

§ 522.2477 [Amended]

■ 2. Section 522.2477 *Trenbolone acetate and estradiol* is amended in paragraph (b)(1) by adding “(d)(1)(i)(C),” after “(d)(1)(i)(B).”

Dated: August 1, 2003.

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Director, Center for Veterinary Medicine.

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DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 300**

[TD 9086]

RIN 1545-BA54

User Fees for Processing Offers To Compromise

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the regulations relating to user fees to provide for the imposition of user fees for the processing of offers to compromise. The charging of user fees implements the Independent Offices Appropriations Act.

EFFECTIVE DATE: November 1, 2003.

FOR FURTHER INFORMATION CONTACT: Concerning cost methodology, Eva Williams, 301-492-5395; concerning the regulations, G. William Beard, 202-622-3620 (not toll free numbers).

SUPPLEMENTARY INFORMATION:**Background**

This document amends the regulations relating to user fees to provide for the imposition of user fees for the processing of offers to compromise. The charging of user fees implements the Independent Offices Appropriations Act (IOAA), which is codified at 31 U.S.C. 9701. On November 6, 2002, a notice of proposed rulemaking (REG-103777-02) was published in the **Federal Register**. Approximately 149 comments were received. A public hearing on the regulations was held on February 13, 2003. The final regulations adopt the rules of the proposed regulations.

Offers To Compromise

Section 7122 of the Internal Revenue Code (Code) gives the IRS the authority to compromise any civil or criminal case arising under the internal revenue laws, prior to the referral of that case to

the Department of Justice. Section 7122 also directs the IRS to prescribe guidelines for officers and employees of the IRS to determine whether an offer to compromise is adequate and should be accepted. Guidelines are contained in § 301.7122-1. Pursuant to § 301.7122-1(b), an offer may be accepted if there is doubt as to liability, if there is doubt as to collectibility, or if acceptance will promote effective tax administration. Pursuant to § 301.7122-1(b)(3), offers may be accepted to promote effective tax administration if either: (1) The IRS determines that, although collection in full could be achieved, collection of the full liability would cause the taxpayer economic hardship within the meaning of § 301.6343-1, or (2) there are no other grounds for compromise and there are compelling public policy or equity considerations.

When an offer to compromise is received, an initial determination is made as to whether the offer is processable. Currently, an offer is returned as nonprocessable if the taxpayer is in bankruptcy, has not filed required tax returns, or has not submitted the offer to compromise on the proper form. Absent these conditions, the offer is accepted for processing and cannot be rejected without an independent administrative review of the decision to reject and, if the taxpayer chooses to appeal the rejection, independent review by the Office of Appeals. Even though an offer accepted for processing may later be returned to the taxpayer if the taxpayer fails to provide requested information or the IRS determines that the offer was submitted solely to delay collection, such an offer may not be returned before a managerial review of the proposed return is completed pursuant to § 301.7122-1(f)(5)(ii).

Explanation of Provisions

The final regulations establish a \$150 user fee for the processing of certain offers to compromise tax liabilities pursuant to § 301.7122-1. The user fee will not apply to offers based solely on doubt as to liability and offers made by low income taxpayers whose incomes are at or below the poverty guidelines set by the Department of Health and Human Services (DHHS), or such other measure the IRS may adopt.

Offers based on doubt as to liability are excepted from the user fee based on the inequity of the IRS charging a fee to compromise an uncertain liability when a compromise is based upon a redetermination or reevaluation of the taxpayer's liability for a tax (and the agreed upon amount may, in fact,

provide for the full payment of the amount actually owed).

Offers from low income taxpayers are excepted from the fee in light of section 7122(c)(3)(A), which prohibits the IRS from rejecting an offer from a low income taxpayer solely on the basis of the amount offered. Section 7122(c)(3)(A) literally applies to the rejection of an offer, rather than the return of an offer for failure to pay a user fee. Requiring payment of a user fee from a low income taxpayer would undermine section 7122(c)(3)(A) in cases where the taxpayer does not have the ability to pay the fee. Offers from low income taxpayers are therefore excepted.

Taxpayers with offers that do not fall within the doubt as to liability or low income exceptions will submit the user fee along with the offer to compromise. If the offer is accepted to promote effective tax administration or is accepted based on doubt as to collectibility and a determination that collecting more than the amount offered would create economic hardship within the meaning of §§ 301.6343-1, the fee will be applied to the amount of the offer or, if the taxpayer requests, refunded to the taxpayer. In other cases, the payment of the fee will be taken into account in determining the acceptable amount of the offer and therefore the taxpayer in total will pay no more than the taxpayer would have paid without the fee. While the fee will not be refunded if an offer is withdrawn, rejected, or returned as nonprocessable after acceptance for processing, no additional fee will be charged if a taxpayer resubmits an offer the IRS determines to have been rejected or returned in error.

Comments on the Proposed Regulation

Most of the comments on the proposed regulations did not favor the fee. The comments focused on three concerns: The fee would create an additional financial hardship on taxpayers who are already experiencing hardship; the income level for the low income exception to the fee was too low; and the fee should not be imposed until the offer to compromise is administered more effectively and efficiently. For the following reasons, these final regulations follow the proposed regulations without change.

The most frequent concern in the comments was that the fee would cause additional financial hardship for taxpayers who are already experiencing financial hardship. The exception for low income taxpayers, however, excludes those taxpayers most likely to be disadvantaged by the user fee.