** The Postal Accountability and Enhancement Act, Public Law 109–435 (PAEA), directs that the Postal Regulatory Commission (Commission) shall by regulation establish a modern system for regulating rates and classes for market dominant postal products. The PAEA further directs that the Commission shall promulgate regulations to bound Postal Service discretion in setting rates for competitive postal products. Both of these tasks are to be completed by June 19, 2008.

Interested persons are invited to provide written comments and suggestions as to how the Commission can best fulfill these responsibilities to achieve the purposes of the PAEA. Comments are due within 60 days of the date of publication of this notice in the **Federal Register**. All comments and suggestions received will be available for review on the Commission's Web site, <http://www.prc.gov>. Interested persons are further invited to review these submissions and provide follow-up comments and suggestions within 30 additional days, that is, within 90 days of the publication of this notice in the **Federal Register**.

Commenters are requested to specifically explain how suggestions will comport with the specific applicable statutory directions as set out below.

#### I. Modern Rate Regulation of Market Dominant Products

The PAEA reforms the postal laws of the United States. Among other things, it alters the method by which the rates and fees for postal products may be changed. Separate rules are to apply for market dominant, as opposed to competitive, postal services. The Commission is given 18 months to develop and implement this system. In fulfilling this responsibility, the Commission is to effectuate the

following specific policies set forth in the PAEA.

#### A. Requirements

The system for regulating rates and classes for market dominant products shall:

1. Establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

2. Include an annual limitation on the percentage changes in rates, to be set by the Commission, that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

3. Establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitation;

4. Provide that not later than 45 days before the implementation of any adjustment in rates subject to this limitation, including special rates pursuant to factor (10), below:

(a) Require the Postal Service to provide public notice of the adjustment;

(b) Provide an opportunity for review by the Commission;

(c) Provide for the Commission to notify the Postal Service of any noncompliance of the adjustment with this annual limitation;

(d) Require the Postal Service to respond to the notice provided under the previous clause and describe the actions to be taken to comply with this annual limitation; and

5. Establish procedures to allow rate adjustments in excess of the annual limitation on an expedited basis due to either extraordinary or exceptional circumstances, provided:

(a) There is not sufficient unused rate authority as defined in 39 U.S.C. 3622(d)(2)(C); and

(b) The Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

#### B. Objectives

The system for regulating rates and classes for market dominant products shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others: