

manufacturer incentive payments and to clarify the proper treatment of such incentive payments under the intercompany transaction regulations.

On April 25, 2005, the IRS and Treasury Department published Rev. Rul. 2005-28 (2005-19 IRB 997), which suspends, in part, Rev. Rul. 76-96 (1976-1 CB 23). Rev. Rul. 2005-28 states that the IRS will not apply, and taxpayers may not rely upon, the conclusion reached in Rev. Rul. 76-96 that certain rebates made by a manufacturer to retail customers are ordinary and necessary business expenses deductible under section 162, pending the IRS's reconsideration of the issue and publication of subsequent guidance.

The example in paragraph (c) of the proposed regulations relies, in part, upon the premise that the manufacturer incentive payment is an ordinary and necessary business expense deductible under section 162. To the extent that this premise is correct, paragraph (d) of the proposed regulations illustrates the proper application of the intercompany transaction regulations. However, because Rev. Rul. 2005-28 suspends Rev. Rul. 76-96, in pertinent part, these paragraphs of the proposed regulations are withdrawn pending further guidance on the section 162 issue considered in Rev. Rul. 76-96.

The example in paragraph (e) of the proposed regulations illustrates the application of the original issue discount rules to the facts described in paragraph (e) and, based on these facts, concludes that the transaction is not an intercompany transaction. This conclusion is not dependent upon the issue being reconsidered in Rev. Rul. 76-96. Nevertheless, because the example in paragraph (e), standing alone, does not provide guidance with respect to the application of the intercompany transaction regulations to an intercompany transaction, paragraph (e) of the proposed regulations is also withdrawn.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-131264-04) that was published in the **Federal Register** on

August 13, 2004 (69 FR 50112) is withdrawn.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E6-6888 Filed 5-5-06; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-146384-05]

RIN 1545-BF02

#### Application of Section 338 to Insurance Companies; Correction

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

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document corrects a notice of proposed rulemaking that was published in the **Federal Register** on Monday, April 10, 2006 (71 FR 18053).

The document contains temporary regulations providing guidance under section 197 that apply to the treatment of certain insurance contracts assumed in an assumption reinsurance transaction and section 338 that apply to a deemed sale or acquisition of an insurance company's assets pursuant to an election under section 338 of the Internal Revenue Code, to a sale or acquisition of an insurance trade or business subject to section 1060, and to the acquisition of insurance contracts through assumption reinsurance.

**DATES:** This correction is effective April 10, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mark J. Weiss, (202) 622-7790 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The notice of proposed rulemaking (REG-146384-05), that is the subject of this correction, is under sections 197, 338, and 846 of the Internal Revenue Code.

##### Need for Correction

As published, the notice of proposed rulemaking (REG-146384-05) contains errors that may prove to be misleading and are in need of clarification.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

## Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG-146384-05), which was the subject of FR Doc. 06-3321, is corrected 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 \* \* \*

### § 1.846-2 [Corrected]

On page 18054, column 3, paragraph instruction Par. 5., the language "Par. 5. Section 1.846-2 as amended by adding new paragraph (d) to read is follows:" is corrected to read "Par. 5. Section 1.846-2 is amended by adding new paragraph (d) to read as follows:."

**Guy R. Traynor,**

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

[FR Doc. E6-6894 Filed 5-5-06; 8:45 am]

BILLING CODE 4830-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2006-0314; FRL-8165-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Stage II Vapor Recovery at Gasoline Dispensing Facilities

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland for the purpose of amending the regulations pertaining to Stage II Vapor Recovery at Gasoline Dispensing Facilities. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will

not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by June 7, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2006-0314, by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. E-mail: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

C. Mail: EPA-R03-OAR-2006-0314, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2006-0314. EPA's policy is that all comments received 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 information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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:** All documents in the electronic docket are listed in the

<http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Catherine L. Magliocchetti, (215) 814-2174, or by e-mail at [magliocchetti.catherine@epa.gov](mailto:magliocchetti.catherine@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the title, "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Stage II Vapor Recovery at Gasoline Dispensing Facilities," that is located in the "Rules and Regulations" section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: April 24, 2006.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. 06-4198 Filed 5-5-06; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF ENERGY

### 48 CFR Part 970

#### RIN 1991-AB67

#### Acquisition Regulation: Implementation of DOE's Cooperative Audit Strategy for Its Management and Operating Contracts

**AGENCY:** Department of Energy.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Energy (DOE) is proposing to amend the Department of Energy Acquisition Regulation (DEAR) to revise and expand

policy and requirements for contractor internal audits, through the use of DOE's Cooperative Audit Strategy. The amendments would ensure that internal contractor audits are conducted in a manner that ensures reliability.

**DATES:** Comments should be submitted on or before July 7, 2006.

**ADDRESSES:** You may submit comments, identified by RIN number 1991-AB67, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **E-mail:** [helen.oxberger@hq.doe.gov](mailto:helen.oxberger@hq.doe.gov). Include RIN number 1991-AB67 in the subject line of the message.

- **Mail:** Helen Oxberger, Mail Code MA-61, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Helen Oxberger, (202) 287-1332.

#### SUPPLEMENTARY INFORMATION:

I. Background

II. Section-by-Section Analysis

III. Procedural Requirements

A. Review Under Executive Order 12866

B. Review Under the Regulatory Flexibility Act

C. Review Under the Paperwork Reduction Act

D. Review Under the National Environmental Policy Act

E. Review Under Executive Order 13132

F. Review Under Executive Order 12988

G. Review Under the Unfunded Mandates Reform Act of 1995

H. Review Under the Treasury and General Government Appropriations Act, 1999

I. Review Under the Treasury and General Government Appropriations Act, 2001

J. Review Under Executive Order 13211

K. Approval by the Office of the Secretary

#### I. Background

The Department contracts for the management and operation of its Government owned or controlled research, development, special production, or testing facilities through the use of management and operating (M&O) contracts. The Department historically expends approximately 80% of its annual appropriations through these M&O prime contracts. Thus, it is imperative for the Department to develop approaches which permit oversight of M&O expenditures in order for the Department to satisfy its oversight responsibility and to ensure that DOE funds are expended on allowable and reasonable costs.

The creation and maintenance of rigorous business, financial, and accounting systems by contractors are crucial to assuring the integrity and reliability of the cost data used by the DOE's Chief Financial Officer (CFO), the Inspector General (IG), and contracting