

integrity and determine that the application meets the requirements of DEA's regulations. DEA is reviewing the fact that the American Institute of Certified Public Accountants has replaced SAS 70 audits referenced in 21 CFR 1311.300(b)(1) and will necessarily address this issue in the final rule on EPCS.

### Recommendation

Where questions arise in reviewing a particular EPCS prescriber or pharmacy application, DEA recommends that federal guidelines as set forth by the National Institute of Standards and Technology (NIST), specifically NIST Special Publication 800-53A, be consulted. Other NIST standards and publications are incorporated by reference in the Interim Final Rule and must be complied with as stated in the Interim Final Rule.

Some of the questions surrounding interpretation of DEA's EPCS regulations as applied to specific applications are addressed by federal guidelines articulated by the National Institute of Standards and Technology in NIST Special Publication (SP) 800-53A, as revised. Federal computer systems must comply with federal guidelines as outlined in NIST SP 800-53A.<sup>11</sup> As NIST SP 800-53A states, the publication may be used by nongovernmental organizations on a voluntary basis. Although the Interim Final Rule does not require compliance with NIST SP 800-53A, DEA believes this publication provides useful guidance and that it is advisable for private sector entities to consult the publication when reviewing security requirements for EPCS applications. In addition, EPCS will be used on federal systems in the military, the Department of Veterans Affairs and elsewhere where such systems must comply with federal guidelines.

DEA notes that the Notice of Proposed Rulemaking (NPRM) in June 27, 2008 discussed NIST SP 800-53A and whether or not it should be the basis for security requirements. 73 FR 36746-47 (June 27, 2008). DEA did not require application of NIST SP 800-53A in the Interim Final Rule due to the perceived need for flexibility and because security would be ensured by review of "processing integrity." In light of developments since that time, DEA will be revisiting this issue as it is clear that a mechanism must be established in the EPCS regulations to keep EPCS

applications current with technology, particularly security requirements.

### Update

All certifying organizations with a certification process approved by DEA pursuant to 21 CFR 1311.300(e) are posted on DEA's Web site once approved.

As noted above, the Interim Final Rule provides that, as an alternative to the audit requirements of 21 CFR 1311(b) through (d), an electronic prescription or pharmacy application may be verified and certified as meeting the requirements of 21 CFR Part 1311 by a certifying organization whose certification process has been approved by DEA. The preamble to the Interim Final Rule further indicated that, once a qualified certifying organization's certification process has been approved by DEA in accordance with 21 CFR 1311.300(e), such information will be posted on DEA's Web site. 75 FR 16243, March 31, 2010. On September 22, 2011, DEA approved the certification process developed by InfoGard Laboratories, Inc. and relevant information has been posted on DEA's Web site at <http://www.DEAdiversion.usdoj.gov> under electronic prescriptions.

Dated: October 7, 2011.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9552]

RIN 1545-BJ24

#### Deduction for Qualified Film and Television Production Costs

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

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final and temporary regulations relating to deductions for the cost of producing film and television productions. These temporary regulations reflect changes to the law made by the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, and affect taxpayers that produce films and television productions within the United States. The text of these temporary regulations also serves as the text of the proposed regulations set forth

in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These regulations are effective on October 18, 2011.

*Applicability Dates:* For dates of applicability, see § 1.181-6T.

**FOR FURTHER INFORMATION CONTACT:** Bernard P. Harvey, (202) 622-4930 (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### Background

This document contains amendments to 26 CFR part 1 to provide regulations under section 181 of the Internal Revenue Code of 1986 (Code). Section 181 permits the deduction of certain production costs by the producer of a qualified film or television production.

Section 181 was added to the Code by section 244 of the American Jobs Creation Act of 2004, Public Law 108-357 (118 Stat. 1418) (October 22, 2004), and was modified by section 403(e) of the Gulf Opportunity Zone Act of 2005, Public Law 109-135 (119 Stat. 2577) (December 21, 2005). Section 502 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Public Law 110-343 (122 Stat. 3765) (October 3, 2008) further modified section 181 for film and television productions commencing after December 31, 2007, and extended section 181 to film and television productions commencing before January 1, 2010. Section 181 was extended again to film and television productions commencing before January 1, 2012, by section 744 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312 (December 17, 2010).

On September 30, 2011, the IRS and the Treasury Department published in the **Federal Register** (TD 9551, 76 FR 60721) final regulations relating to deductions for the cost of producing film and television productions under section 181 as enacted by the American Jobs Creation Act of 2004 and modified by the Gulf Opportunity Zone Act of 2005.

#### Explanation of Provisions

Section 181 permits an owner of a qualified film or television production to elect to deduct production costs paid or incurred by that owner for the year the costs are paid or incurred, in lieu of capitalizing the costs and recovering them through depreciation allowances. For a qualified film or television production that commenced before January 1, 2008 (a "pre-amendment production"), this deduction is available

<sup>11</sup> <http://csrc.nist.gov/publications/nistpubs/800-53A-rev1/sp800-53A-rev1-final.pdf>. Note that the latest version of SP800-53A should be consulted as it is regularly updated to meet technology developments.

only if the aggregate production costs paid or incurred by all owners do not exceed \$15 million (\$20 million if a significant amount of the production costs are paid or incurred in certain designated areas) for each qualified production (the "aggregate production costs limit"). For productions commencing on or after January 1, 2008, the aggregate production costs limit does not apply; instead, the aggregate deduction under section 181 for production costs paid or incurred by all owners of a qualified film or television production is limited to \$15 million (\$20 million if a significant amount of the production costs are incurred in certain designated areas) for each qualified production (the "deduction limit"). A film or television production ("production") is a qualified film or television production if at least 75 percent of the total compensation of the production is compensation for services performed in the United States by actors, directors, producers, and other production personnel.

These temporary regulations amend § 1.181-1 to define the term "post-amendment production" and specify that the aggregate deduction under section 181 (rather than the amount of aggregate production costs) is subject to the dollar limits imposed under § 1.181-1(b). The temporary regulations also amend §§ 1.181-0 (table of contents) and 1.181-6 (effective date provisions).

**Effective Date**

These temporary regulations apply to qualified film and television productions for which principal photography or, for an animated production, in-between animation, commenced on or after October 18, 2011. An owner may choose to apply these temporary regulations to qualified film or television productions commencing on or after January 1, 2008, and before October 18, 2011.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code,

these temporary regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Drafting Information**

The principal author of these regulations is Bernard P. Harvey, Office of Associate Chief Counsel (Income Tax and Accounting). 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.

**Amendments to the Regulations**

Accordingly, 26 CFR part 1 is 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 1.181-1 is amended by revising paragraphs (a)(1)(ii), (a)(6) and (b)(1)(ii) and (b)(2)(vi) to read as follows:

**§ 1.181-1 Deduction for qualified film and television production costs.**

(a) \* \* \*

(1) \* \* \*

(ii) [Reserved]. For further guidance, see § 1.181-1T(a)(1)(ii).

\* \* \* \* \*

(6) [Reserved]. For further guidance, see § 1.181-1T(a)(6).

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) [Reserved]. For further guidance, see § 1.181-1T(b)(1)(ii).

\* \* \* \* \*

(2) \* \* \*

(vi) [Reserved]. For further guidance, see § 1.181-1T(b)(2)(vi).

\* \* \* \* \*

(c) \* \* \*

(2) [Reserved]. For further guidance, see § 1.181-1T(c)(2).

\* \* \* \* \*

■ **Par. 3.** Section 1.181-0T is added to read as follows:

**§ 1.181-0T Table of contents (temporary).**

This section lists the entries for §§ 1.181-1T and 1.181-6T.

**§ 1.181-1T Deduction for qualified film and television production costs (temporary).**

(a) through (a)(5) [Reserved]. For further guidance, see entries for § 1.181-1(a) through (a)(5).

(6) Post-amendment production. (a)(7) through (b)(1)(i) [Reserved]. For further guidance, see entries for § 1.181-1(a)(7) through (b)(1)(i).

(ii) Post-amendment costs. (b)(1)(iii) through (c)(1) [Reserved]. For further guidance, see entries for § 1.181-1(b)(1)(iii) through (c)(1). (2) Post-amendment production.

**§ 1.181-6T Effective/applicability dates (temporary).**

(a) In general. (b) Application of temporary regulations to pre-effective date productions.

■ **Par. 4.** Section 1.181-1T is added to read as follows:

**§ 1.181-1T Deduction for qualified film and television production costs (temporary).**

(a)(1)(i) [Reserved]. For further guidance, see § 1.181-1(a)(1)(i).

(ii) This section provides rules for determining the owner of a production, the production costs (as defined in paragraph (a)(3) of this section), the maximum amount of aggregate production costs (as defined in paragraph (a)(4) of this section) that may be paid or incurred for a pre-amendment production (as defined in paragraph (a)(5) of this section) for which the owner makes an election under section 181, and the maximum amount of aggregate production costs that may be claimed as a deduction for a post-amendment production (as defined in paragraph (a)(6) of this section) for which the owner makes an election under section 181. Section 1.181-2 provides rules for making the election under section 181. Section 1.181-3 provides definitions and rules concerning qualified film and television productions. Section 1.181-4 provides special rules, including rules for recapture of the deduction. Section 1.181-5 provides examples of the application of §§ 1.181-1 through 1.181-4, while § 1.181-6 provides the effective date of §§ 1.181-1 through 1.181-5.

(2) through (5) [Reserved]. For further guidance, see § 1.181-1(a)(2) through (a)(5).

(6) *Post-amendment production.* The term *post-amendment production* means a qualified film or television production commencing on or after January 1, 2008.

(7) [Reserved]. For further guidance, see § 1.181-1(a)(7).

(b)(1)(i) [Reserved]. For further guidance, see § 1.181-1 (b)(1)(i).

(ii) *Post-amendment production.* Section 181 permits a deduction for the first \$15,000,000 (or, if applicable under paragraph (b)(2) of this section,

\$20,000,000) of the aggregate production costs of any post-amendment production.

(iii) [Reserved]. For further guidance, see § 1.181-1(b)(1)(iii).

(2)(i) through (v) [Reserved]. For further guidance, see § 1.181-1(b)(2)(i) through (b)(2)(v).

(vi) *Allocation*. Solely for purposes of determining whether a production qualifies for the higher production cost limit (for pre-amendment productions) or deduction limit (for post-amendment productions) provided under this paragraph (b)(2), compensation to actors (as defined in § 1.181-3(f)(1)), directors, producers, and other relevant production personnel (as defined in § 1.181-3 (f)(2)) is allocated entirely to first-unit principal photography.

(c)(1) [Reserved]. For further guidance, see § 1.181-1(c)(1).

(2) *Post-amendment production*.

Amounts not allowable as a deduction under section 181 for a post-amendment production may be deducted under any other applicable provision of the Code.

■ **Par. 4.** Section 1.181-6T is added to read as follows:

**§ 1.181-6T Effective/applicability dates (temporary).**

(a) *In general*. (1) Except as provided in paragraph (b) of this section, § 1.181-1T applies to productions, the first day of principal photography for which occurs on or after October 18, 2011, and before the date of expiration of section 181 as provided in section 181(f). For an animated production, this paragraph (a) applies by substituting “in-between animation” in place of “principal photography.” Productions involving both animation and live-action photography may use either standard.

(2) The applicability of § 1.181-1T expires on October 17, 2014.

(b) *Application of temporary regulations to pre-effective date productions*. An owner may apply § 1.181-1T to productions, the first day of principal photography (or “in-between” animation) for which occurs after December 31, 2007, and before October 18, 2011, provided that the taxpayer applies all provisions in § 1.181-1T and in §§ 1.181-1 through 1.181-5 (other than provisions specific to pre-amendment productions) to the productions. If a taxpayer does not choose to apply § 1.181-1T to a production, the first day of principal photography (or “in-between” animation) for which occurs after December 31, 2007, and before October 18, 2011, then the taxpayer must use a reasonable method to take into account the statutory change to section 181 under section 502 of the Tax Extenders

and Alternative Minimum Tax Relief Act of 2008. See § 1.181-6.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

Approved: September 19, 2011.

**Emily S. McMahon,**

*Acting Assistant Secretary of the Treasury (Tax Policy).*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2011-0961]

RIN 1625-AA00

**Safety Zone; Truman-Hobbs Alteration of the Elgin Joliet & Eastern Railroad Drawbridge, Morris, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Illinois River near Morris, Illinois. This zone is intended to restrict vessels from a portion of the Illinois River due to the Truman-Hobbs alteration of the Elgin Joliet & Eastern Railroad Drawbridge. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the removal of the Elgin Joliet & Eastern Railroad Drawbridge’s old bridge piers and pier protection cells.

**DATES:** This rule is effective in the CFR on October 19, 2011 through 7 a.m. on November 16, 2011. This rule is effective with actual notice for purposes of enforcement beginning 7 a.m. on October 13, 2011. This rule will remain in effect until 7 a.m. on November 16, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0961 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0961 in the “Keyword” box, and then clicking “search.” They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, contact or email BM1 Adam Kraft, U.S. Coast Guard Sector Lake Michigan, at 414-747-7148 or

*Adam.D.Kraft@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when an agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because waiting for a notice and comment period to run would be impracticable and contrary to the public interest in that it would prevent the Coast Guard from protecting the public and vessels on navigable waters from the hazards associated with the alteration of the Elgin Joliet & Eastern Railroad Drawbridge, as discussed in detail below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the reasons discussed in the preceding paragraph and due to the Captain of the Port Sector Lake Michigan not receiving notice of the need for a safety zone, a 30-day notice period would be impracticable and contrary to the public interest.

**Background and Purpose**

The Truman-Hobbs alteration of the Elgin Joliet & Eastern Railroad Drawbridge, which consists of the removal of the bridges old piers and pier protection cells, will begin on October 13, 2011. This temporary safety zone is necessary to protect vessels from the hazards associated with those alteration efforts. The falling debris associated with the removal of the bridge’s piers and protection cells poses a serious risk of injury to persons and property. As such, the Captain of the Port, Sector Lake Michigan, has determined that the alteration project of the Elgin Joliet & Eastern Railroad Drawbridge poses significant risks to public safety and