[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD **9863**]

RIN 1545-BO50

Modification of Discounting Rules for Insurance Companies

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations on discounting rules for unpaid losses and estimated salvage recoverable of insurance companies for Federal income tax purposes. The final regulations update and replace existing regulations to implement recent legislative changes to the Internal Revenue Code (Code) and make a technical improvement to the derivation of loss payment patterns used for discounting. The final regulations affect entities taxable as insurance companies.

DATES: Effective Date: These regulations are effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Applicability Date: For dates of applicability, see §1.846-1(e)(2).

FOR FURTHER INFORMATION CONTACT: Kathryn M. Sneade, (202) 317-6995 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1 under section 846 of the Code. Section 846 was added to the Code by section 1023(c) of the Tax Reform Act of

1986, Public Law 99-514 (100 Stat. 2085, 2399). Final regulations under section 846 were published in the **Federal Register** (57 FR 40841) on September 8, 1992 (T.D. 8433). See §§1.846-0 through 1.846-4 (1992 Final Regulations). The discounting rules under section 846 were amended for taxable years beginning after December 31, 2017, by section 13523 of the Tax Cuts and Jobs Act, Public Law 115-97 (131 Stat. 2054, 2152) (TCJA). The discounting rules of section 846, both prior to and after amendment by the TCJA, are used to determine discounted unpaid losses and estimated salvage recoverable of property and casualty (P&C) insurance companies and discounted unearned premiums of title insurance companies for Federal income tax purposes under section 832, as well as discounted unpaid losses of life insurance companies for Federal income tax purposes under sections 805(a)(1) and 807(c)(2).

The Department of the Treasury (Treasury Department) and the IRS published proposed regulations under section 846 (REG-103163-18) in the **Federal Register** (83 FR 55646) on November 7, 2018 (Proposed Regulations). The Treasury Department and the IRS received public comments on the Proposed Regulations and held a public hearing on December 20, 2018.

On January 7, 2019, the Treasury Department and the IRS published Rev. Proc. 2019-06, 2019-02 I.R.B. 284, which prescribes unpaid loss discount factors for the 2018 accident year and earlier accident years for use in computing discounted unpaid losses under section 846. The unpaid loss discount factors also serve as salvage discount factors for the 2018 accident year and earlier accident years for use in computing discounted estimated salvage recoverable under section 832. The discount factors prescribed in Rev. Proc. 2019-06 were determined under section 846, as amended by section 13523 of the TCJA, and the Proposed Regulations. In Rev. Proc. 2019-06, the Treasury Department and the IRS announced the intent to publish revised unpaid loss discount factors, if necessary, following the publication of the Proposed Regulations as final regulations. The Treasury Department and the IRS also announced the intent to issue guidance on the use of revised discount factors, including the adjustment to be taken into account by certain taxpayers that used the discount factors prescribed in Rev. Proc. 2019-06 in a taxable year ending before the date of publication of final regulations. The Treasury Department and the IRS requested and received public comments on Rev. Proc. 2019-06.

After consideration of all of the comments on the Proposed Regulations and Rev. Proc. 2019-06, the Proposed Regulations are adopted as amended by this Treasury decision (Final Regulations).

Summary of Comments and Explanation of Revisions

This section discusses the public comments received on the Proposed Regulations and Rev. Proc. 2019-06, explains the revisions adopted by the Final Regulations in response to those comments, and describes guidance the Treasury Department and the IRS intend to issue following publication of the Final Regulations in the **Federal Register**.

1. Determination of Applicable Interest Rate

Under section 846(a)(2) and (c)(1), the "applicable interest rate" used to determine the discount factors associated with any accident year and line of business is the "annual rate" determined under section 846(c)(2).

Before amendment by section 13523(a) of the TCJA, section 846(c)(2) provided that the annual rate for any calendar year was a rate equal to the average of the applicable Federal mid-term rates (as defined in section 1274(d) but based on annual compounding) effective as of the beginning of each of the calendar months in the most recent 60-month period ending before the beginning of the calendar year for which the determination is made. The applicable Federal mid-term rate is determined by the Secretary based on the average market yield on outstanding marketable obligations of the United States with remaining periods of over three years but not over nine years. See section 1274(d)(1).

As amended by section 13523(a) of the TCJA, section 846(c)(2) provides that the annual rate for any calendar year will be determined by the Secretary based on the corporate bond yield curve (as defined in section 430(h)(2)(D)(i), determined by substituting "60-month period" for "24-month period" therein). The corporate bond yield curve, commonly referred to as the high quality market (HQM) corporate bond yield curve, is published on a monthly basis by the Treasury Department and the IRS. It reflects the average of monthly yields on investment grade corporate bonds with varying maturities that are in the top three quality levels available, and it consists of spot interest rates for each stated time to maturity. See, for example, Notice 2019-13, 2019-8 I.R.B. 580. The spot rate for a given time to maturity represents the yield on a bond that gives a single payment at that maturity. For the stated yield curve, times to maturity are specified at half-year intervals from one-half year through 100 years. Section 846(c)(2) does not specify how the Secretary is to determine the annual rate for any calendar year based on the corporate bond yield curve.

Section 1.846-1(c) of the Proposed Regulations provides that the "applicable interest rate" used to determine the discount factors associated with any accident year and line of business is the "annual rate" determined by the Secretary for any calendar year on the basis of the corporate bond yield curve (as defined in section 430(h)(2)(D)(i), determined by substituting "60-month period" for "24-month period" therein). The annual rate for any calendar year is the average of the corporate bond yield curve's monthly spot rates with times to maturity of not more than seventeen and one-half years (that is, when applied to the HQM corporate bond yield curve, times to maturity from one-half year to seventeen and one-half years), computed using the most recent 60-month period ending before the beginning of the calendar year for which the determination is made.

Consistent with the text of section 846, as amended by the TCJA, and the statutory structure as a whole, the Proposed Regulations provide for the use of a single annual rate applicable to all lines of business, as was the case under section 846 prior to amendment by the TCJA. Commenters agreed with this approach. One commenter asserted that a single rate approach continues to be mandated by the statutory language and Congressional intent. This commenter also noted that the use of a single rate is a continuance of longstanding practice related to the discounting of insurance loss reserves, and the TCJA did not specify a change to this practice.

The preamble to the Proposed Regulations states that the change from a rate based on the applicable Federal mid-term rates to a rate based on the corporate bond yield curve indicates that the annual rate should be determined in a manner that more closely matches the investments in bonds used to fund the undiscounted losses to be paid in the future by insurance companies. Several commenters agreed that the annual rate should be determined in a manner that more closely matches the investments of insurance companies.

The maturity range in the Proposed Regulations (that is, times to maturity from one-half year to seventeen and one-half years) was selected to produce a single discount rate that would provide approximately the same present value of taxable income, in the aggregate, as would be obtained by applying the 60-month average corporate bond yield curve (forecast through 2028) directly to the future loss payments expected for each line of business (determined using the loss payment patterns applicable to the 2018 accident year). That is, the selected maturity range approximates, in terms of the present value of taxable income, the overall result of discounting each projected loss payment using the spot rate from the corporate bond yield curve with a time to maturity that matches the time between the end of the accident year and the middle of the year of the projected loss payment.

Several commenters expressed concern with the selection of the maturity range used to determine the single rate applicable to all unpaid losses for all lines of business under the Proposed Regulations. A commenter addressing the application of the Proposed Regulations to certain non-life insurance reserves held by life insurance companies requested a single section 846 discount rate determined by reference to shorter maturities than those specified in the Proposed Regulations to more clearly reflect the income of life insurance companies related to these reserves. Several commenters addressing the application of the Proposed Regulations to P&C insurance companies requested that the discount rate instead be determined by reference to the maturity range of three and one-half to nine years that was used under section 846 prior to amendment by the TCJA. Some of the commenters asserted a lack of clear congressional intent to use a different maturity range than the maturity range used under section 846 prior to amendment by the TCJA. The commenters also asserted that the shorter range with a lower average maturity would more closely match the maturity of the P&C insurance industry's investments and offered alternative approaches to selecting a maturity range should a different maturity range be selected.

Some of the commenters addressing the application of the Proposed Regulations to P&C insurance companies acknowledged that the annual rate calculated under the Proposed Regulations approximates the P&C industry's current investment yield in the current bond market. However, the commenters generally asserted that an annual rate based on the maturity range in the Proposed Regulations would overstate the industry's investment yield in other interest rate environments because the average maturity and average duration of the bonds reflected in that segment of the HQM corporate bond yield curve are longer than both the average maturity and average duration of the industry's actual bond investments. The commenters asserted that the weighted average maturities of bonds held by P&C insurance companies are notably lower than the nine-year average of the maturity range suggested in the Proposed Regulations. According to one commenter, the weighted average maturities of bonds held by P&C insurance companies have ranged between 6.4 and 7.1 years since 2008. The commenters asserted that P&C companies generally do not seek to match the maturities of their investments with the expected payment dates of their liabilities. One commenter stated that P&C insurers' bond portfolios are more skewed to the short end of the curve to ensure sufficient liquidity to pay claims, especially for catastrophic events.

The commenters also explained that the average duration of bond payments held by P&C insurance companies (five to six years, according to data from one commenter) is shorter than the nine-year average payment duration of the bonds underlying the maturity range in the Proposed Regulations because P&C insurance companies typically invest in coupon bonds. Unlike the zero-coupon bonds reflected in the HQM corporate bond yield curve, coupon bonds have an average payment duration that is less than their maturity because of the periodic interest payments. Commenters asserted that the duration difference between coupon bonds and zero-coupon bonds is more pronounced in an environment with higher interest rates and a steeper yield curve.

One of the commenters requesting the use of a shorter maturity range (three and one-half to nine years) suggested that the annual rate should be determined in a manner that more closely matches the P&C insurance industry's investment yield. The commenter asserted that, in a rising rate environment, especially if there is a larger spread between the short-term and long-term rates, the longer maturity range in the Proposed Regulations would overstate the P&C insurance industry's investment yield. The commenter also asserted that the shorter maturity range would result in a better approximation of the P&C insurance industry's investment yield over a longer period of time and in different interest rate environments. The commenter suggested that if the shorter maturity range is not adopted, another approach would be to periodically adjust the maturity range. Under this approach, every five years (that is, for each determination year under section 846(d)(4)), the Secretary would select the maturity range that best approximates the industry's investment yield based on publicly available P&C insurance industry aggregate investment yield data. However, other commenters expressed a preference for a fixed range.

Two of the commenters requesting the use of a shorter maturity range (three and one-half to nine years) suggested that the maturity range selected should more closely match the average maturity of the P&C insurance industry's bond investments. The commenters asserted that the average maturity of a range consisting of three and one-half to nine years more closely matches the six to seven-year average maturity of the industry's bond investments over the past decade than the nine-year average of the longer range in the Proposed Regulations. One commenter suggested that if the shorter maturity range is not adopted, an alternative could be to use the maturity range from one-half to thirteen years because that range also reflects average maturities that more closely match the investments in bonds used to fund the undiscounted losses of P&C insurance companies. Both commenters suggested that if the range in the Proposed Regulations is retained, a "guardrail" should place an upper limit on the maturities that are used when the bond yield curve is unusually steep. The commenters assert that use of the maturity range in the Proposed Regulations in such conditions would result in an annual rate that overstates the P&C insurance industry's investment yield due to the duration and maturity differences between the industry's bond investments and the bonds reflected in the HQM corporate bond yield curve segment selected in the Proposed Regulations. The commenters expressed particular concern that use of the maturity range in the Proposed Regulations would pose a threat to the industry's financial viability in times of economic stress because steep yield curves historically have occurred during or immediately after a recession and often coincide with a downturn in the underwriting cycle.

One commenter provided recommendations regarding the "guardrail" adjustment to be made to the annual rate and the circumstances in which it would apply. The commenter suggested that a guardrail adjustment should be made when the spread between the HQM corporate bond yields at the lower end (one-half year to maturity) and upper end (seventeen and one-half years to maturity) of the maturity range proposed in the Proposed Regulations, measured on the basis of the 12-month average, is greater than 2.75 percentage points. The commenter explained that this "trigger" was selected because, compared to the other possible triggers considered by the commenter, it has the highest correlation to recession-related stress periods, it is simple to implement, and it does not result in undue volatility. The commenter suggested that the "guardrail" be an annual interest rate based on the 60-month average of a narrower range of bond maturities of one-half year to thirteen years. The commenter asserted that this trigger and guardrail adjustment proposal is reasonably simple, easily administrable, and predictable (for both the IRS and taxpayers) in its application.

After consideration of the comments received on the Proposed Regulations, the Treasury Department and the IRS have determined to use a single annual rate based on a narrower range of maturities. Specifically, the annual rate for any calendar year is the average of the corporate bond yield curve's monthly spot rates with times to maturity from four and one-half years to ten years, computed using the most recent 60-month period ending before the beginning of the calendar year for which the determination is made. In response to comments expressing a preference for a fixed range, the Final

Regulations do not provide for periodic redetermination of the maturity range used to determine the annual rate.

The maturity range of four and one-half years to ten years was selected in response to comments requesting the adoption of a narrower maturity range with an average maturity that more closely matches the six- to seven-year average maturity of the P&C insurance industry's bond investments. Commenters expressed concern about the inclusion of the times-to-maturity at the upper end of the range in the Proposed Regulations, particularly when the bond yield curve is unusually steep. Therefore, the Final Regulations provide for a narrower maturity range than in the Proposed Regulations (from one-half year to seventeen and one-half years). Use of the narrower range eliminates yields for times-to-maturity at the lower and upper ends of the range in the Proposed Regulations from the calculation of an average annual rate.

The selected maturity range has an average maturity of seven and one-quarter years, which is closer to the average maturity of the industry's bond investments than the nine-year average maturity of the maturity range in the Proposed Regulations. The Final Regulations do not adopt either of the maturity ranges suggested by commenters (three and one-half to nine years and one-half to thirteen years) because the suggested ranges would typically understate the P&C industry's investment yield as compared to the range adopted in the Final Regulations. P&C industry investment portfolios include assets other than high quality bonds, and the higher returns on those other assets typically result in the industry earning a higher rate of return. Therefore, the Final Regulations adopt a maturity range that has an average maturity that is slightly greater than the average maturity of the industry's bond investments.

The Treasury Department and the IRS intend to publish guidance in the Internal Revenue Bulletin that will provide revised unpaid loss discount factors based on the Final Regulations for each property and casualty line of business for all accident years ending with or before calendar year 2018. The guidance will also provide that taxpayers may use either the revised discount factors or the discount factors published in Rev. Proc. 2019-06 for taxable years beginning after December 31, 2017, and ending before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The guidance will describe the adjustment to be taken into account by any taxpayer that uses the discount factors prescribed in Rev. Proc. 2019-06 in a taxable year. See Rev. Proc. 2019-06. Taxpayers must use the revised discount factors in taxable years ending on or after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

2. Discontinuance of Composite Method

The Treasury Department and the IRS proposed, in the preamble to the Proposed Regulations, to discontinue the use of the "composite method" described in section 3.01 of Rev. Proc. 2002-74, 2002–2 C.B. 980, and section V of Notice 88-100, 1988-2 C.B. 439.

Commenters suggested that the current rules permitting use of the composite method should be retained. The commenters explained that if the composite method were discontinued, compiling the data required to compute discounted unpaid losses with respect to accident years not separately reported on the National Association of Insurance Commissioners (NAIC) annual statement would prove to be difficult for some insurers given the limitations of company data for older accident years and legacy information technology systems. One of the commenters added that discontinuance of the composite method would cause burdensome reporting requirements for insurers.

In response to these comments, the Treasury Department and the IRS have determined to continue to permit the use of the composite method and to continue to publish composite discount factors annually.

3. Smoothing Adjustments

Section 1.846-1(d)(1) of the Proposed Regulations provides that the loss payment pattern determined by the Secretary for each line of business generally is determined by reference to the historical loss payment pattern applicable to such line of business. However, under §1.846-1(d)(1) and (2) of the Proposed Regulations, the Secretary may adjust the loss payment pattern for any line of business using a methodology described by the Secretary in other published guidance if necessary to avoid negative payment amounts and otherwise produce a stable pattern of positive discount factors less than one. As explained in section 2.03(4) of Rev. Proc. 2019-06, for the 2017 determination year, one line of business required adjustments under the Proposed Regulations.

Commenters expressed support for the smoothing adjustments described in the Proposed Regulations and Rev. Proc. 2019-06. Accordingly, the Final Regulations adopt §1.846-1(d) as proposed.

4. Determination of Estimated Discounted Salvage Recoverable

Section 1.832-4(c) provides that, except as otherwise provided in guidance published by the Commissioner of Internal Revenue (Commissioner) in the Internal Revenue Bulletin, estimated salvage recoverable must be discounted either (1) by using the applicable discount factors published by the Commissioner for estimated salvage recoverable; or (2) by using the loss payment pattern for a line of business as the salvage recovery pattern for that line of business and by using the applicable interest rate for calculating unpaid losses under section 846(c). The Treasury Department and the IRS proposed, in the preamble to the Proposed Regulations, that estimated salvage recoverable be discounted by using the published discount factors applicable to unpaid losses. Section 4.02 of Rev. Proc. 2019-06 provides that the unpaid loss discount factors set forth therein also serve as salvage discount factors for the 2018 accident year and all prior accident years for use in computing discounted estimated salvage recoverable under section 832.

Commenters expressed support for the proposed use of the discount factors applicable to unpaid losses as the discount factors for salvage. This method is permitted under section 832(b)(5)(A) and §1.832-4(c), and it should reduce compliance complexity and costs. Accordingly, future guidance published in the Internal Revenue Bulletin will continue to provide that estimated salvage recoverable is to be discounted using the published discount factors applicable to unpaid losses.

In the preamble to the Proposed Regulations, the Treasury Department and the IRS requested comments on whether net payment data (loss payments less salvage recovered) and net losses incurred data (losses incurred less salvage recoverable) should be used to compute loss discount factors. No commenters responded to this request. The Treasury Department and the IRS will continue to use payment data unreduced by salvage recovered and losses incurred data unreduced by salvage recoverable to compute loss discount factors.

5. Reinsurance and International Lines of Business

As described in the preamble to the Proposed Regulations, as a result of the repeal of former section 846(d)(3)(E) and (F) by section 13523 of the TCJA, section 846 no longer explicitly provides for the determination of loss payment patterns for non-proportional reinsurance and international lines of business extending beyond three calendar years following the accident year. The Proposed Regulations would remove §1.846-1(b)(3)(iv) (applicable to non-proportional reinsurance business) and (b)(4) (applicable to international business) of the 1992 Final Regulations due to the repeal of former section 846(d)(3)(E) and (F). The Proposed Regulations would retain §1.846-1(b)(3)(i) and (b)(3)(ii)(A) (applicable to proportional and non-proportional reinsurance, respectively) of the 1992 Final Regulations, however, because these rules are not affected by the repeal of former section 846(d)(3)(E) and (F).

Commenters agreed that the repeal of former section 846(d)(3)(E) and (F) means that the statute requires non-proportional reinsurance and international lines of business to be treated as short-tail lines of business with three-year loss payment patterns. The treatment of the non-proportional reinsurance and international lines of business as short-tail lines of business in Rev. Proc. 2019-06 is consistent with these comments.

Accordingly, §1.846-1(b)(3)(iv) and (b)(4) of the 1992 Final Regulations are removed as proposed in the Proposed Regulations.

6. Other Changes

The Proposed Regulations would (1) remove §1.846-1(a)(2) of the 1992 Final Regulations because the examples are no longer relevant; (2) remove §1.846-

1(b)(3)(ii)(B) and (b)(3)(iii) of the 1992 Final Regulations because these provisions apply only to accident years before 1992; (3) remove §1.846-2 of the 1992 Final Regulations because section 13523 of the TCJA repealed the section 846(e) election; (4) remove §1.846-3 because the “fresh start” and reserve strengthening rules therein are no longer applicable; (5) make conforming changes to §1.846-1(a) and (b) of the 1992 Final Regulations to reflect the removal of various §1.846-1 provisions, as well as the removal of §§1.846-2 and 1.846-3 of the 1992 Final Regulations; (6) remove §1.846-4 of the 1992 Final Regulations, which provides applicability dates for §§1.846-1 through 1.846-3 of the 1992 Final Regulations, and adopt proposed §1.846-1(e), which provides applicability dates for §1.846-1; and (7) remove §1.846-0 of the 1992 Final Regulations, which provides a list of the headings in §§1.846-1 through 1.846-4 of the 1992 Final Regulations.

Additionally, the Proposed Regulations would remove §§1.846-2T and 1.846-4T from the Code of Federal Regulations (CFR) because they are obsolete. On April 10, 2006, the Treasury Department and the IRS published in the **Federal Register** (71 FR 17990) a Treasury decision (T.D. 9257) containing §§1.846-2T and 1.846-4T. On January 23, 2008, the Treasury Department and the IRS published in the **Federal Register** (73 FR 3868) a Treasury decision (T.D. 9377) that finalized the rules contained in §1.846-2T in §1.846-2 and finalized the rules contained in §1.846-4T in §1.846-4. T.D. 9377, however, did not remove §§1.846-2T and 1.846-4T from the CFR.

No comments were received regarding any of these changes in the Proposed Regulations. Accordingly, these changes are adopted as proposed.

7. Change in Method of Accounting

The Treasury Department and the IRS plan to publish guidance in the Internal Revenue Bulletin that provides simplified procedures under section 446 and §1.446-1(e) for an insurance company to obtain automatic consent of the Commissioner to change its method of accounting to comply with section 846, as amended by the TCJA, for the first taxable year beginning after December 31, 2017.

Special Analyses

I. Regulatory Planning and Review and Regulatory Flexibility Act

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6), it is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities that are directly affected by the final regulations. These final regulations update the 1992 Final Regulations to reflect statutory changes made by the TCJA, including the applicable interest rate to be used for purposes of section 846(c) based on a statutorily prescribed corporate bond yield curve. In addition, these final regulations do not impose a collection of information on any taxpayers, including small entities. Accordingly, this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small

Business Administration for comment on its impact on small business, and no comments were received.

II. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

III. Executive Order 13132: Federalism

Executive Order 13132 (titled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Drafting Information

The principal author of these regulations is Kathryn M. Sneade, Office of Associate Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

Statement of Availability of IRS Documents

The IRS notices and revenue procedures cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov*.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for §1.846-2(d), removing the entry for §§1.846-1 through 1.846-4, and adding an entry in numerical order for §1.846-1. The addition reads in part as follows:

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

* * * * *

Section 1.846-1 also issued under 26 U.S.C. 846.

* * * * *

§1.846-0 [Removed]

Par. 2. Section 1.846-0 is removed.

Par. 3. Section 1.846-1 is amended by:

1. In the first sentence of paragraph (a)(1) removing “section 846(f)(3)” and adding in its place “section 846(e)(3)”.

2. In the third sentence of paragraph (a)(1), removing the phrase “and §1.846-3(b) contains guidance relating to discount factors applicable to accident years prior to the 1987 accident year”.
3. In paragraph (a)(1), removing the last sentence.
4. Removing paragraph (a)(2) and redesignating paragraphs (a)(3) and (4) as paragraphs (a)(2) and (3), respectively.
5. In the first sentence of paragraph (b)(1), removing “section 846(f)(6)” and adding “section 846(e)(6)” in its place; and removing “, in §1.846-2 (relating to a taxpayer’s election to use its own historical loss payment pattern)”.
6. In paragraph (b)(3)(i), removing “for accident years after 1987” from the heading.
7. In paragraph (b)(3)(ii), removing the designation “--(A)” and the paragraph heading “Accident years after 1991”.
8. Removing paragraphs (b)(3)(ii)(B), and (b)(3)(iii) and (iv).
9. Removing paragraph (b)(4) and redesignating paragraph (b)(5) as paragraph (b)(4).
10. Adding paragraphs (c), (d), and (e).

The additions read as follows:

§1.846-1 Application of discount factors.

* * * * *

(c) *Determination of annual rate.* The applicable interest rate is the annual rate determined by the Secretary for any calendar year on the basis of the corporate bond yield curve (as defined in section 430(h)(2)(D)(i), determined by substituting “60-month period" for "24-month period" therein). The annual rate for any calendar year is determined on the basis of a yield curve that reflects the average, for the most recent 60-month period ending before the beginning of the calendar year, of monthly yields on corporate bonds described in section 430(h)(2)(D)(i). The annual rate is the average of that yield curve's monthly spot rates with times to maturity from four and one-half years to ten years.

(d) *Determination of loss payment pattern*--(1) *In general.* Under section 846(d)(1), the loss payment pattern determined by the Secretary for each line of business is determined by reference to the historical loss payment pattern applicable to such line of business determined in accordance with the method of determination set forth in section 846(d)(2) and the computational rules prescribed in section 846(d)(3) on the basis of the annual statement data from annual statements described in section 846(d)(2)(A) and (B). However, the Secretary may adjust the loss payment pattern for any line of business as provided in paragraph (d)(2) of this section.

(2) *Smoothing adjustments.* The Secretary may adjust the loss payment pattern for any line of business using a methodology described by the Secretary in other published guidance if necessary to avoid negative payment amounts and otherwise produce a stable pattern of positive discount factors less than one.

(e) *Applicability dates*. (1) Except as provided in paragraph (e)(2) of this section, this section applies to taxable years beginning after December 31, 1986.

(2) Paragraphs (c) and (d) of this section apply to taxable years beginning after December 31, 2017.

§1.846-2 [Removed]

Par. 4. Section 1.846-2 is removed.

§1.846-2T [Removed]

Par. 5. Section 1.846-2T is removed.

§1.846-3 [Removed]

Par. 6. Section 1.846-3 is removed.

§1.846-4 [Removed]

Par. 7. Section 1.846-4 is removed.

§1.846-4T [Removed]

Par. 8. Section 1.846-4T is removed.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: May 21, 2019.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2019-12172 Filed: 6/13/2019 4:15 pm; Publication Date: 6/17/2019]