

**§ 522.2477 Trenbolone acetate and estradiol.**

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(i) \* \* \*

(B) 140 mg trenbolone acetate and 14 mg estradiol (one implant consisting of 8 pellets, each of 7 pellets containing 20 mg trenbolone acetate and 2 mg estradiol, and 1 pellet containing 29 mg tylosin tartrate) per implant dose for use as in paragraphs (d)(2)(ii)(A) of this section.

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Dated: July 8, 2003.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 9078]

**RIN 1545-AY76**

**Qualified Subchapter S Trust Election for Testamentary Trusts**

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to a qualified subchapter S trust election for testamentary trusts under section 1361 of the Internal Revenue Code. The Small Business Job Protection Act of 1996 and the Taxpayer Relief Act of 1997 made changes to the applicable law. The final regulations affect S corporations and their shareholders.

**DATES:** *Effective Date:* These regulations are effective July 17, 2003.

*Applicability Date:* For dates of applicability of these regulations, see § 1.1361-1(k)(2)(i) and (ii).

**FOR FURTHER INFORMATION CONTACT:**

Concerning the final regulations, Deane M. Burke, (202) 622-3070 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

This document amends section 1361 of the Income Tax Regulations (26 CFR part 1) regarding a qualified subchapter S trust (QSST) election for testamentary trusts and the definition of testamentary trusts.

On August 24, 2001, a notice of proposed rulemaking (REG-106431-01,

2001-2 C.B. 272) relating to QSST elections for testamentary trusts and the period for which former qualified subpart E trusts and testamentary trusts may be permitted shareholders under section 1361 was published in the **Federal Register** (66 FR 44565). No public hearing was requested. Comments responding to the proposed regulations were received. After consideration of the comments, the proposed regulations are adopted as revised by this Treasury decision.

Section 1361(a) defines an S corporation as a small business corporation for which an election under section 1362(a) is in effect for the year. Section 1361(b) provides, in part, that a small business corporation is a domestic corporation that is not an ineligible corporation and that does not have as a shareholder a person (other than an estate, a trust described in section 1361(c)(2), or an organization described in section 1361(c)(6)) who is not an individual. Under section 1361(c)(2), qualified subpart E trusts and testamentary trusts are permitted S corporation shareholders. A qualified subpart E trust is a trust, all of which is treated (under subpart E of part I of subchapter J, chapter 1) as owned by an individual who is a citizen or resident of the United States. A qualified subpart E trust that continues in existence after the death of the deemed owner (former qualified subpart E trust) is a permitted shareholder, but only for the 2-year period beginning on the day of the deemed owner's death. A testamentary trust is a trust to which S corporation stock is transferred pursuant to the terms of a will, but only for the 2-year period beginning on the day the stock is transferred to the trust.

**Summary of Comments and Explanation of Provisions**

These final regulations are substantially the same as the proposed regulations, but reflect certain revisions based on the comments that were received. The revisions are discussed below.

The proposed regulations provide that a former qualified subpart E trust is a permitted shareholder of an S corporation for the 2-year period beginning on the day of the deemed owner's death. In addition, the proposed regulations provide that a testamentary trust is also a permitted shareholder of an S corporation for the 2-year period beginning on the day the stock is transferred to the testamentary trust. If a former qualified subpart E trust or a testamentary trust continues to own stock after the expiration of the 2-year period during which it is a permitted

shareholder, the corporation's S election will terminate unless the trust otherwise qualifies as a permitted shareholder. The trust might otherwise qualify as a permitted shareholder if, for example, the trust is a QSST that has an election under section 1361(d)(2) in effect at the end of the 2-year period (an electing QSST).

One commentator suggested that certain sections of the proposed regulations should be clarified because those sections indicate that if a former qualified subpart E trust or a testamentary trust continues to own stock of an S corporation after the 2-year period and is not otherwise a qualified subpart E trust or an electing QSST, the trust is not a permitted shareholder. The commentator noted that a former qualified subpart E trust or a testamentary trust that continues to own stock after the 2-year period could also be a permitted shareholder if the trust is an electing small business trust (ESBT) at the end of the 2-year period. The sections of the proposed regulations for which the commentator suggested clarification, however, address rules regarding QSSTs. Section 1.1361-1(m) of the Income Tax Regulations addresses rules regarding ESBTs. The final regulations clarify that if a former qualified subpart E trust or a testamentary trust continues to own stock of an S corporation after the 2-year period and is not otherwise a qualified subpart E trust, an electing QSST, or an ESBT, the trust is not a permitted shareholder. Additionally, the final regulations clarify that a QSST or an ESBT election may be made for a former qualified subpart E trust or a testamentary trust that qualifies as a QSST or an ESBT.

Another commentator suggested that after August 5, 1997, the effective date of section 645, a testamentary trust should also include a trust that receives S corporation stock from a qualified revocable trust (QRT) for which an election under section 645 has been made (an electing trust). Under section 645, an electing trust is treated and taxed as part of the decedent's estate (and not as a separate trust) for purposes of subtitle A of the Code for all taxable years of the estate during the section 645 election period. The section 645 election period begins on the date of the decedent's death and generally terminates on the day before the applicable date described in section 645(b)(2). Section 1.645-1(h)(1) provides that on the close of the last day of the election period the share comprising the electing trust is deemed to be distributed to a new trust.