

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-151605-09]

RIN 1545-BJ11

**Extended Carryback of Losses to or From a Consolidated Group****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 provides guidance to consolidated groups that implements the revisions to section 172(b)(1)(H). The text of those regulations also serves as the text of these proposed regulations.**DATES:** Written or electronic comments and a request for a public hearing must be received by September 21, 2010.**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-151605-09), Room 5203, Internal Revenue Service, P.O. 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-151605-09), 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 REG-151605-09).**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Grid Glycer, (202) 622-7930, concerning submissions of comments, Regina Johnson (202) 622-7180 (not toll-free numbers).**SUPPLEMENTARY INFORMATION:****Paperwork Reduction Act**

The collection of information contained in this notice of proposed rulemaking has 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) under control number 1545-2171). 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 August 23, 2010. Comments are specifically requested concerning:

Whether the proposed collection of information is 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 collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

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

The collection of information in these proposed regulations is in §§ 1.1502-21(b)(3)(ii)(C)(2) and 1.1502-21(b)(3)(ii)(C)(3).

The proposed regulations provide guidance to consolidated groups that implements the revisions to section 172(b)(1)(H).

The collection of information is required in order to obtain a benefit. The likely respondents are corporations that are members of consolidated groups.

*Estimated total annual reporting burden:* 1,000 hours.

*Estimated average annual burden hours per respondent:* 0.25 hours.

*Estimated number of respondents:* 4,000.

*Estimated frequency of responses:* Once.

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

Books or records relating to a collection 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 26 CFR Part 1 to revise § 1.1502-21T. The text of those temporary 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. With respect to the proposed regulation, § 1.1502-21, it is hereby certified that this provision will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily affect large corporations that are members of consolidated groups and will provide a benefit if the election is made. Therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their 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. All comments will be available for public inspection and copying. A public hearing may 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 Grid Glycer of the Office of Associate Chief Counsel (Corporate). Other personnel from the Treasury Department and the IRS 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 \* \* \*  
Section 1.1502–21 also issued under 26 U.S.C. 1502. \* \* \*

**Par. 2.** Section 1.1502–21 is revised to read as follows:

**§ 1.1502–21 Net operating losses.**

[The text of proposed § 1.1502–21 is the same as the text for § 1.1502–21T(a) through (h)(9)(i) published elsewhere in this issue of the **Federal Register**.]

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2010–15086 Filed 6–22–10; 8:45 am]

**BILLING CODE 4830–01–P**

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 4**

**RIN 2900–AN60**

**Schedule for Rating Disabilities; Evaluation of Amyotrophic Lateral Sclerosis**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its Schedule for Rating Disabilities by revising the evaluation criterion for amyotrophic lateral sclerosis (ALS) to provide a 100-percent evaluation for any veteran with service-connected ALS. This change is necessary to adequately compensate veterans who suffer from this progressive, untreatable, and fatal disease. This change is intended to provide a total disability rating for any veteran with service-connected ALS.

**DATES:** Comments must be received on or before July 23, 2010.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to “RIN 2900–AN60–Schedule for Rating Disabilities; Evaluation of Amyotrophic Lateral Sclerosis.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m.,

Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Thomas J. Kniffen, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9725. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** VA proposes to amend its Schedule for Rating Disabilities (38 CFR part 4) by revising the evaluation criterion for ALS under diagnostic code 8017 in § 4.124a, the schedule of ratings for neurological conditions and convulsive disorders. Currently, the schedule provides only a single criterion for ALS, a minimum disability evaluation of 30 percent. We propose to remove this criterion and replace it with a minimum disability evaluation of 100 percent. The Secretary has authority to make this amendment pursuant to 38 U.S.C. 1155.

ALS, also known as Lou Gehrig’s disease, is a motor neuron disease that results in muscle weakness leading to a wide range of serious disabilities, including problems with mobility. It often affects the muscles that control swallowing, leading to the possibility of aspiration (the inspiratory sucking of fluid into the airways) and pneumonia. It eventually paralyzes the respiratory muscles, and the most common cause of death in ALS is respiratory failure. ALS is a terminal illness; the life expectancy of a person with ALS ordinarily ranges from about 3 to 5 years after diagnosis. Fifty percent of patients die within 3 years of diagnosis, about 20 percent live 5 years, and 10 percent survive for 10 or more years. *See* <http://www.neurologychannel.com/als/treatment.shtml>; <http://www.mayoclinic.com/health/amyotrophic-lateral-sclerosis/DS00359/DSECTION=complications>; and [http://www.ninds.nih.gov/disorders/amyotrophiclateralsclerosis/detail\\_amyotrophiclateralsclerosis.htm](http://www.ninds.nih.gov/disorders/amyotrophiclateralsclerosis/detail_amyotrophiclateralsclerosis.htm).

ALS is rated under 38 CFR 4.124a, diagnostic code 8017, which currently provides a minimum disability evaluation of 30 percent. However, the guidelines in 38 CFR 4.120 (Evaluations by comparison) direct that disability from neurologic conditions be rated in proportion to the impairment of motor, sensory, or mental function. Therefore, any level of evaluation, including 100

percent, can currently be assigned for ALS under diagnostic code 8017. However, individuals with ALS have a rapidly deteriorating course of illness and quickly reach a level of total disability. Providing a 100-percent evaluation in all cases would obviate the need to reassess and reevaluate veterans with ALS repeatedly over a short period of time, as the condition worsens and inevitably and relentlessly progresses to total disability. Therefore, we propose to change the minimum evaluation for ALS from 30 to 100 percent. Although ALS may not be totally disabling at the time of diagnosis or when VA compensation is claimed for the condition, ALS is a seriously disabling, rapidly progressive, untreatable, and fatal condition.

VA’s schedule of ratings for neurological conditions and convulsive disorders provides a 100-percent disability evaluation for certain other motor neuron diseases that progressively lead to disability or death. *See* 38 CFR 4.124a, Diagnostic Codes 8005 (Bulbar palsy), 8105 (Sydenham’s chorea of the “progressive grave type”), and 8106 (Huntington’s chorea). Given that ALS is a rapidly progressing neurodegenerative disease and that many of its disabling effects are similar to other neurological disorders that VA rates at 100 percent, we propose to compensate veterans with ALS similarly. The 100-percent rating would ensure that veterans with ALS are evaluated adequately and would eliminate any delay in reaching an appropriate level of compensation as their disease rapidly progresses.

In addition, we propose to add a note to consider the need for special monthly compensation, which will be quite a common need in these veterans.

**Paperwork Reduction Act**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This amendment would not significantly impact any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.