reflects a classification permitting work. (See 8 CFR 274a.12 for Form I–94 classifications.) A nonimmigrant alien who has not been issued a Form I–94, or whose Form I–94 does not reflect a classification permitting work, must submit a current document authorized by the INS that verifies authorization to work has been granted, e.g., an employment authorization document, to enable SSA to issue an SSN card that is valid for work purposes.

5. Section 422.106 is amended by removing paragraph (b), redesignating paragraph (c) as paragraph (b), and by revising paragraph (a) to read as follows:

§ 422.106 Filing applications with other government agencies.

(a) *Agreements.* In carrying out its responsibilities to assign social security numbers, SSA enters into agreements with the United States Attorney General, other Federal officials, and State and local welfare agencies. An example of these agreements is discussed in paragraph (b) of this section.

* * * * *

6. Section 422.107 is amended by revising paragraph (a) and the seventh sentence of paragraph (e) to read as follows:

§ 422.107 Evidence requirements.

(a) *General.* An applicant for an original social security number card must submit documentary evidence which the Commissioner of Social Security regards as convincing evidence of age, U.S. citizenship or alien status, and true identity. An applicant for a duplicate or corrected social security number card must submit convincing documentary evidence of identity and may also be required to submit convincing documentary evidence of age and U.S. citizenship or alien status. An applicant for an original, duplicate, or corrected social security number card is also required to submit evidence to assist us in determining the existence and identity of any previously assigned number(s). A social security number will not be assigned, or an original, duplicate, or corrected card issued, unless all the evidence requirements are met. An in-person interview is required of an applicant who is age 18 or older applying for an original social security number except for an alien who requests a social security number as part of the immigration process as described in § 422.103(b)(3). An in-person interview may also be required of other applicants. All documents submitted as evidence must be originals or certified copies of the original documents and are subject to verification with the custodians of the original records.

* * * * *

(e) *Evidence of alien status.* * * * If the applicant requests the number for a nonwork purpose and provides evidence documenting that the number is needed for a valid nonwork purpose, the number may be assigned and the card issued will be annotated with a nonwork legend.* * *

* * * * *

7. Section 422.110 is revised to read as follows:

§ 422.110 Individual's request for change in record.

(a) *Form SS–5.* An individual who wishes to change the name or other personal identifying information previously submitted in connection with an application for a social security number card may complete and sign a Form SS–5 except as provided in paragraph (b) of this section. The person must prove his/her identity and may be required to provide other evidence. (See § 422.107 for evidence requirements.) A Form SS–5 may be obtained from any local social security office or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any SSA office, or, if the individual is outside the U.S., to the Department of Veterans Affairs Regional Office, Manila, Philippines, or to any U.S. foreign service post or U.S. military post. If the request is for a change in name, a new social security number card with the new name and bearing the same number previously assigned will be issued to the person making the request.

(b) *Assisting in enumeration.* SSA may enter into an agreement with officials of the Department of State and the Immigration and Naturalization Service to assist SSA by collecting as part of the immigration process information to change the name or other personal identifying information previously submitted in connection with an application or request for a social security number card. If the request is for a change in name, a new social security number card with the new name and bearing the same number previously assigned will be issued.

[FR Doc. 98–28289 Filed 10–21–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 900

[Docket No. 95N–0192]

RIN 0910–AA24

Quality Mammography Standards; Correcting Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: The Food and Drug Administration (FDA) is correcting its regulations governing mammography, published in a document entitled ''Quality Mammography Standards'' that appeared in the **Federal Register** of October 28, 1997. The regulations are effective April 28, 1999; except § 900.12(b)(8)(i), (e)(4)(iii)(B), and (e)(5)(i)(B), which become effective October 28, 2002. The October 28, 1997, document was published with some inadvertent typographical errors. Some of those errors were corrected in a document entitled ''Quality Mammography Standards; Correction'' that appeared in the **Federal Register** of November 10, 1997, but additional typographical errors occurred in the publication of this document. In addition, since November 10, 1997, certain other problems with the text of the regulations have been identified that, if uncorrected, would lead to unforeseen and undesirable consequences. This document corrects those errors.

EFFECTIVE DATE: The corrections are effective April 28, 1999, except corrections to § 900.12(b)(8)(i), (e)(4)(iii)(B), and (e)(5)(i)(B), which become effective October 28, 2002.

FOR FURTHER INFORMATION CONTACT: Roger L. Burkhart, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332.

SUPPLEMENTARY INFORMATION:

I. Background

The Mammography Quality Standards Act (the MQSA) (Pub. L. 102–539) was signed on October 27, 1992, to establish national quality standards for mammography. The MQSA required that, to provide mammography services legally after October 1, 1994, all facilities, except facilities of the Department of Veterans Affairs, be accredited by an approved accreditation

body and certified by the Secretary of Health and Human Services (the Secretary). The authority to approve accreditation bodies and to certify facilities was delegated by the Secretary to FDA.

A specific requirement of the MQSA was that quality standards be established for mammographic equipment and practices, including quality assurance and quality control programs. Mammography facilities had to meet these standards to become accredited and certified. The standards were intended to replace the patchwork of Federal, State, and private standards existing in 1992 to ensure that all women nationwide receive high quality mammography services.

On December 14, 1993, the President signed legislation granting interim rule authority to the Secretary (and by delegation to FDA) to issue interim quality standards under the MQSA. In the **Federal Register** of December 21, 1993 (58 FR 67558 and 67565), FDA issued rules establishing interim standards for the approval of accreditation bodies and for the certification of mammography facilities. These standards were amended by another interim rule published in the **Federal Register** of September 30, 1994 (59 FR 49808). Since October 1, 1994, the effective date of the MQSA requirements, these interim standards have governed the approval of accreditation bodies and the accreditation and certification of mammography facilities.

On April 3, 1996, FDA proposed final regulations to replace the interim regulations (61 FR 14856, 14870, 14884, 14898, and 14908). Developed with strong congressional encouragement, these proposed final regulations reflected FDA's belief that more comprehensive quality standards would further optimize facility performance. After analysis of the extensive public comments received on the proposed regulations, revisions were made and a final rule was published on October 28, 1997 (62 FR 55852). The effective date for most of the final rule is April 28, 1999. A few equipment and equipment quality assurance requirements do not become effective until October 28, 2002.

During the preparation of the final rule for publication, a number of typographical errors, some with a significant impact, occurred. Some of these errors were corrected in a republication of November 10, 1997 (62 FR 60614), but in the process additional errors occurred. In the subsequent months, further errors have been discovered and certain other problems, with unforeseen significant consequences, have been identified. The purpose of the amendments is to correct these remaining problems in part 900 (21 CFR part 900).

II. Need for Amendments

A. Section 900.2(d)—Air Kerma

In the definition of ''air kerma,'' an editorial error in the November 10, 1997, republication led to the radiation dose unit, the rad, being identified as an abbreviation for the angular measurement unit of the radian. The amendment eliminates mention of the radian. The opportunity to amend this definition was also used to more precisely state the relationship between the several radiation quantities and units. The equal sign between 1 Gray and 114 roentgens was replaced with the statement that ''In air, 1 Gy of absorbed dose is delivered by 114 roentgens (R) of exposure.''

B. Section 900.12(a)(2)(ii)—Mammography Requirements

This paragraph provides alternative ways for the technologist to meet the requirement to have adequate initial training in the performance of mammography examinations. The technologist must complete at least 40 hours of training specific to mammography, including training and experience in certain identified areas, or ''* * * prior to April 28, 1999 must have qualified as a radiologic technologist under paragraph (a)(2) of this section * * *.'' Under the second option, qualification as a radiologic technologist would have to have been achieved under the interim regulations, as they are effective until April 28, 1999. A reader could, however, misinterpret this reference to paragraph (a)(2) as meaning (a)(2) of the final regulations. To avoid such a misinterpretation, FDA is clarifying this requirement by adding the words ''of FDA's interim regulations'' after the word ''section.'' This would make the wording of this ''grandparenting'' provision identical with that used in defining a similar grandparenting provision for interpreting physicians.

C. Section 900.12(a)(2)(iv) and (a)(3)(iii)(B)—Continuing Experience Requirements of the Radiologic Technologist and the Medical Physicist

The present wording of the final rule requires that these requirements be met ''following the second anniversary date of the end of the calender quarter'' during which the technologist or physicist's initial requirements were met ''or of October 28, 1997, whichever is later.'' For most radiologic technologists and medical physicists, this wording means that they would be checked during inspections for compliance with this requirement beginning after January 1, 2000. This date is well after the effective date of the regulations; however, for some time after this date, the 24-month averaging period, during which compliance would be assessed, begins before the effective date of the final rule. To avoid such a retroactive effect of the regulation, the date in these two provisions is changed from October 28, 1997 (the date of publication of the final rule), to April 28, 1999 (the effective date of the final rule). This means that checking for compliance with these requirements during inspections will begin after June 30, 2001, and in all cases, the 24-month averaging period will fall completely after April 28, 1999.

The phrase ''preceding the inspection,'' which should have modified the calendar quarter by the end of which a radiologic technologist or medical physicist must meet certain requirements, was also erroneously omitted in these two sections. FDA is amending these sections to include this phrase. The options for the continuing experience requirement, thus would read ''* * * the 24 months immediately preceding the date of the facility's annual MQSA inspection or the last day of the calendar quarter preceding the inspection or any date in between * * *.'' This will eliminate any confusion over what calendar quarter is referred to. It will also make the wording of the end point options identical to those for the continuing experience requirement of the interpreting physician and to those of the continuing education requirement for interpreting physicians, radiologic technologists, and medical physicists, as was intended.

D. Section 900.12(a)(3)(iii)(B)—Continuing Experience of the Medical Physicist

A typographical error led to the word ''or'' in ''* * * within a 10-month period or a specific unit * * *'' being changed to ''on,'' significantly confusing the meaning of the requirement. Similarly the phrase ''the total mammography unit survey,'' preceding the word ''requirement,'' was not replaced with ''this'' as intended, again leading to confusion over the exact requirement. The amendments replace ''on'' with ''or'' and replace ''the total mammography units survey'' with ''this.''

E. Section 900.12(c)(4)(i)—Maintenance of Records

A typographic error of serious consequences was made in the citation in this provision to ''paragraph (c)(3)(ii) of this section.'' The citation should be to ''paragraph (c)(4)(ii).''

F. Section 900.12(c)(4)(ii)—Transfer of Records

The editor's note to move the word ''by'' from this requirement from after to before the words ''on behalf of'' was not accomplished during the final production of the document. The amendment moves this word, thus making the requirement clearer.

G. Section 900.12(d)(2)—Quality Assurance Records

As discussed in the preamble to the final regulations (62 FR 55852 at 55936 and 55937), the recordkeeping requirements for the quality assurance program contained in the proposed final regulations, published April 3, 1996, were simplified in the final regulations. The rewording unfortunately created two possible interpretations of the list of records that must be kept. The intended interpretation is that the records ''concerning employee qualifications to meet assigned quality assurance tasks'' would be the first on the list of categories of required records that continues with the categories of ''mammography techniques and procedures, quality control * * *.'' However, it is also possible to interpret this as saying that the required records are of employee qualifications to meet assigned quality assurance tasks, employee qualifications for mammography techniques and procedures, employee qualifications for quality control, and so forth. Two changes were made in order to leave only the interpretation that the preamble discussion shows was intended. First, the words ''employee qualifications to meet assigned quality assurance tasks'' was moved from first to last in the list of records that must be kept. Second, the word ''these'' beginning the second sentence of the requirement was changed to ''the.''

H. Section 900.12(e)(1)—Daily Quality Control Tests

The preamble to the final regulations (62 FR 55852 at 55938) stated that the agency would replace the word ''examinations'' with ''films'' and the word ''performed'' with ''processed.'' Each word appeared twice in the paragraph, but only one set of words was replaced. FDA is now amending the rule to change the remaining set of words.

I. Section 900.12(e)(4)(iii)(B)—Compression Force After October 28, 2002

The proposed final regulations, published April 3, 1996, required that 5 years after publication, the compression device shall provide a maximum compression from the power drive of between 111 newtons (25 pounds) and 200 newtons (45 pounds). As pointed out at two places (62 FR 55852 at 55942) of the preamble to the final regulations, after a review of the comments received on this portion of the proposal, it was decided to retain this requirement in the final rule. In the regulations themselves, however, the upper limit was mistakenly stated as 209 newtons (47 pounds). FDA is changing this figure to the intended value of 200 newtons (45 pounds).

J. Section 900.12(e)(8)(ii)(A)—Tests Whose Failure Means That Corrective Actions Must be Carried Out Before Use of the Failed Component in Clinical Examinations

The proposed final regulations of April 3, 1996, in § 900.12(e)(8)(ii) had required that corrective action be carried out before further clinical use of the failed component, no matter which of the quality control tests required in other parts of § 900.12(e) was failed. As discussed in (62 FR 55852 at 55942 and 55947) the preamble to the final rule, numerous comments were made on this requirement, which also received significant attention from the National Mammography Quality Assurance Advisory Committee (NMQAAC). After consideration of the information provided to it, FDA concluded that failure of only some tests was serious enough to require corrective action before further use and that to apply this requirement to all tests would disrupt facility operations without achieving a compensating benefit. In the final regulations, the agency divided the quality control tests into two groups. Section 900.12(e)(8)(ii)(A) lists those tests whose failure is considered serious enough that the corrective actions must be carried out before the failed component of the mammography system is used for further patient examinations. Section 900.12(e)(8)(ii)(B) lists those tests for which it was believed the corrective action could be delayed for up to 30 days without presenting a serious threat to the public health.

Some errors were made in the editing of the regulations, however, that caused them to depart from the division of the tests into the two groups described in the preamble. The test required by § 900.12(e)(4)(i) was mistakingly listed in § 900.12(e)(8)(ii)(A) as § 900.12(e)(5)(ii) and the tests in § 900.12(e)(5)(iii) and § 900.12(e)(5)(v) were also mistakenly included in this group. FDA is amending § 900.12(e)(8)(ii)(A) so that it correctly reflects the division of the tests into the two groups described in the preamble.

K. Section 900.12(e)(10)—Mammography Equipment Evaluations

A typographical error will be corrected in the first sentence of this paragraph by changing the word ''dissembled'' to ''disassembled.''

L. Section 900.12(f)(3)—Reviewing Interpreting Physician for the Medical Outcome Audit

An edit in the sequence of words ''for documenting the results and for notifying other interpreting physicians'' in this provision was overlooked in the final preparation of the regulations for publication. As a result, a comma appeared instead of the words ''and for'' making the sentence in which these words occur appear to be incomplete. FDA is amending the regulation to eliminate this error.

III. Environmental Impact

The agency has previously determined under 21 CFR 25.30(i) that this final rule is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement was required. The changes in these amendments do not alter this conclusion.

IV. Analysis of Impacts

FDA has examined the impact of this rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, this rule is not a significant regulatory action as defined by the Executive Order and so is not

subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The agency certifies that this final rule will not have a significant negative economic impact on a substantial number of small entities. This rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any 1 year.

FDA had previously estimated (62 FR 55852 at 55968) that the expected average annual benefits from the final regulations would range between $181.7 to $262.7 million. Average annual compliance costs were estimated at $38.2 million.

The amendment to § 900.12(e)(4)(iii)(B) may act to reduce costs somewhat from the changes estimated as presumably a compression limit of 200 newtons can be achieved at less cost than the present limit of 209 newtons. However, the change in the requirement is relatively minor and so the costs savings are not likely to be significant. None of the other amendments will change the estimates of compliance costs.

In summary, the effect of the amendments, if any, would be to reduce very slightly the estimated average annual compliance level of $38.2 million.

V. Paperwork Reduction Act of 1995

FDA has determined that this final rule contains no additional collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 900

Electronic products, Health facilities, Medical devices, Radiation protection, Reporting and recordkeeping requirements, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 900 is amended as follows:

PART 900—MAMMOGRAPHY

1. The authority citation for 21 CFR part 900 continues to read as follows:

Authority: 21 U.S.C. 360i, 360nn, 374(e); 42 U.S.C. 263b.

2. Section 900.2 is amended by revising paragraph (d) to read as follows:

§ 900.2 Definitions.

* * * * *

(d) *Air kerma* means kerma in a given mass of air. The unit used to measure the quantity of air kerma is the Gray (Gy). For X-rays with energies less than 300 kiloelectron volts (keV), 1 Gy = 100 rad. In air, 1 Gy of absorbed dose is delivered by 114 roentgens (R) of exposure.

* * * * *

3. Section 900.12 is amended by revising the first sentence of paragraph (a)(2)(ii), paragraphs (a)(2)(iv)(A) and (a)(3)(iii)(B); by removing ''(c)(3)(ii)'' from paragraph (c)(4)(i) and adding in its place ''(c)(4)(ii)''; by revising paragraphs (c)(4)(ii), the first sentence of paragraph (d)(2), the introductory text of paragraph (e)(1), paragraphs (e)(4)(iii)(B), and (e)(8)(ii)(A), the first sentence of paragraph (e)(10), and paragraph (f)(3) to read as follows:

§ 900.12 Quality standards.

(a) * * *

(2) * * *

(ii) Mammography requirements. Have, prior to April 28, 1999, qualified as a radiologic technologist under paragraph (a)(2) of this section of FDA's interim regulations of December 21, 1993, or completed at least 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor. * * *

* * * * *

(iv) Continuing experience requirements. (A) Following the second anniversary date of the end of the calendar quarter in which the requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this section were completed or of April 28, 1999, whichever is later, the radiologic technologist shall have performed a minimum of 200 mammography examinations during the 24 months immediately preceding the date of the facility's annual inspection or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 24-month period.

* * * * *

(3) * * *

(iii) * * *

(B) Continuing experience. Following the second anniversary date of the end of the calendar quarter in which the requirements of paragraphs (a)(3)(i) and (a)(3)(ii) of this section were completed or of April 28, 1999, whichever is later, the medical physicist shall have surveyed at least two mammography facilities and a total of at least six mammography units during the 24 months immediately preceding the date of the facility's annual MQSA inspection or the last day of the calender quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 24-month period. No more than one survey of a specific facility within a 10-month period or a specific unit within a period of 60 days can be counted towards this requirement.

* * * * *

(c) * * *

(4) * * *

(ii) Shall upon request by, or on behalf of, the patient, permanently or temporarily transfer the original mammograms and copies of the patient's reports to a medical institution, or to a physician or health care provider of the patient, or to the patient directly;

* * * * *

(d) * * *

(2) *Quality assurance records.* The lead interpreting physician, quality control technologist, and medical physicist shall ensure that records concerning mammography technique and procedures, quality control (including monitoring data, problems detected by analysis of that data, corrective actions, and the effectiveness of the correction actions), safety, protection, and employee qualifications to meet assigned quality assurance tasks are properly maintained and updated.

* * *

* * * * *

(e) *Quality assurance—equipment—* (1) *Daily quality control tests.* Film processors used to develop mammograms shall be adjusted and maintained to meet the technical development specifications for the mammography film in use. A processor performance test shall be performed on each day that clinical films are processed before any clinical films are processed that day. The test shall include an assessment of base plus fog density, mid-density, and density difference, using the mammography film used clinically at the facility.

* * * * *

(4) * * *

(iii) * * *

(B) Effective October 28, 2002, the maximum compression force for the initial power drive shall be between 111 newtons (25 pounds) and 200 newtons (45 pounds).

* * * * *

(8) * * *

(ii) * * *

(A) Before any further examinations are performed or any films are processed using a component of the mammography system that failed any of the tests described in paragraphs (e)(1), (e)(2), (e)(4)(i), (e)(4)(ii), (e)(4)(iii), (e)(5)(vi), (e)(6), or (e)(7) of this section;

* * * * *

(10) *Mammography equipment evaluations.* Additional evaluations of mammography units or image processors shall be conducted whenever a new unit or processor is installed, a unit or processor is disassembled and reassembled at the same or a new location, or major components of a mammography unit or processor equipment are changed or repaired.

* * *

* * * * *

(f) * * *

(3) *Reviewing interpreting physician.* Each facility shall designate at least one interpreting physician to review the medical outcomes audit data at least once every 12 months. This individual shall record the dates of the audit period (s) and shall be responsible for analyzing results based on this audit. This individual shall also be responsible for documenting the results and for notifying other interpreting physicians of their results and the facility aggregate results. If followup actions are taken the reviewing interpreting physician shall also be responsible for documenting the nature of the followup.

* * * * *

Dated: October 6, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–28148 Filed 10–21–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301, and 602

[TD 8787]

RIN 1545–AU71

Basis Reduction Due to Discharge of Indebtedness

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that provide ordering rules for the reduction of bases of property under sections 108 and 1017 of the Internal Revenue Code of 1986. The regulations will affect taxpayers that exclude discharge of indebtedness income from gross income under section 108.

DATES: *Effective Date:* These regulations are effective October 22, 1998.

Applicability Date: These regulations apply to discharges of indebtedness occurring on or after October 22, 1998 and to elections under section 108(b)(5) concerning discharges of indebtedness occurring on or after October 22, 1998.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations generally, Sharon L. Hall or Christopher F. Kane of the Office of Assistant Chief Counsel (Income Tax & Accounting) at (202) 622–4930; concerning partnership adjustments under section 1017, Matthew Lay of the Office of Assistant Chief Counsel (Passthroughs & Special Industries) at (202) 622–3050.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this final regulation have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1539. Responses to these collections of information are required to obtain a benefit.

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

The estimated annual burden per respondent is 1 hour.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

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

This final regulation contains amendments to the income tax regulations (26 CFR Parts 1 and 301) under sections 108 and 1017 of the Internal Revenue Code of 1986 (Code). The amendments conform the regulations to amendments to sections 108 and 1017 made by the Bankruptcy Tax Act of 1980, Public Law 96–589, §§ 2, 94 (Stat. 3389 (1980)); 1980–2 C.B. 607 (Bankruptcy Tax Act); the Technical Corrections Act of 1982, Public Law 97–448, § 102(h)(1), 96 (Stat. 2365, 2372 (1983)); 1983–1 C.B. 451; the Deficit Reduction Act of 1984, Public Law 98–369, sections 474(r)(5) and 721(b)(2), 98 (Stat. 494, 839, 966 (1984)); 1984–3 C.B. (Vol. 1) 1; the Tax Reform Act of 1986, Public Law 99–514, sections 104(b)(2), 231(d)(3)(D), 822, and 1171(b)(4), 100 (Stat. 2085, 2105, 2179, 2373, 2513 (1986)); 1986–3 C.B. (Vol. 1) 2; and the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, section 13150, 107 (Stat. 312, 446 (1993)); 1993–3 C.B. 1.

On January 7, 1997, proposed regulations (REG 208172–91), were published in the **Federal Register** (62 FR 955). Written comments were received in response to the notice of proposed rulemaking. One speaker provided testimony at a public hearing held on May 29, 1997.

After consideration of all the comments, the proposed regulations under sections 108 and 1017 are adopted, as revised by this Treasury decision.

Explanation of Revisions and Summary of Comments

1. Basis Reduction Limited to Fair Market Value

One commentator requested that basis reduction be limited to fair market value as provided by § 1.1016–7(a) (as removed by this regulation). The final regulations do not adopt this recommendation. Section 1017, as enacted by the Bankruptcy Tax Act, fundamentally changed the rules relating to basis reduction where discharge of indebtedness income (cancellation of debt (COD) income) is excluded from gross income. The revised statute, in section 1017(b)(2), provides only one limitation on basis reduction for insolvent and bankrupt taxpayers who do not make an election under section 108(b)(5). Under that rule, the basis reduction may not exceed the excess of the aggregate of the bases of the property held by the taxpayer immediately after the discharge over the aggregate of the liabilities of the taxpayer immediately after the discharge. The fair market value limitation found in the regulations removed by this Treasury decision is not reflected in section 1017. Accordingly, the IRS and Treasury