

be sufficient to restore the financial viability of the project;

(3) The project is or can (at reasonable cost) be made physically sound;

(4) The current or proposed operator of the facility is satisfactory to the Commissioner, as demonstrated by past experience in operating similar types of healthcare facilities and by state regulatory performance;

(5) The default under the insured mortgage was beyond the control of the borrower and/or operator, or in the case of a transfer of physical assets (TPA), the proposed borrower or operator, unless the Commissioner determines that any borrower/operator deficiencies giving rise to the default have clearly been addressed; and

(6) The project is serving as, or potentially could serve as, a needed nursing home, intermediate care facility, board and care home, or assisted living facility.

(c) Partial payment of a claim under this section shall be made only when:

(1) The property covered by the mortgage is free and clear of all liens other than the insured first mortgage and such other liens as the Commissioner may have approved;

(2) The lender has voluntarily agreed to accept a PPC under the mortgage insurance contract and to recast the remaining mortgage amount under terms and conditions prescribed by the Commissioner; and

(3) The borrower has agreed to repay to the Commissioner an amount equal to the partial payment, with the obligation secured by a second mortgage on the project containing terms and conditions prescribed by the Commissioner. The terms of the second mortgage will be determined on a case-by-case basis to ensure that the estimated project income will be sufficient to cover estimated operating expenses and debt service on the recast insured mortgage. The Commissioner may provide for postponed amortization of the second mortgage.

(d) Payment of insurance benefits under this section shall be in cash.

(e) A lender receiving a partial payment of claim, following the Commissioner's endorsement of the mortgage for full insurance under 24 CFR part 252, will pay HUD a fee in an amount set forth through **Federal Register** notice. HUD, in its discretion, may collect this fee or deduct the fee from any payment it makes in the claim process.

Dated: December 3, 2012.

Carol J. Galante,

*Acting Assistant Secretary for Housing—
Federal Housing Commissioner.*

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9603]

RIN 1545-BJ23

Deduction for Qualified Film and Television Production Costs

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to deductions for the cost of producing qualified film and television productions. These final 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.

DATES: *Effective Date:* These regulations are effective on December 7, 2012.

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

FOR FURTHER INFORMATION CONTACT:

Bernard P. Harvey, (202) 622-4930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations that amend 26 CFR part 1 to reflect amendments made to section 181 of the Internal Revenue Code of 1986 (Code) by section 502 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Public Law 110-343 (122 Stat. 3765) (October 3, 2008).

On October 19, 2011, the IRS and the Treasury Department published in the **Federal Register** (TD 9552, 76 FR 64816) temporary regulations amending the rules under section 181 for deductions relating to the cost of producing qualified film and television productions to reflect section 502 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008. A notice of proposed rulemaking (REG-146297-09) cross-referencing the temporary regulations was published in the **Federal Register** (76 FR 64879) on the same day. No comments were

received from the public in response to the notice of proposed rulemaking. No public hearing was requested or held. The proposed regulations under section 181 are adopted by this Treasury decision and the corresponding temporary regulations are removed.

Effective/Applicability Date

These final regulations apply to qualified film and television productions to which section 181 is applicable and for which the first day of principal photography or in-between animation occurs on or after December 7, 2012. The owner of a qualified film or television production may apply the final regulations to productions to which section 181 applies and for which principal photography or, for an animated production, in-between animation commenced before December 7, 2012.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. 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. Because the regulations do 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 Code, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

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.

Adoption of 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 1.181-0 is amended by:

- 1. Adding the entries for § 1.181-1 paragraphs (a)(6), (b)(1)(ii) and (c)(2).
- 2. Revising the entry for § 1.181-6 paragraph (b) and removing paragraph (c).

The revision and additions to read as follows:

§ 1.181-0 Table of contents.

* * * * *

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

(a) * * *

(6) Post-amendment production.

* * * * *

(b) * * *

(1) * * *

(ii) Post-amendment production.

* * * * *

(c) * * *

(2) Post-amendment production.

* * * * *

§ 1.181-6 Effective/applicability date.

* * * * *

(b) Pre-effective date productions.

§ 1.181-0T [Removed]

■ **Par. 3.** Section 1.181-0T is removed.

■ **Par. 4.** Section 1.181-1 is amended by revising paragraphs (a)(1)(ii), (a)(6), (b)(1)(ii), (b)(2)(vi), and (c)(2) to read as follows:

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

(a) * * * (1) * * *

(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.

* * * * *

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

* * * * *

(b) * * * (1) * * *

(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.

* * * * *

(2) * * *

(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) * * *

(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.

§ 1.181-1T [Removed]

■ **Par. 5.** Section 1.181-1T is removed.

■ **Par. 6.** Section 1.181-6 is revised to read as follows:

§ 1.181-6 Effective/applicability date.

(a) *In general.* Except as otherwise provided in this section, §§ 1.181-1 through 1.181-5 apply to productions the first day of principal photography for which occurs on or after September 29, 2011. Paragraphs 1.181-1(a)(1)(ii), (a)(6), (b)(1)(ii), (b)(2)(vi), and (c)(2) of § 1.181-1 apply to productions to which section 181 is applicable and for which the first day of principal photography or in-between animation occurs on or after December 7, 2012.

(b) *Pre-effective date productions.* For any taxable year for which the period of limitation on refund or credit under section 6511 has not expired, the owner may apply §§ 1.181-1 through 1.181-5

to any production to which section 181 applies and for which the first day of principal photography (or in-between animation) occurred before December 7, 2012, provided the owner applies all relevant provisions of §§ 1.181-1 through 1.181-5 to the production.

§ 1.181-6T [Removed]

■ **Par. 7.** Paragraph 1.181-6T is removed.

Approved: November 30, 2012.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Mark J. Mazur

Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[TD 9604]

RIN 1545-BJ44

Taxable Medical Devices

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance on the excise tax imposed on the sale of certain medical devices, enacted by the Health Care and Education Reconciliation Act of 2010 in conjunction with the Patient Protection and Affordable Care Act. The final regulations affect manufacturers, importers, and producers of taxable medical devices.

DATES: *Effective date:* These regulations are effective on December 7, 2012.

Applicability date: These regulations are applicable to sales of taxable medical devices after December 31, 2012.

FOR FURTHER INFORMATION CONTACT:

Natalie Payne, Michael Beker, or Stephanie Bland, at (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations that provide guidance on the excise tax imposed on the sale of certain medical devices under section 4191 (the medical device excise tax) of the Internal Revenue Code (Code), enacted by section 1405 of the Health Care and Education Reconciliation Act of 2010,