

customer, and the benefit the service provider derives from the funds is in lieu of a fee for services, the transaction is a compensation-related loan under section 7872. H.R. Conf. Rep. No. 861, 98th Cong., 2d Sess. 1019 (1984) (1984-3 (Vol. 2) CB 272). Moreover, it was determined that exchange funds are not received in consideration for the sale or exchange of property (within the meaning of section 1274(c)(1)) or received as a deferred payment on account of a sale or exchange of property (within the meaning of section 483).

The industry survey indicates that 30 percent of respondents closed at least half of their deferred like-kind exchange transactions within 60 days or less. Only eight percent completed at least half of their transactions in more than 150 days. In addition, 42 percent of survey respondents reported that at least half of their transactions typically involve exchange funds of \$250,000 or less, while about 8 percent of respondents reported that most of their transactions involve exchange funds in excess of \$1 million. In light of this information, comments specifically are requested regarding the average duration of exchange transactions, the average dollar amount of exchange funds, and the appropriateness and nature of a de minimis rule that would except certain exchange transactions from the application of section 7872.

If exchange funds are characterized as loaned by the taxpayer to the exchange facilitator, interest may be imputed if the exchange facilitator does not pay sufficient interest to the taxpayer. To reduce the administrative burden of determining imputed interest, the 2006 proposed regulations provide a special AFR, equal to the investment rate on a 182-day Treasury bill, in lieu of the short-term AFR (which applies to loans of 3 years or less), to qualify as sufficient interest for purposes of determining whether interest must be imputed. This special AFR was intended to be a more accurate measure of a market rate of interest for these loans than the short-term AFR, and was expected to result in characterization of fewer transactions as below-market loans than if the short-term AFR were used. Commentators have stated that the special AFR is significantly higher than the market rate paid on funds held for the periods of time that exchange funds typically are held by QIs. They state, for example, that few if any QIs that pay less than all the income to the taxpayer pay an amount that is equal to or greater than the special AFR provided in the 2006 proposed regulations. Specific comments are requested identifying the

rate of return typically earned by small business QIs on exchange funds, the interest rate QIs typically pay to taxpayers, and an appropriate rate for testing exchange facilitator loans for sufficient interest under section 7872.

#### *Duplicative, Overlapping, and Conflicting Rules*

The IRS and the Department of the Treasury are not aware of any duplicative, overlapping, or conflicting Federal rules.

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-146247-06]

RIN 1545-BG15

#### **Corporate Reorganizations; Guidance on the Measurement of Continuity of Interest**

**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 that provide guidance regarding the satisfaction of the continuity of interest requirement for corporate reorganizations. The text of those regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by June 18, 2007.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-146247-06), 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-146247-06), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov/> (IRS and REG-146247-06).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Lisa S. Dobson at (202) 622-7790;

concerning submissions of comments and requests for a public hearing, Kelly Banks at (202) 622-0392 (not toll-free numbers).

#### **SUPPLEMENTARY INFORMATION:**

#### **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 368, which provides for general nonrecognition treatment for reorganizations. In addition to complying with the statutory and certain other requirements, to qualify as a reorganization, a transaction generally must satisfy the continuity of interest (COI) requirement. COI requires that, in substance, a substantial part of the value of the proprietary interests in the target corporation be preserved in the reorganization. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

#### **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 regulation does 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 for Advocacy of the Small Business Administration for comment on its impact on small business.

#### **Comments and Requests for Public Hearing**

Before the 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. Comments are requested on all aspects of the proposed regulations. 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 regulations is Lisa S. Dobson of the Office of the Associate Chief Counsel (Corporate). 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 part 1 continues to read, in part, as follows:

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

**Par. 2.** Section 1.368-1 is amended by:

1. Revising paragraph (e)(2).
2. Revising and redesignating the text of paragraph (e)(8) as paragraph (e)(8)(i).
3. Adding paragraph (e)(8)(ii).

The revisions and addition read as follows:

**§ 1.368-1 Purpose and scope of exception of reorganization exchanges.**

[The text of the proposed amendment to § 1.368-1(e)(2) and (e)(8) is the same as the text of § 1.368-1T(e)(2) and (e)(8) published elsewhere in this issue of the *Federal Register*].

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E7-5045 Filed 3-19-07; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 70**

[Docket No. EPA-R02-OAR-2006-0963; FRL-8289-4]

**Clean Air Act Title V Operating Permit Program Revision; New Jersey**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the New Jersey title V Operating Permit Program submitted by the New Jersey Department of Environmental Protection (NJDEP) on October 4, 2006. The New Jersey Operating Permit Program is

implemented through its Operating Permits Rule, codified at Subchapter 22 of Chapter 27 of Title 7 of the New Jersey Administrative Code. The October 4, 2006 revision changes the title V fee program that funds the New Jersey Operating Permit Program, and various sections of the Operating Permits Rule relating to definitions, general provisions, general application procedures, operating permit application contents and completeness review. These changes resulted in both substantial and nonsubstantial revisions to New Jersey's Operating Permit Program. EPA is proposing to approve these revisions. The intended affect of this action is to improve the State's Operating Permit Program.

**DATES:** Comments must be received on or before April 19, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R02-OAR-2006-0963, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* [Werner.Raymond@epa.gov](mailto:Werner.Raymond@epa.gov)
- *Fax:* 212-637-3901.
- *Mail:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.
- *Hand Delivery:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R02-OAR-2006-0963. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going

through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Suilin Chan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4019.

**SUPPLEMENTARY INFORMATION:** This section provides additional information by addressing the following questions:

**I. Background**

The Clean Air Act (the Act) Amendments of 1990 required all states to develop Operating Permit Programs pursuant to title V of the Act, 42 U.S.C. 7661-7661f, and the regulations promulgated under title V, which are found at 40 CFR part 70. EPA granted interim approval (effective June 17, 1996) of the Operating Permit Program submitted by New Jersey in response to this directive. 61 FR 24715 (May 16, 1996); 40 CFR part 70, Appendix A. Effective November 30, 2001, EPA granted full approval to New Jersey's title V Operating Permit Program. 66 FR 63168 (December 5, 2001).

The current revision to the Operating Permits Rule adjusts the title V fee schedules to conform with the Omnibus Legislation adopted by the New Jersey state legislature in 2002, and ensures that requisite funding needs of the New Jersey Operating Permit Program are met. The revised Operating Permits Rule also includes changes that improve New Jersey's Operating Permit Program. New Jersey submitted its program revision request to the EPA on October 4, 2006. The revision request describes the specific changes made to New Jersey's Operating Permits Rule.

**II. What Is Being Addressed in This Action?**

In today's action, EPA is proposing to approve revisions to N.J.A.C. 7:27-22, as identified below, which NJDEP adopted