

method, the taxpayer must use that same safe harbor method for all inducement fees received in connection with any noneconomic REMIC residual interests held by the taxpayer.

The proposed regulations regarding the timing for inclusion of inducement fees in income, if finalized as proposed, would apply for taxable years ending on or after publication of the final regulations in the **Federal Register**. The IRS and the Treasury Department request comments with respect to whether the applicability of the regulations should be limited to transactions arising on or after the effective date of these regulations and whether some delay in the effective date of these regulations is warranted.

The proposed regulations clarifying the source of inducement fees, if finalized as proposed, would apply for taxable years ending on or after publication of the final regulations in the **Federal Register**.

A taxpayer may not change its method of accounting for inducement fees without securing the prior consent of the Commissioner. The Commissioner may prescribe terms and conditions necessary to obtain the Commissioner's consent to effect a change in method of accounting and to prevent amounts from being duplicated or omitted. See sections 446 and 481; § 1.446-1(e)(3). The terms and conditions that may be prescribed by the Commissioner may include terms and conditions that require the change in method of accounting to be effected on a cut-off basis or with an adjustment under section 481(a). The IRS and the Treasury Department request comments on how best to effect any change in method of accounting necessitated by these regulations.

### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 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) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed rules and how they may be made easier to understand. The IRS and the Treasury Department also specifically request comments on the safe harbor methods provided in the regulations and suggestions for other possible safe harbor methods of accounting for these inducement fees. All comments will be available for public inspection and copying.

A public hearing has been scheduled for November 18, 2003, beginning at 10 a.m. in the IRS Auditorium, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by October 28, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### Drafting Information

The principal authors of these regulations are John W. Rogers III, Office of Associate Chief Counsel (Financial Institutions & Products), and Courtney L. Shepardson, Office of Division Counsel (Large and Midsize Business). However, other personnel from the IRS and the Treasury Department participated in their development.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be 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 in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.446-6 also issued under 26 U.S.C. 446 and 26 U.S.C. 860G \* \* \*

**Par. 2.** Section 1.446-6 is added to read as follows:

#### § 1.446-6 REMIC inducement fees.

(a) *Purpose.* This section provides specific timing rules for the clear reflection of income from an inducement fee received in connection with becoming the holder of a noneconomic REMIC residual interest. An inducement fee must be included in income over a period reasonably related to the period during which the applicable REMIC is expected to generate taxable income or net loss allocable to the holder of the noneconomic residual interest.

(b) *Definitions.* For purposes of this section—(1) *Applicable REMIC.* The applicable REMIC is the REMIC that issued the noneconomic residual interest with respect to which the inducement fee is paid.

(2) *Inducement fee.* An inducement fee is the amount paid to induce a person to become the holder of a noneconomic residual interest in an applicable REMIC.

(3) *Noneconomic residual interest.* A REMIC residual interest is a noneconomic residual interest if it is a noneconomic residual interest within the meaning of § 1.860E-1(c)(2).

(4) *Remaining anticipated weighted average life.* The remaining anticipated weighted average life is the anticipated weighted average life determined using the methodology set forth in § 1.860E-1(a)(3)(iv) applied as of the date of acquisition of the noneconomic residual interest.

(5) *REMIC.* The term REMIC has the same meaning in this section as given in § 1.860D-1.

(c) *General rule.* All taxpayers, regardless of their overall method of accounting, must recognize an inducement fee over the remaining expected life of the applicable REMIC in a manner that reasonably reflects, without regard to this paragraph, the after-tax costs and benefits of holding that noneconomic residual interest.

(d) *Special rule on disposition of a residual interest.* If any portion of an