

taxable year to which the determination is relevant.

(5) *Availability and retention of documents for inspection.* The documentation described in paragraphs (d)(3) and (4) of this section must be retained by the corporation seeking qualified foreign corporation status (the foreign corporation) until the expiration of the statute of limitations for the taxable year of the foreign corporation to which the documentation relates. Such documentation must be made available for inspection by the Commissioner at such time and place as the Commissioner may request in writing.

(e) *Reporting requirements.* A foreign corporation relying on the qualified shareholder test of this section to demonstrate that it is a qualified foreign corporation for purposes of § 1.883-1(c)(2) must provide the following information in addition to the information required in § 1.883-1(c)(3) to be included in its Form 1120F for each taxable year. The information should be current as of the end of the corporation's taxable year. The information must include the following—

(1) A representation that more than 50 percent of the value of the outstanding shares of the corporation is owned (or treated as owned by reason of paragraph (c) of this section) by qualified shareholders for the category of income for which the exemption is claimed;

(2) With respect to each individual qualified shareholder owning 5 percent or more of the foreign corporation, applying the attribution rules of paragraph (c) of this section, and relied upon to meet the 50 percent ownership test of paragraph (a) of this section, the name and address, as represented on each such individual's ownership statement;

(3) With respect to all qualified shareholders relied upon to satisfy the 50 percent ownership test of paragraph (a) of this section, the total percentage of the value of the outstanding shares owned, applying the attribution rules of paragraph (c) of this section, by all qualified shareholders resident in a qualified foreign country, by country; and

(4) Any other required documentation.

§ 1.883-5 Effective date.

(a) *General rule.* Sections 1.883-1 through 1.883-4 apply to taxable years of the foreign corporation ending 30 days or more after the date these regulations are published as final regulations in the **Federal Register**.

(b) *Election for retroactive application.* When §§ 1.883-1 through

1.883-4 become generally applicable, taxpayers may rely on all the provisions of §§ 1.883-1 through 1.883-4 for guidance and may elect to apply all such substantive provisions for any open taxable year of the foreign corporation beginning after December 31, 1986, and ending less than 30 days after the date these regulations are published as final regulations in the **Federal Register**. However, such election is not required to be applied with respect to § 1.883-1(c)(3) (relating to the substantiation and reporting required to be treated as a qualified foreign corporation) or §§ 1.883-2(f), 1.883-3(d) and 1.883-4(e) (relating to additional information to be included in the return to demonstrate whether the foreign corporation satisfies one of three stock ownership tests). Such election will be applicable for the year of the election and for all subsequent taxable years.

(c) *Transition rule.* For taxable years of the foreign corporation ending 30 days or more after the date these regulations are published as final regulations in the **Federal Register**, and until such time as the Form 1120F and its instructions are revised to conform to §§ 1.883-1 through 1.883-4, the information required in § 1.883-1(c)(3) and § 1.883-2(f), 1.883-3(d) or 1.883-4(e), as applicable, must be included on a written statement signed under penalties of perjury by a person authorized to sign the return, attached to the Form 1120F, and filed with the return.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 00-1899 Filed 2-7-00; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-103882-99]

RIN 1545-AX06

Depletion; Treatment of Delay Rental

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments conforming regulations relating to delay rental to the requirements of section 263A relating to capitalization and inclusion in inventory of costs of certain expenses. Changes to the applicable law were

made by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. The proposed regulations provide the public with guidance concerning the application of section 263A to delay rental.

DATES: Written comments must be received by May 8, 2000. Outlines of topics to be discussed at the public hearing scheduled for May 26, 2000, at 10 a.m. must be received by May 5, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-103882-99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-103882-99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/reglist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, Brenda M. Stewart, (202) 622-3120; concerning submissions and the hearing, LaNita Van Dyke, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 612 to conform them to the requirements of section 263A. Section 263A was enacted by the Tax Reform Act of 1986, Public Law 99-514 (100 Stat. 2085), and amended by the Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647 (102 Stat. 3342).

Explanation of Provisions

Under the terms of a lease of mineral property, the lessee acquires, for a stated term, the right and obligation to obtain production of minerals from the property. A lease may provide that for each year that the lessee fails to make efforts to obtain production, the lessee must pay a "delay rental" to the lessor.

Section 1.612-3(c)(1) of the final regulations defines a delay rental as an amount paid for the privilege of deferring development of the property

and which could have been avoided by abandonment of the lease, or by commencement of development operations, or by obtaining production. Section 1.612-3(c)(2) of the final regulations provides that since a delay rental is in the nature of rent, it is ordinary income to the payee and not subject to depletion. The payor may at his election deduct the delay rental as an expense, or charge it to depletable capital account under section 266.

Section 263A was enacted subsequent to the issuance of § 1.612-3(c) of the final regulations. The uniform capitalization rules of section 263A generally require the capitalization of all direct costs and certain indirect costs properly allocable to property produced by the taxpayer. Capitalization may be required even though production (development) has not yet begun. § 1.263A-2(a)(3)(ii). In some situations, a delay rental may be required to be capitalized under section 263A. Accordingly, the proposed regulation clarifies that subsequent to the enactment of section 263A, the payor of a delay rental may elect to expense currently the delay rental or charge it to depletable capital account under section 266 to the extent that the delay rental is not required to be capitalized under section 263A and the regulations thereunder.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (a signed original and eight copies) to the IRS. The IRS and Treasury request comments on the clarity of the proposed regulations and they may be made easier to understand. All comments will be made available for public inspection and copying.

A public hearing has been scheduled for May 26, 2000, at 10 a.m. in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments (a signed original and eight (8) copies) by May 8, 2000. The outline of topics to be discussed at the hearing must be received by May 5, 2000.

A period of 10 minutes will be allotted for each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of this proposed regulation is Brenda M. Stewart of the Office of Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, other personnel from the IRS and Treasury Department participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.612-3, the second sentence of paragraph (c)(2) is removed and two sentences are added in its place to read as follows:

§ 1.612-3 Depletion; treatment of bonus and advanced royalty.

* * * * *

(c) * * *

(2) * * * To the extent the delay rental is not required to be capitalized under section 263A and the regulations thereunder, the payor may at his election deduct such amount or under section 266 and the regulations thereunder, charge it to depletable capital account. The second sentence of

this paragraph (c)(2) applies to delay rentals paid with respect to leasing transactions entered into on or after the date these regulations are published as final regulations in the **Federal Register**.

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Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 00-2730 Filed 2-7-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-237-0221; FRL-6534-5]

Approval and Promulgation of State Implementation Plans; California—South Coast

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a state implementation plan (SIP) revision by the State of California to provide for attainment of the ozone national ambient air quality standard (NAAQS) in the Los Angeles-South Coast Air Basin Area (South Coast). EPA is proposing to approve the SIP revision under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: Comments must be received on or before March 9, 2000.

ADDRESSES: Written comments should be addressed to: Dave Jesson (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, or jesson.david@epa.gov. The rulemaking docket for this notice is available for public inspection during normal business hours at EPA's Region IX office. A reasonable fee may be charged for copying parts of the docket.

Copies of the SIP materials are also available for inspection at the following locations:

California Air Resources Board, 2020 L Street, Sacramento, California
South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, California

The SIP materials are also electronically available at: <http://www.aqmd.gov/aqmp/>

FOR FURTHER INFORMATION CONTACT: Dave Jesson at (415) 744-1288.