

**ACTION:** Final rule; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a final rule that appeared in the Federal Register of February 15, 1995 (60 FR 8916). The document established that any over-the-counter (OTC) drug product for the prevention of swimmer's ear or for the drying of water-clogged ears is not generally recognized as safe and effective and is misbranded. The document was published with a typographical error in the codified section. This document corrects that error.

**EFFECTIVE DATE:** August 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** William E. Gilbertson, Center for Drug Evaluation and Research (HFD-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5000.

In FR Doc. 95-3803, appearing on page 8916, in the Federal Register of Wednesday, February 15, 1995, the following correction is made:

**§ 310.545 [Corrected]**

1. On page 8920, in the third column, under § 310.545, in paragraph (d)(1), in lines 2 and 3, "(a)(1) through (a)(2)(i), (a)(3) through (a)(4)" is corrected to read "(a)(1) through (a)(4)".

Dated: April 24, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-10542 Filed 4-27-95; 8:45 am]

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## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8594]

RIN 1545-AS97

### Losses on Small Business Stock

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations amending regulations under section 1244 relating to losses on small business stock. The final regulations remove the requirement that a taxpayer claiming a section 1244 ordinary loss file an information statement with the taxpayer's income tax return.

**DATES:** These regulations are effective April 27, 1995.

For dates of applicability of these regulations, see "Effective Date" under

**SUPPLEMENTARY INFORMATION** portion of preamble.

**FOR FURTHER INFORMATION CONTACT:** Kirsten L. Simpson, (202) 622-7790 (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-1447. The estimated annual burden per recordkeeper varies from .10 hours to .30 hours, depending on individual circumstances, with an estimated average of .20 hours.

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, PC: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.

#### Background

On November 15, 1994, a notice of proposed rulemaking (CO-46-94), amending regulations under section 1244 of the Internal Revenue Code relating to losses on small business stock, was published in the Federal Register (59 FR 58800). No public hearing was requested or held.

One written comment responding to the notice was received. The comment was favorable. The regulations proposed by CO-46-94 are adopted without revision by this Treasury decision.

#### Explanation of Provision

Section 1.1244(e)-1(b) of the Income Tax Regulations is revised to eliminate the requirement that a taxpayer file an information statement with the taxpayer's income tax return. However, because a taxpayer who claims an ordinary loss under section 1244 still bears the burden of establishing that the deduction is proper, § 1.1244(e)-1(b) is revised to state that a person who claims an ordinary loss with respect to stock under section 1244 must have records sufficient to establish that the taxpayer is entitled to the loss and satisfies the requirements of section 1244.

#### Effective Date

These regulations are effective for open taxable years beginning after December 31, 1953, the effective date of

Treasury Decision 6495, which prescribed regulations under section 1244.

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

### Drafting Information

The principal author of these regulations is Kirsten L. Simpson, Office of Assistant Chief Counsel (Corporate), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

### List of Subjects

#### 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### 26 CFR Part 602

Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

## PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805 \* \* \* Section 1.1244(e)-1 also issued under 26 U.S.C. 1244(e). \* \* \*

**Par. 2.** Section 1.1244(e)-1 is amended as follows:

1. The section heading is revised.
2. In paragraph (a)(1), the reference in the second sentence to "paragraph (c)(2) of § 1.1244(c)-2" is removed and "§ 1.1244(c)-2(b)(2)" is added in its place.
3. Paragraph (b) is revised.

The revisions read as follows:

#### § 1.1244(e)-1 Records to be kept.

\* \* \* \* \*

(b) *By the taxpayer.* A person who claims an ordinary loss with respect to

stock under section 1244 must have records sufficient to establish that the taxpayer is entitled to the loss and satisfies the requirements of section 1244. See also section 6001, requiring records to be maintained.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

**Par. 3.** The authority citation for part 602 continues to read as follows:

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

**Par. 4.** In § 602.101, paragraph (c) is amended by revising the entry in the table for § 1.1244(e)-1 to read as follows:

1.1244(e)-1 .....	1545-0123
	1545-1447

Margaret Milner Richardson,  
*Commissioner of the Internal Revenue.*

Dated: March 27, 1995.

Leslie Samuels,

*Assistant Secretary for the Treasury.*

[FR Doc. 95-10424 Filed 4-27-95; 8:45 am]

BILLING CODE 4830-01-U

**26 CFR Part 301**

[TD 8595]

RIN 1545-A124

**Payment of Internal Revenue Tax by Check or Money Order and Liability of Financial Institutions for Unpaid Taxes**

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations regarding payments with respect to internal revenue taxes and internal revenue stamps by check or money order. Changes to the applicable tax law were made by the Tax Reform Act of 1984 (TRA). The amendments, which are intended to conform the regulations to the change in the statute, apply to persons making payments with respect to internal revenue taxes or stamps by check or money order and to financial institutions that issue or guarantee payment of checks or money orders.

**EFFECTIVE DATE:** August 19, 1994.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Walker, 202-622-3640 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

**Background**

These final regulations contain changes to § 301.6311-1 to reflect amendments made to section 6311 by

section 448(a) of the Tax Reform Act of 1984, Pub. L. 98-369 (TRA). The IRS published a notice of proposed rulemaking in the *Federal Register* on August 22, 1994, (59 FR 43073) providing proposed rules under section 6311 of the Internal Revenue Code (Code). No public comments were received, and the final regulations are identical to the proposed regulations.

**Explanation of Provisions**

Section 6311(a) of the Code provides that the IRS may receive for internal revenue taxes, or in payment for internal revenue stamps, checks or money orders, to the extent and under the conditions specified in the regulations. The regulations relating to payment by check refer only to checks drawn on a domestic bank or trust company.

If money orders or certain kinds of checks tendered in payment are not duly paid, then section 6311(b)(2) provides the United States with a lien against all the assets of the drawee or issuer for the amount of the check or money order. Before its amendment, this rule applied, in the case of checks, only with respect to certified, treasurer's or cashier's checks drawn on a bank or trust company. Section 448(a) of TRA expanded section 6311(b)(2) to include guaranteed drafts drawn on financial institutions other than banks and trust companies.

The amendments to the regulations reflect the TRA change and clarify that payment may be made by check or draft drawn on any domestic financial institution. In addition, the regulations provide a definition of "financial institution." Since the Bureau of Alcohol, Tobacco, and Firearms has issued, under 27 CFR, its own separate regulations governing payment by check or money order, provisions of these regulations referring to the Bureau of Alcohol, Tobacco, and Firearms have been removed.

**Special Analyses**

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business

Administration for comment on its impact on small business.

**Drafting Information**

The principal author of these final regulations is Robert A. Walker, Office of Assistant Chief Counsel (General Litigation). However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 301 is amended as follows:

**PART 301—PROCEDURE AND ADMINISTRATION**

**Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

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

**Par. 2.** Section 301.6311-1 is amended by:

1. Revising the first, second, and last sentences of paragraph (a)(1)(i).
2. Revising paragraph (a)(2).
3. Removing paragraph (a)(3).
4. Revising paragraph (b).
5. Adding paragraphs (d) and (e).

The additions and revisions read as follows:

**§ 301.6311-1 Payment by check or money order.**

- (a) \* \* \*
- (1) \* \* \*

(i) District directors, Service Center directors, and Compliance Center directors (director) may accept checks or drafts drawn on any financial institution incorporated under the laws of the United States or under the laws of any State, the District of Columbia, or any possession of the United States, or money orders in payment for internal revenue taxes, provided the checks, drafts, or money orders are collectible in United States currency at par, and subject to the further provisions contained in this section. The director may accept the checks, drafts, or money orders in payment for internal revenue stamps to the extent and under the conditions prescribed in paragraph (a)(2) of this section. \* \* \* However, the director may refuse to accept any personal check whenever he or she has good reason to believe that such check will not be honored upon presentment.

\* \* \* \* \*