



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-123867-14]

RIN 1545-BM28

Utility Allowances Submetering

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains proposed regulations that amend the utility allowance regulations concerning the low-income housing credit. The proposed regulations relate to the circumstances in which utility costs paid by a tenant based on actual consumption in a submetered rent-restricted unit are treated as paid by the tenant directly to the utility company. The proposed regulations extend those rules to situations in which a building owner sells to tenants energy that is produced from a renewable source and that is not delivered by a local utility company. The proposed regulations affect owners of low-income housing projects that claim the credit, the tenants in those low-income housing projects, and the State and local housing credit agencies that administer the credit. In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations concerning utility allowance regulations when the utility is generated from renewable sources and is not delivered by the local utility company. The text of those regulations also serves as the

text of these proposed regulations. This document also contains a notice of a public hearing on these proposed regulations.

DATES: Comments and requests for a public hearing must be received by **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-123867-14), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-123867-14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov/> (IRS REG-123867-14).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, James Rider at (202) 317-4137; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo Taylor at (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1. The temporary regulations provide a special rule for a renewable-source utility arrangement in which the building owner does not pay a local utility company for the utility consumed by the tenant. The text of those regulations also serves as the text of these regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation, and because the regulation does 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 Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS as prescribed in this preamble under the “**ADDRESSES**” heading. The IRS and the Treasury Department request comments on all aspects of the proposed regulations. All comments that are submitted by the public will be available for public inspection and copying at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is David Selig, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. 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 continues to read in part as follows:

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

Par. 2. Section 1.42-10(e)(1)(i)(B) and (C), and (e)(1)(iv)(B) are revised to read as follows:

§1.42-10 Utility allowances.

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(e) * * * (1) * * *

(i) * * *

(B) [The text of the proposed amendments to §1.42-10(e)(1)(i)(B) is the same as the text of §1.42-10T(e)(1)(i)(B) published elsewhere in this issue of the **Federal Register**].

(C) [The text of the proposed amendments to §1.42-10(e)(1)(i)(C) is the same as the text of §1.42-10T(e)(1)(i)(C) published elsewhere in this issue of the **Federal Register**].

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(iv) * * *

(B) [The text of the proposed amendments to §1.42-10(e)(1)(iv)(B) is the same as the text of §1.42-10T(e)(1)(iv)(B) published elsewhere in this issue of the **Federal Register**].

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John Dalrymple

Deputy Commissioner for Services and Enforcement.