



**POSTAL REGULATORY COMMISSION**

**39 CFR Part 3060**

**[Docket No. RM2019-5; Order No. 5136]**

**Calculation of Assumed Federal Income Tax**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is adopting final rules amending its rules involving the calculation of the assumed Federal income tax on competitive products by the Postal Service each fiscal year.

**DATES:** *Effective:* **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** For additional information, Order No. 5136 can be accessed electronically through the Commission's Web site at <https://www.prc.gov>.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

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**I. Background**

The Commission initiated this proceeding to amend its regulations governing the assumed Federal income tax on competitive product income appearing in existing 39 CFR part 3060. The amendments revise regulations concerning the Annual Assumed Federal Income Tax Calculation for competitive products to reflect changes to the Internal Revenue Code made by the Tax Cuts and Jobs Act and to remove other obsolete provisions.<sup>1</sup> The Commission received comments in support of the amendments from the appointed Public Representative and the Postal Service. The Commission issues these final rules which are unchanged from the proposed rules published on May 22, 2019 (84 FR 23503).

## **II. Basis and Purpose of Final Rules**

Section 3634(b) of title 39 of the United States Code requires the Postal Service to calculate the assumed Federal income tax on its competitive products income each year and transfer the amount from the Competitive Products Fund to the Postal Service Fund. As required by 39 U.S.C. 2011(h)(2)(B)(ii), on December 18, 2008, the Commission issued substantive and procedural rules for the assumed Federal income tax calculation, as codified in existing 39 CFR part 3060.<sup>2</sup> In accordance with its specific authority to regulate the assumed Federal income tax calculation under 39 U.S.C. 2011(h)(2)(B)(ii) and its general authority under 39 U.S.C. 503 to promulgate regulations and establish procedures, the

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<sup>1</sup> See Tax Cuts and Jobs Act, Pub. L. 115-97, 131 Stat. 2054 (2017) (Tax Cuts and Jobs Act).

<sup>2</sup> See Docket No. RM2008-5, Order Establishing Accounting Practices and Tax Rules for Competitive Products, December 18, 2008 (Order No. 151).

Commission initiated this proceeding to consider two forms of amendments to the existing regulations that would reflect changes made to the Internal Revenue Code after the Commission's 2008 rulemaking and remove obsolete provisions.

#### A. Applicable Corporate Tax Rate

Existing 39 CFR 3060.40(a) explains the method for calculating the assumed Federal income tax. The existing regulation requires the Postal Service to comply with chapter 1 of the Internal Revenue Code, specifically by computing the tax using either the section 11 (regular) rates or the Alternative Minimum Tax rates in section 55(b)(1)(B), "as applicable." The proposed amendment requires the calculation to be made using the applicable corporate tax rate in chapter 1 of the Internal Revenue Code, without specifying the particular rate or section. This change will align the regulations with the revised Internal Revenue Code and reduces the likelihood that future changes to the Internal Revenue Code will necessitate changes to the regulation. The Public Representative and the Postal Service support this proposed amendment. The Commission adopts this amendment as proposed.

#### B. Obsolete One-Time Extension Provisions

Existing 39 CFR 3060.40(c) and 3060.43(c) indicate the deadlines for the FY 2008 calculation and transfer were extended from January 15, 2009 to July 15, 2009. The proposed amendments remove these obsolete provisions and redesignate § 3060.43(d) as § 3060.43(c). These changes will remove the obsolete provisions and simplify the regulations. The Public Representative and

the Postal Service support these proposed amendments. The Commission adopts these amendments as proposed.

## **Final Rules**

### **List of Subjects for 39 CFR Part 3060**

Administrative practice and procedure, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

### **Part 3060—ACCOUNTING PRACTICES AND TAX RULES FOR THE THEORETICAL COMPETITIVE PRODUCTS ENTERPRISE**

1. The authority citation for part 3060 continues to read as follows:

Authority: 39 U.S.C. 503, 2011, 3633, 3634.

2. Amend § 3060.40 by revising paragraphs (a) and (c) to read as follows:

#### **§ 3060.40 Calculation of the assumed Federal income tax.**

(a) The assumed Federal income tax on competitive products income shall be based on the Postal Service theoretical competitive products enterprise income statement for the relevant year and must be calculated in compliance with chapter 1 of the Internal Revenue Code by computing the tax liability on the taxable income from the competitive products of the Postal Service theoretical competitive products enterprise at the applicable corporate tax rate.

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(c) The calculation of the assumed Federal income tax due shall be submitted to the Commission no later than the January 15 following the close of the fiscal year referenced in paragraph (b) of this section.

\* \* \* \* \*

§ 3060.43 [Amended]

3. Amend § 3060.43 by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

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