

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9909]

RIN 1545-BP35

Limitation on Deduction for Dividends Received From Certain Foreign Corporations and Amounts Eligible for Section 954 Look-Through Exception; Correcting Amendment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (Treasury Decision 9909) that were published in the Federal Register on Thursday, August 27, 2020. Treasury Decision 9909 contained final regulations under sections 245A and 954 of the Internal Revenue Code (the "Code") that limit the deduction for certain dividends received by United States persons from foreign corporations under section 245A and the exception to subpart F income under section 954(c)(6) for certain dividends received by controlled foreign corporations.

DATES: These corrections are effective on November 13, 2020.

FOR FURTHER INFORMATION CONTACT: Arielle M. Borsos or Logan M. Kincheloe at (202) 317-6937 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9909) that are the subject of this correction are issued under sections 245A, 954(c)(6), and 6038 of the Internal Revenue Code.

Need for Correction

As published on August 27, 2020 (85 FR 53068), the final regulations (TD 9909; FR Doc. 2020-18543) contain errors that need to be corrected.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

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 1.245A-5 is amended by:

a. Adding a sentence after the first sentence of paragraph (e)(3)(i)(A); and

b. Revising paragraphs (i)(8) and (9) and the first sentence of paragraph (j)(10)(ii).

The addition and revisions read as follows:

Section 1.245A-5 Limitation of section 245A deduction and section 954(c)(6) exception.

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

(i) \* \* \*

(A) \* \* \* Because the determination as to whether there would be an extraordinary reduction amount or tiered extraordinary reduction amount greater than zero is made without regard to this paragraph (e)(3)(i), this determination is made without taking into account any elections that may be available, or other events that may occur, solely by reason of an election described in this paragraph (e)(3)(i), such as the application of section 954(b)(4) to a short taxable year created as a result of the election. \* \* \*

\* \* \* \* \*

(i) \* \* \*

(8) Extraordinary disposition E&P. The term extraordinary disposition E&P has the meaning set forth in paragraph (c)(3)(i)(C) of this section.

(9) Extraordinary disposition ownership percentage. The term extraordinary disposition ownership percentage has the meaning set forth in paragraph (c)(3)(i)(B) of this section.

\* \* \* \* \*

(j) \* \* \*

(10) \* \* \*

(ii) \* \* \* Because the loan from CFC1 to CFC2 and the subsequent distribution of cash were carried out with a principal purpose of avoiding the purposes of this section, appropriate adjustments are required to be made under the anti-abuse rule in paragraph (h) of this section. \* \* \*

Crystal Pemberton,

Senior Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

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BILLING CODE 4830-01-P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2201

Regulations Implementing the Freedom of Information Act

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Review Commission (OSHRC) is amending its regulations implementing the Freedom of Information Act (FOIA). The amendments to the FOIA regulations concern minor issues that have arisen since the regulations were last revised in 2016.

DATES: Effective November 13, 2020.

FOR FURTHER INFORMATION CONTACT: Ron Bailey, Attorney Advisor, Office of General Counsel, by telephone at (202) 606-5410 or by email at rbailley@oshrc.gov.

SUPPLEMENTARY INFORMATION:

I. Revisions to Part 2201

OSHRC's regulations implementing FOIA, 29 CFR part 2201, were last revised on December 27, 2016, 81 FR 95035. OSHRC is making several minor revisions to these regulations.

In 29 CFR 2201.5, OSHRC is revising the reference to its Privacy Act regulation—from § 2400.6 to § 2400.4—based on the re-designation of section numbers in 29 CFR part 2400, 85 FR 65221.

In 29 CFR 2201.6(a)(1), the regulation presently states that the 20-day period for granting or denying a FOIA request can be tolled under two different circumstances: "(1) The agency may toll the 20-day period once while awaiting information that it has reasonably requested from the requester under this section . . . ; or (2) The agency may toll the 20-day period as many times as are necessary to clarify any issue regarding fee assessment." OSHRC is revising the word "or" to "and," because guidance from the Department of Justice's Office of Information Policy (OIP) indicates that tolling under one circumstance does not preclude the agency from subsequently tolling based on the other circumstance. This guidance, from November 18, 2008, is available at https://www.justice.gov/oip/oip-guidance.

In 29 CFR 2201.8(e), the third sentence of that paragraph states: "In cases in which a requester has been notified that actual or estimated fees amount to more than \$25, the request shall not be considered received and further work shall not be done on it

until the requester agrees to pay the actual or estimated total fee.” OSHRC is revising the phrase, “the request shall not be considered received,” to read, “the time period for responding to the request shall be tolled in accordance with 2201.6(a)(2).” OSHRC considers it more accurate, pursuant to the 5 U.S.C. 552(a)(6)(A), to treat this as a fee clarification that can be tolled under 29 CFR 2201.6(a), rather than a request that has not been received.

## II. Statutory and Executive Order Reviews

*Executive Orders 12866 and 13132, and the Unfunded Mandates Reform Act of 1995:* OSHRC is an independent regulatory agency and, as such, is not subject to the requirements of E.O. 12866, E.O. 13132, or the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.*

*Regulatory Flexibility Act:* The Chairman of OSHRC certifies under the Regulatory Flexibility Act, 5 U.S.C. 605(b), that these rules will not have a significant economic impact on a substantial number of small entities. The revisions to part 2201 merely clarify existing procedures and, therefore, would have no economic impact on small entities. For this reason, a regulatory flexibility analysis is not required.

*Paperwork Reduction Act of 1995:* OSHRC has determined that the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, does not apply because these rules do not contain any information collection requirements that require the approval of OMB.

*Congressional Review Act:* These revisions do not constitute a “rule,” as defined by the Congressional Review Act, 5 U.S.C. 804(3)(C), because they involve changes to agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

### List of Subjects in 29 CFR Part 2201

Freedom of information.

**James J. Sullivan, Jr.,**  
Chairman.

For the reasons set forth in the preamble, OSHRC amends 29 CFR part 2201 as follows:

### PART 2201—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

■ 1. The authority citation for part 2201 continues to read as follows:

**Authority:** 29 U.S.C. 661(g); 5 U.S.C. 552.

### § 2201.5 [Amended]

■ 2. Amend § 2201.5 by removing the reference “29 CFR 2400.6” in paragraph (b) and adding, in its place, the reference “29 CFR 2400.4”.

### § 2201.6 [Amended]

■ 3. Amend § 2201.6 by removing the word “or” at the end of paragraph (a)(1) and adding, in its place, the word “and”.

■ 4. Amend § 2201.8 by revising the third sentence of paragraph (e) to read as follows:

### § 2201.8 Fees for copying, searching, and review.

\* \* \* \* \*

(e) \* \* \* In cases in which a requester has been notified that actual or estimated fees amount to more than \$25, the time period for responding to the request shall be tolled in accordance with § 2201.6(a)(2) and further work shall not be done on it until the requester agrees to pay the actual or estimated total fee. \* \* \*

\* \* \* \* \*

[FR Doc. 2020–24003 Filed 11–12–20; 8:45 am]

**BILLING CODE 7600–01–P**

## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Part 4022

### Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Pension Benefit Guaranty Corporation’s regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe certain interest assumptions under the regulation for plans with valuation dates in December 2020.

These interest assumptions are used for paying certain benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

**DATES:** Effective December 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Gregory Katz ([katz.gregory@pbgc.gov](mailto:katz.gregory@pbgc.gov)), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, (202) 229–3829. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to (202) 229–3829.)

**SUPPLEMENTARY INFORMATION:** PBGC’s regulation on Benefits Payable in

Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminated single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumptions in the regulation are also published on PBGC’s website (<https://www.pbgc.gov>).

PBGC uses the interest assumptions in appendix B to part 4022 (“Lump Sum Interest Rates for PBGC Payments”) to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Because some private-sector pension plans use these interest rates to determine lump sum amounts payable to plan participants (if the resulting lump sum is larger than the amount required under section 417(e)(3) of the Internal Revenue Code and section 205(g)(3) of ERISA), these rates are also provided in appendix C to part 4022 (“Lump Sum Interest Rates for Private-Sector Payments”).

This final rule updates appendices B and C of the benefit payments regulation to provide the rates for December 2020 measurement dates.

The December 2020 lump sum interest assumptions will be 0.00 percent for the period during which a benefit is (or is assumed to be) in pay status and 4.00 percent during any years preceding the benefit’s placement in pay status. In comparison with the interest assumptions in effect for November 2020, these assumptions represent no change in the immediate rate and are otherwise unchanged.

PBGC updates appendices B and C each month. PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to issue new interest assumptions promptly so that they are available for plans that rely on our publication of them each month to calculate lump sum benefit amounts.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during December 2020, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a “significant regulatory action” under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).