

**§ 120.4 Commodity jurisdiction.**

(a) The commodity jurisdiction procedure is used with the U.S. Government if doubt exists as to whether an article or service is covered by the U.S. Munitions List. It may also be used for consideration of a redesignation of an article or service currently covered by the U.S. Munitions List. The Department must provide notice to Congress at least 30 days before any item is removed from the U.S. Munitions List. Upon electronic submission of a Commodity Jurisdiction (CJ) Determination Form (Form DS-4076), the Directorate of Defense Trade Controls shall provide a determination of whether a particular article or service is covered by the U.S. Munitions List. The determination, consistent with §§ 120.2, 120.3, and 120.4, entails consultation among the Departments of State, Defense, Commerce, and other U.S. Government agencies and industry in appropriate cases.

\* \* \* \* \*

(c) Requests shall identify the article or service, and include a history of this product's design, development, and use. Brochures, specifications, and any other documentation related to the article or service should be submitted as electronic attachments per the instructions for Form DS-4076.

\* \* \* \* \*

■ 3. Section 120.28 is amended by adding paragraph (a)(8) to read as follows:

**§ 120.28 Listing of forms referred to in this subchapter.**

\* \* \* \* \*

(a) \* \* \*

(8) Commodity Jurisdiction (CJ) Determination Form (Form DS-4076).

\* \* \* \* \*

Dated: July 15, 2010.

**Ellen O. Tauscher,**

*Under Secretary, Arms Control and International Security, Department of State.*

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Parts 53 and 54**

[TD 9492]

**RIN 1545-BG18**

**Excise Taxes on Prohibited Tax Shelter Transactions and Related Disclosure Requirements; Disclosure Requirements With Respect to Prohibited Tax Shelter Transactions; Requirement of Return and Time for Filing; Correction**

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

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains correcting amendments to IRS regulations providing guidance under 4965 of the Internal Revenue Code, relating to entity-level and manager-level excise taxes with respect to prohibited tax shelter transactions to which tax-exempt entities are parties; sections 6033(a)(2) and 6011(g), relating to certain disclosure obligations with respect to such transactions; and sections 6011 and 6071, relating to the requirement of a return and time for filing with respect to section 4965 taxes. These errors were made when the agency published final regulations (TD 9492) in the **Federal Register** on Tuesday, July 6, 2010 (75 FR 38700).

**DATES:** This correction is effective on August 4, 2010, and is applicable on July 6, 2010.

**FOR FURTHER INFORMATION CONTACT:** For questions concerning these regulations, contact Benjamin Akins at (202) 622-1124 or Michael Blumenfeld at (202) 622-6070. For questions specifically relating to qualified pension plans, individual retirement accounts, and similar tax-favored savings arrangements, contact Cathy Pastor at (202) 622-6090 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background**

The final regulations (TD 9492) that are the subject of this document are under sections 4965, 6011 and 6071 of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations (TD 9492) contain errors that may prove to be misleading and are in need of clarification.

**List of Subjects****26 CFR Part 53**

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

**26 CFR Part 54**

Excise taxes, Pensions, Reporting and recordkeeping requirements.

**Correction of Publication**

■ Accordingly, 26 CFR parts 53 and 54 are corrected by making the following correcting amendments:

**PART 53—FOUNDATION AND SIMILAR EXCISE TAXES**

■ **Paragraph 1.** The authority citation for part 53 continues to read in part as follows:

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

■ **Par. 2.** Section 53.4965-2 is amended by revising paragraphs (c)(6)(i) and (c)(6)(i)(C) to read as follows:

**§ 53.4965-2 Covered tax-exempt entities.**

\* \* \* \* \*

(c) \* \* \*

(6) \* \* \*

(i) Individual retirement plans defined in section 408(a) and (b), including—

(A) \* \* \*

(B) \* \* \*

(C) Deemed individual retirement accounts or annuities (IRAs) qualified under a qualified plan (deemed IRAs) under section 408(q); and

\* \* \* \* \*

■ **Par. 3.** Section 53.4965-5 is amended by revising the first sentence of paragraph (c)(4) *Example* to read as follows:

**§ 53.4965-5 Entity managers and related definitions.**

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

*Example.* In a sale-in, lease-out (SILO) transaction described in Notice 2005-13 (2005-1 CB 630), X, which is a non-plan entity, has purported to sell property to Y, a taxable entity and lease it back for a term of years. \* \* \*

\* \* \* \* \*

■ **Par. 4.** Section 53.4965-8 is amended by revising the first sentence of paragraph (e) and the second sentence of paragraph (f) *Example 1.* (iii) to read as follows:

**§ 53.4965-8 Definition of net income and proceeds and standard for allocating net income or proceeds to various periods.**

\* \* \* \* \*

(e) *Allocation to pre-and post-listing periods.* If a transaction other than a

prohibited reportable transaction (as defined in section 4965(e)(1)(C) and § 53.4965-3(a)(2)) to which the tax-exempt entity is a party is subsequently identified in published guidance as a listed transaction during a taxable year of the entity (the listing year) in which it has net income or proceeds attributable to the transaction, the net income or proceeds are allocated between the pre- and post-listing periods. The IRS will treat the period beginning on the first day of the listing year and ending on the day immediately preceding the date of the listing, and the period beginning on the date of the listing and ending on the last day of the listing year as short taxable years. \* \* \*

(f) \* \* \* *Example 1.* \* \* \*

(iii) \* \* \* The \$14M fee received in 1999, which constitutes proceeds of the transaction, is likewise allocated to that tax year. \* \* \*

\* \* \* \* \*

■ **Par. 5.** Section 53.6071-1 is amended by revising paragraph (g)(3) to read as follows:

**§ 53.6071-1 Time for filing returns.**

\* \* \* \* \*

(g) \* \* \*

(3) *Transition rule.* A Form 4720, for a section 4965 tax that was due on or before October 4, 2007, will be deemed to have been filed on the due date if it was filed by October 4, 2007, and if all section 4965 taxes required to be reported on that Form 4720 were paid by October 4, 2007.

\* \* \* \* \*

**PART 54—PENSION EXCISE TAXES**

■ **Par. 6.** The authority citation for part 54 continues to read in part as follows:

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

■ **Par. 7.** Section 54.6011-1 is amended by revising paragraph (c)(2) to read as follows:

**§ 54.6011-1 General requirement of return, statement or list.**

\* \* \* \* \*

(c) \* \* \*

(2) *Transition rule.* A Form 5330, "Return of Excise Taxes Related to Employee Benefit Plans," for an excise tax under section 4965 that was due on or before October 4, 2007, will be deemed to have been filed on the due date if it was filed by October 4, 2007, and if the section 4965 tax that was

required to be reported on that Form 5330 was paid by October 4, 2007.

**LaNita Van Dyke,**

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

[FR Doc. 2010-19097 Filed 8-3-10; 8:45 am]

**BILLING CODE 4830-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2010-0503; FRL-9183-6]**

**Revisions to the California State Implementation Plan, South Coast Air Quality Management District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) emissions from natural gas-fired, fan-type central furnaces and other miscellaneous NO<sub>x</sub> sources. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on October 4, 2010 without further notice, unless EPA receives adverse comments by September 3, 2010. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2010-0503, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is

restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Idalia Perez, EPA Region IX, (415) 972-3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our" refer to EPA.

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**I. The State's Submittal**

**A. What rules did the State submit?**

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.