

published on March 20, 1996 (61 FR 11474). Section 570.3 now refers directly to section 102(a)(12) of the Act for the definition of “*Extent of growth lag*”.

Accordingly, FR Doc. 95-27488, a final rule published in the Federal Register on November 9, 1995 (60 FR 56892), is corrected to read as follows:

1. On page 56909, in the third column, in § 570.3, the second sentence of the definition of the term “*Income*” is corrected to read as follows.

#### § 570.3 Definitions.

\* \* \* \* \*

*Income.* \* \* \* The option to choose a definition does not apply to activities that qualify under § 570.208(a)(1) (Area benefit activities), except when the recipient carries out a survey under § 570.208(a)(1)(vi). \* \* \*

\* \* \* \* \*

2. On page 56910, in the third column, in § 570.200, paragraph (d)(2) is corrected, and the third sentence of paragraph (e) is corrected, to read as follows:

#### § 570.200 General policies.

\* \* \* \* \*

(d) \* \* \*

(2) *Independent contractor relationship.* Consultant services provided under an independent contractor relationship are governed by the procurement requirements in 24 CFR 85.36, and are not subject to the compensation limitation of Level IV of the Executive Schedule.

(e) \* \* \* A written determination is required for any activity carried out under the authority of §§ 570.201(f), 570.201(i)(2), 570.201(p), 570.201(q), 570.202(b)(3), 570.206(f), 570.209, and 570.309.

\* \* \* \* \*

2a. On page 56911, in the second column, in instruction paragraph 8., the words “the introductory text of paragraph (n)” are corrected to read “paragraph (n)”.

3. On page 56911, in the third column, in § 570.201, paragraph (n) is corrected to read as follows:

#### § 570.201 Basic eligible activities.

\* \* \* \* \*

(n) *Homeownership assistance.* Subject to statutory authority, CDBG funds may be used to provide direct homeownership assistance to low- and moderate-income households, as provided in section 105(a)(25) of the Act.

\* \* \* \* \*

4. On page 56912, in the second and third columns, in § 570.208, the second sentence of paragraph (a)(1)(iii)(B), the

second sentence of paragraph (a)(1)(iii)(D), and the first sentence of paragraph (a)(1)(vi) are corrected to read as follows:

#### § 570.208 Ineligible activities.

(a) \* \* \*

(1) \* \* \*

(iii) \* \* \*

(B) \* \* \* As available, the recipient must provide information that identifies the total number of calls actually received over the preceding 12-month period for each of the emergency services to be covered by the emergency telephone number system and relates those calls to the geographic segment (expressed as nearly as possible in terms of census tracts, block numbering areas, block groups, or combinations thereof that are contained within the segment) of the service area from which the calls were generated. \* \* \*

\* \* \* \* \*

(D) \* \* \* For this purpose, the recipient must include a description of the boundaries of the service area of the emergency telephone number system, the census divisions that fall within the boundaries of the service area (census tracts or block numbering areas), the total number of persons and the total number of low- and moderate-income persons within each census division, the percentage of low- and moderate-income persons within the service area, and the total cost of the system.

\* \* \* \* \*

(vi) In determining whether there is a sufficiently large percentage of low- and moderate-income persons residing in the area served by an activity to qualify under paragraphs (a)(1) (i), (ii), or (vii) of this section, the most recently available decennial census information must be used to the fullest extent feasible, together with the section 8 income limits that would have applied at the time the income information was collected by the Census Bureau. \* \* \*

\* \* \* \* \*

5. On page 56916, in the first column, in § 570.506, paragraph (c) is corrected to read as follows:

#### § 570.506 Records to be maintained.

\* \* \* \* \*

(c) Records that demonstrate that the recipient has made the determinations required as a condition of eligibility of certain activities, as prescribed in §§ 570.201(f), 570.201(i)(2), 570.201(p), 570.201(q), 570.202(b)(3), 570.206(f), 570.209, and 570.309.

\* \* \* \* \*

Dated: April 18, 1996.

Camille E. Acevedo,

*Assistant General Counsel for Regulations.*

[FR Doc. 96-10240 Filed 4-26-96; 8:45 am]

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### Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Real Estate Settlement Procedures Act; Streamlining Final Rule; Correction

#### 24 CFR Part 3500

[Docket No. FR-4023-C-02]

RIN 2502-AG69

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Correction to final rule.

**SUMMARY:** On March 26, 1996 (61 FR 13232), the Department published a final rule streamlining its regulations under the Real Estate Settlement Procedures Act (RESPA). The preamble of the rule explained that, as part of this streamlining, the Department was removing from codification certain appendices. Instead, the material in these appendices would be made available from the Department as Public Guidance Documents. Because of an error in the amendatory instructions, the directions to remove the appendices as specified in the preamble were omitted from the rule text. This correction publishes those instructions.

**EFFECTIVE DATE:** April 25, 1996.

**FOR FURTHER INFORMATION CONTACT:** David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Room 5241, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone number (202) 708-4560 (this is not a toll-free number); or for legal questions: Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, or Grant E. Mitchell, Senior Attorney for RESPA, Room 9262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone number (202) 708-1550 (this is not a toll-free number). For hearing- or speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

Accordingly, FR Doc. 96-6511, Real Estate Settlement Procedures Act; Streamlining Final Rule (FR-4023-F-01), published on March 26, 1996, is corrected by adding on page 13251, in

the first column, a new amendatory instruction 6 to read as follows:

Appendix G (Consisting of Appendices G-1 and G-2), Appendix H (Consisting of Appendices H-1 and H-2), Appendix I (Consisting of Appendices I-1, I-2, I-3, I-4, I-5, I-6, I-7, and I-8), Appendix J (Consisting of Appendices J-1 and J-2), Appendix K (Consisting of Appendices K-1 Through K-4), Appendix L, Appendix M—[Removed]

6. Appendix G (consisting of Appendices G-1 and G-2), Appendix H (consisting of Appendices H-1 and H-2), Appendix I (consisting of Appendices I-1, I-2, I-3, I-4, I-5, I-6, I-7, and I-8), Appendix J (consisting of Appendices J-1 and J-2), Appendix K (consisting of Appendices K-1 through K-4), Appendix L, and Appendix M are removed.

Authority: 12 U.S.C. 2601 *et seq.*; 42 U.S.C. 3535(d).

Dated: April 19, 1996.

Camille E. Acevedo,  
Assistant General Counsel for Regulations.  
[FR Doc. 96-10533 Filed 4-26-96; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8667]

RIN 1545-AT33

#### Lease Term; Exchanges of Tax-Exempt Use Property

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the lease term of tax-exempt use property. The final regulations also provide guidance regarding certain like-kind exchanges among related parties involving tax-exempt use property.

**DATES:** These regulations are effective April 29, 1996.

For dates of applicability see "Effective dates" section under the **SUPPLEMENTARY INFORMATION** portion of the preamble and §§ 1.168(h)-1(e) and 1.168(i)-2(g).

**FOR FURTHER INFORMATION CONTACT:** John M. Aramburu of the Office of Assistant Chief Counsel (Income Tax and Accounting) at (202) 622-4960 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains final regulations under section 168 of the Internal Revenue Code of 1986 (Code). The regulations provide guidance relating to certain exchanges of tax-exempt use property among related parties and the determination of lease term under certain circumstances. Proposed regulations (IA-18-95) were published in the Federal Register on April 21, 1995 (60 FR 19868). The IRS received a number of comments on the proposed regulations. A scheduled public hearing was cancelled because there were no requests to testify. After consideration of all the comments, the regulations proposed by IA-18-95 are adopted as revised by this Treasury decision. The revisions are discussed below.

##### Overview

Under section 168, property used in a trade or business, or held for the production of income, generally may be depreciated under the general depreciation system (GDS) using accelerated methods over relatively short recovery periods. However, certain property, including "tax-exempt use property," must be depreciated under the alternative depreciation system (ADS) described in section 168(g). Section 168(h)(1)(A) generally defines tax-exempt use property to include tangible property (other than nonresidential real property) leased to a tax-exempt entity. For this purpose, certain foreign entities and persons are considered tax-exempt entities.

Congress subjected tax-exempt use property to a slower depreciation system than GDS to prevent tax-exempt entities from indirectly claiming tax benefits (in the form of reduced rentals) "from investment incentives for which they [would] not qualify directly, and effectively gain[ing] the advantage of taking income tax deductions and credits while having no corresponding liability to pay any tax on income from the property." S. Rep. No. 169 (Vol. 1), 98th Cong., 2d Sess. 123 (1984).

In particular, section 168(g)(3)(A) provides that tax-exempt use property subject to a lease must be depreciated using the straight-line method over a period equal to the greater of the property's class life or 125 percent of the lease term. Under section 168(i)(3), options to renew generally must be taken into account in determining the lease term and the periods of certain successive leases must be aggregated with the period of an original lease.

##### Lease Term

The proposed regulations generally include an additional period of time during which a lessee may not continue to be the lessee in the lease term if the lessee (or a related person) has agreed that one or both of them will or could be obligated to make a payment of rent, or a payment in the nature of rent, with respect to such period. The arrangements described in the proposed regulations are frequently referred to as "replacement leases." One commentator requested that the portion of the proposed regulations dealing with replacement leases be withdrawn. The commentator argued that Congress would not have intended that the term of the replacement lease be taken into account in determining lease term. The IRS and Treasury believe that the proposed regulations are consistent with Congressional intent, and thus the final regulations retain this portion of the proposed regulations.

Another commentator indicated that application of the proposed regulations was unclear where property is subject to multiple leases, possibly involving multiple parties. The final regulations clarify that if property is subject to more than one lease (including any sublease) entered into as part of a single transaction (or a series of related transactions), the lease term shall include all periods described in one or more of such leases. Thus, for example, if one taxable corporation leases property to another taxable corporation for a 20-year term and, as part of the same transaction, the lessee subleases the property to a tax-exempt entity for a 10-year term, then the lease term of the property is 20 years, and during the period of tax-exempt use it must be depreciated using the straight line method over the greater of its class life or 25 years.

Finally, the final regulations provide that lease term also includes any period during which the lessee (or a related party) has assumed or retained any risk of loss with respect to the property (including, for example, by holding a note secured by the property). The IRS and Treasury believe that such an arrangement is generally similar to the replacement leases described in the proposed regulations. As in the case of a replacement lease, the lessee is assuming risk with respect to the value of the property at the termination of the initial lease term. In addition, the term of the debt provides an objective indication that the useful life of the property exceeds the original term of the lease, in which case failure to include the term of the debt in the lease term