

cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

#### List of Subjects

##### 21 CFR Part 556

Animal drugs, Foods.

##### 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 556 and 558 are amended as follows:

#### PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 1. The authority citation for 21 CFR part 556 continues to read as follows:

**Authority:** 21 U.S.C. 342, 360b, 371.

■ 2. Section 556.346 is added to read as follows:

##### § 556.346 Laidlomycin.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of laidlomycin is 7.5 micrograms per kilogram of body weight per day.

(b) *Tolerance.* The tolerance for parent laidlomycin (the marker residue) in the liver (the target tissue) of cattle is 0.2 part per million (ppm).

#### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 3. The authority citation for 21 CFR part 558 continues to read as follows:

**Authority:** 21 U.S.C. 360b, 371.

■ 4. Section 558.305 is amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e); and by adding new paragraph (c) to read as follows:

##### § 558.305 Laidlomycin.

\* \* \* \* \*

(c) *Tolerances.* See § 556.346 of this chapter.

\* \* \* \* \*

Dated: July 7, 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 9080]

RIN 1545–BC47

#### Reduction of Tax Attributes Due to Discharge of Indebtedness

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

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains regulations relating to the reduction of tax attributes under sections 108 and 1017 of the Internal Revenue Code. These temporary regulations affect taxpayers that exclude discharge of indebtedness income from gross income under section 108. The text of the temporary regulations also 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 temporary regulations are effective July 17, 2003.

*Applicability Date:* These temporary regulations apply to discharges of indebtedness occurring after July 17, 2003.

**FOR FURTHER INFORMATION CONTACT:** Theresa M. Kolish (202) 622–7930 of the Office of the Associate Chief Counsel (Corporate) (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *The Debt Discharge Rules*

Pursuant to section 61(a)(12), gross income includes income from the discharge of indebtedness (COD income). Section 108(a)(1), which reflects the amendments enacted in the Bankruptcy Tax Act of 1980, Public Law 96–589, section 2, 94 Stat. 3389 (1980) (1980–2 C.B. 607), however, provides that, where the discharge occurs in a title 11 case, where the taxpayer is insolvent, or where the indebtedness is "qualified farm indebtedness" or "qualified real property business indebtedness," gross income does not include any amount that otherwise would be includible in gross income by reason of that discharge (in whole or in part) of the indebtedness of the taxpayer.

Although section 108(a) excludes COD income from gross income under those circumstances, section 108(b) requires the reduction of certain tax

attributes in an amount that reflects the amount excluded from gross income, thereby generally deferring, rather than permanently eliminating, the inclusion of COD income. Section 108(b)(2) requires the reduction of the following tax attributes of the taxpayer in the following order: (A) Net operating losses; (B) general business credits; (C) minimum tax credits; (D) capital loss carryovers; (E) adjusted basis of property; (F) passive activity losses and credit carryovers; and (G) foreign tax credit carryovers. Section 108(b)(4)(A) provides that the reductions are made after the determination of the tax imposed for the taxable year of the discharge. Section 108(b)(4)(B) provides that the reductions of net operating losses and capital loss carryovers are made first in the loss for the taxable year of the discharge and then in the carryovers to such taxable year in the order of the taxable years from which each such carryover arose. If the excluded COD income exceeds the sum of the taxpayer's tax attributes, the excess is disregarded such that it does not result in income or have other tax consequences. *See* H.R. Rep. No. 96–833, at 11 (1980).

Instead of reducing tax attributes in the order set forth in section 108(b)(2), a taxpayer may elect under section 108(b)(5) to reduce first the adjusted bases of depreciable property to the extent of the excluded COD income. The amount to which the election applies is limited to the aggregate adjusted basis of the depreciable property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs. If the adjusted bases of depreciable property are insufficient to offset the entire amount of excluded COD income, the taxpayer must then reduce any remaining tax attributes in the order set forth in section 108(b)(2). Congress intended the election under section 108(b)(5) to allow debtors, including debtors in bankruptcy, to account for a debt discharge amount in a manner most favorable to their tax situations. *See* S. Rep. No. 96–1035, at 10 (1980); H.R. Rep. No. 96–833, at 9 (1980).

Section 1017(a) provides that when any portion of COD income excluded from gross income under section 108(a) is to be applied to reduce basis, then such portion shall be applied to reduce the basis of any property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs. Section 1017(b)(1) provides that the amount of reduction under section 1017(a), and the particular properties the bases of which