

Done in Washington, DC, this 20th day of August 2004.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 04–19519 Filed 8–25–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 01–015–2]

Brucellosis in Cattle; State and Area Classifications; Missouri

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Missouri from Class A to Class Free. The interim rule was based on our determination that Missouri meets the standards for Class Free status. The interim rule relieved certain restrictions on the interstate movement of cattle from Missouri.

DATES: *Effective Date:* The interim rule became effective on February 26, 2004.

FOR FURTHER INFORMATION CONTACT: Dr. Debra A. Donch, National Brucellosis Epidemiologist, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–6954.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective February 26, 2004, and published in the **Federal Register** on March 2, 2004 (69 FR 9747–9749, Docket No. 01–015–1), we amended the brucellosis regulations in 9 CFR part 78 (referred to below as the regulations) concerning the interstate movement of cattle by changing the classification of Missouri from Class A to Class Free. The interim rule was based on our determination that Missouri meets the standards for Class Free status. The interim rule relieved certain restrictions on the interstate movement of cattle from Missouri.

Comments on the interim rule were required to be received on or before May 3, 2004. We received one comment by that date, from a private citizen. This commenter was opposed to the change in Missouri's classification. The issues

raised by the commenter are discussed below.

The commenter objected to the use of the word “free” to describe a State or area designated as Class Free for brucellosis on the basis that our regulations do not require every animal in a State or area be tested; the commenter asserted, therefore, that we cannot be certain that a State or area classified as Class Free is free of brucellosis.

The regulations provide a system for classifying States or areas of States according to the rate of *Brucella* infection present and the general effectiveness of a brucellosis control and eradication program. To attain and maintain Class Free status, a State or area must, among other requirements, (1) remain free from field strain *Brucella abortus* infection for 12 consecutive months or longer; (2) trace back at least 90 percent of all brucellosis reactors found in the course of Market Cattle Identification (MCI) testing to the farm of origin; (3) successfully close at least 95 percent of the MCI reactor cases traced to the farm of origin during the consecutive 12-month period immediately prior to the most recent anniversary of the date the State or area was classified Class Free; and (4) have a specified surveillance system, as described above, including an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd. A full listing of the standards that a State must meet to be classified as Class Free may be found in the definition of *Class Free State* in § 78.1 of the regulations. We have no evidence that testing every animal, as the commenter suggests, would increase the accuracy of the classification system to a degree that would warrant the massive additional burden of testing every animal in a State or area.

The last brucellosis-infected cattle herd in Missouri was depopulated in October 2002. Since then, no brucellosis-affected herds have been detected. After reviewing the brucellosis program records for Missouri, we have concluded that this State meets the standards for Class Free status. Accordingly, the interim rule designated Missouri as a Class Free State for brucellosis, thereby relieving certain restrictions on the interstate movement of cattle from Missouri. We have no evidence that Missouri should not have been classified Class Free and the commenter did not provide any such evidence. We are making no changes in response to this comment.

The commenter asserted that our immediate action to change the

classification of Missouri from Class A to Class Free was not warranted.

It is important to reclassify States when they have met the criteria for reclassification as Class Free. This encourages cooperation and compliance with the brucellosis control and eradication program and regulations by relieving certain restrictions on the interstate movement of cattle when they are determined to be no longer necessary. We have no evidence indicating that Missouri does not meet the standards for being declared Class Free, and the commenter did not provide any such evidence. We are making no changes in response to this comment.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 69 FR 9747–9749 on March 2, 2004.

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 19th day of August, 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–19517 Filed 8–25–04; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9154]

RIN 1545–BD64

Extension of Time To Elect Method for Determining Allowable Loss

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations under section 1502 of the Internal Revenue Code of 1986. The temporary regulations extend the time for consolidated groups to elect to apply a method for determining allowable loss on a disposition of subsidiary stock, and permit consolidated groups to revoke such elections. The temporary regulations affect corporations filing consolidated returns, both during and after the period of affiliation, and also affect purchasers of the stock of members of a consolidated group. The text of these temporary regulations serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective August 26, 2004.

Applicability Date: For dates of applicability, see § 1.1502-20T(i)(6)(v).

FOR FURTHER INFORMATION CONTACT: Theresa Abell (202) 622-7700 or Martin Huck (202) 622-7750 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these regulations has been previously reviewed and approved by the Office of Management and Budget under control number 1545-1774. Responses to this collection of information are required to obtain a benefit. This collection of information is revised by these regulations. These amended regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the revised collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545-1774.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble of the cross-referencing notice of proposed

rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background and Explanation of Provisions

On March 7, 2002, the IRS and Treasury Department issued regulations (the 2002 regulations) permitting consolidated groups to calculate allowable loss or the basis reduction required on certain dispositions and deconsolidations of subsidiary stock by applying § 1.1502-20 in its entirety, § 1.1502-20 without regard to the duplicated loss factor of the loss disallowance formula, or § 1.337(d)-2T. If a consolidated group chose to apply either § 1.1502-20 without regard to the duplicated loss factor of the loss disallowance formula, or § 1.337(d)-2T, the 2002 regulations required the consolidated group to file an election under § 1.1502-20T(i) to apply the chosen provision. The 2002 regulations also included several correlative rules to address cases in which, as a result of the election, additional losses became available to the subsidiary the stock of which was disposed of.

Concurrently with the publication of these temporary regulations, the IRS and Treasury Department are publishing Notice 2004-58 (2004-39 I.R.B.) (September 27, 2004). That Notice sets forth a method that the IRS will accept for determining whether subsidiary stock loss is disallowed and subsidiary stock basis is reduced under § 1.337(d)-2T.

Given the availability of the method described in Notice 2004-58, the IRS and Treasury Department are publishing these temporary regulations to permit taxpayers to make, amend, or revoke elections under § 1.1502-20T(i). These temporary regulations give taxpayers the ability to take the Notice into account in choosing a method for determining allowable loss. In general these regulations allow taxpayers to elect into, or out of, the application of § 1.1502-20 in its entirety, § 1.1502-20 without regard to the duplicated loss factor of the loss disallowance formula, or § 1.337(d)-2T. Under these regulations, a taxpayer that was permitted to make an election under § 1.1502-20T(i), but did not previously make such an election, may make an election to apply either § 1.1502-20 without regard to the

duplicated loss factor, or § 1.337(d)-2T. These regulations also permit a taxpayer that previously made an election to apply § 1.1502-20 without regard to the duplicated loss factor to revoke the election and apply § 1.1502-20 in its entirety, or to amend the election in order to apply § 1.337(d)-2T. In addition, these regulations permit a taxpayer that previously made an election to apply § 1.337(d)-2T to revoke the election and apply § 1.1502-20 in its entirety or to amend the election in order to apply § 1.1502-20 without regard to duplicated loss factor. Finally, these regulations extend relief to acquiring groups by amending § 1.1502-32T(b)(4)(b)(vii)(C) to change its date of applicability from May 7, 2003, to August 26, 2004.

If a group revokes an election to apply either § 1.1502-20 without regard to the duplicated loss factor, or § 1.337(d)-2T, and applies § 1.1502-20 in its entirety, no election under § 1.1502-20(g) will be available, even if the group had previously made an election under § 1.1502-20(g) to reattribute losses of the subsidiary the stock of which was disposed of.

Pursuant to these regulations, an election under § 1.1502-20T(i) must be made, amended, or revoked by including the statement required with a timely filed (including extensions) original return for a taxable year that includes any date on or before August 26, 2004, or with or as part of an amended return filed before the date the original return for the taxable year that includes August 26, 2004, is due (including any extensions). The new election or the revocation or amendment of a prior election, however, only will affect open years.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. These temporary regulations provide relief to consolidated groups by extending the time to elect a method for determining allowable loss. The extension of time allows taxpayers to take into account concurrent guidance in choosing a method for determining allowable loss. It is necessary to provide the extension of time immediately. Accordingly, good cause is found for dispensing with prior notice and comment pursuant to 5 U.S.C. 553(b) and for dispensing with a delayed effective date pursuant to 5 U.S.C. 553(d). For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), see the notice of proposed

rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**. The IRS and Treasury Department request comments from small entities that believe they might be adversely affected by these regulations. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for the Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

The principal authors of these regulations are Theresa Abell and Martin Huck of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 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 1.1502–20T(i) is amended by:

- 1. Revising the first sentence of paragraph (i)(4).
- 2. Redesignating paragraph (i)(6) as (i)(7).
- 3. Adding new paragraph (i)(6).

The revision and addition read as follows:

§ 1.1502–20T Disposition or deconsolidation of subsidiary stock (temporary).

* * * * *

(i) * * *

(4) *Time and manner of making the election.* An election to determine allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(i) or (ii) of this section is made by including the statement required by this paragraph with or as part of any timely filed (including any extensions) original return for a taxable year that includes any date on or before August 26, 2004, or with or as part of an amended return filed before the date the original return for the taxable year that includes August 26, 2004, is due (including any extensions). * * *

* * * * *

(6) *Revocation or amendment of prior elections—(i) In general.*

Notwithstanding anything to the contrary in this paragraph (i), if a consolidated group made an election under paragraph (i) of this section to apply the provisions described in paragraph (i)(2)(i) or (ii) of this section, the consolidated group may revoke or amend that election as provided in this paragraph (i)(6).

(ii) *Time and manner of revoking or amending an election.* An election to apply the provisions described in paragraph (i)(2)(i) or (ii) of this section is revoked or amended by including the statement required by paragraph (i)(6)(iii) of this section with or as part of any timely filed (including any extensions) original return for a taxable year that includes any date on or before August 26, 2004, or with or as part of an amended return filed before the date the original return for the taxable year that includes August 26, 2004, is due (including any extensions).

(iii) *Required statement—(A) Revocation.* To revoke an election to apply the provisions described in paragraph (i)(2)(i) or (ii) of this section, the consolidated group must file a statement entitled “Revocation of Election Under Section 1.1502–20T(i).” The statement must include the name and employer identification number (E.I.N.) of the subsidiary and of the member(s) that disposed of the subsidiary stock.

(B) *Amendment.* To amend an election to apply the provisions described in paragraph (i)(2)(i) or (ii) of this section, the consolidated group must file a statement entitled “Amendment of Election Under Section 1.1502–20T(i).” The statement must include the following information—

(1) The name and employer identification number (E.I.N.) of the subsidiary and of the member(s) that disposed of the subsidiary stock; and

(2) The provision the taxpayer elects to apply to determine allowable loss or basis reduction (described in paragraph (i)(2)(i) or (ii) of this section).

(iv) *Special rule.* If a consolidated group revokes an election made under paragraph (i) of this section, an election described in § 1.1502–20(g) to reattribute losses will not be respected, even if such election was filed with the group’s return for the year of the disposition.

(v) This paragraph (i)(6) is applicable on and after August 26, 2004.

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■ **Par. 3.** Section § 1.1502–32T(b)(4)(vii)(C) is amended by removing the language “May 7, 2003”

and adding the language “August 25, 2004” each time it appears.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: August 19, 2004.

Gregory F. Jenner,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 04–19476 Filed 8–25–04; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 40, 41, 44, 45, 46, 70, and 275

[T.D. TTB–16]

RIN 1513–AA20

Importation of Tobacco Products and Cigarette Papers and Tubes; Recodification of Regulations; Administrative Changes Due to the Homeland Security Act of 2002 (2000R–546P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) is recodifying its regulations pertaining to the importation of tobacco products and cigarette papers and tubes. We are also making administrative changes to these regulations to reflect TTB’s new name and organizational structure resulting from changes made by the Homeland Security Act of 2002. This document does not include any substantive regulatory changes.

DATES: This rule is effective on August 26, 2004.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, telephone 415–271–1254 or e-mail: nancy.sutton@ttb.gov.

SUPPLEMENTARY INFORMATION:

Background

As a part of its continuing efforts to reorganize chapter I of title 27 of the Code of Federal Regulations (27 CFR chapter I), the Alcohol and Tobacco Tax and Trade Bureau (TTB) is removing all of part 275, Importation of Tobacco Products and Cigarette Papers and Tubes, from subchapter M, Alcohol, Tobacco and Other Excise Taxes, and recodifying it as part 41 in subchapter B, Tobacco. This change merely