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BULLETIN TO ALL MEMBERS

RE: Federal Tax

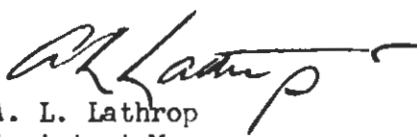
In Bulletin #221 we advised you of impending changes in the Federal Tax payment procedure.

We now enclose the following:

1. The new regulations with respect to the tax on foreign insurances which are effective January 1, 1966.
2. The administrative regulations incorporated by reference in the new regulations.
3. Explanatory comment furnished us by the firm of LeBoeuf, Lamb and Leiby of New York City.

We have called the local office of the Treasury Department and they advise that the revised form 720 is not yet available, and will probably not be available until some time in February.

Please do not overlook these important changes.


A. L. Lathrop
Assistant Manager

EXPLANATORY COMMENT

In general, these regulations effectuate the amendment of Sections 4371 and 4374 of the Internal Revenue Code with respect to the tax on foreign insurances. These regulations govern the procedure to be followed with respect to premiums paid on or after January 1, 1966. Two main changes are accomplished. Stamps will no longer be used to pay the tax; the tax will be paid on the basis of a quarterly return.

The second change is that the tax is no longer levied or computed on the basis of the premium charged but rather on the basis of the premium paid.

Who Must Pay the Tax. The tax must be paid by the person in this country who remits the premium to the foreign insurer or reinsurer or to the non United States resident, agent, solicitor or broker. In other words, the last United States resident in the chain, as it were, must pay tax whether that United States resident be the insured, reinsured or broker. Generally, we would expect this to be the Lloyd's correspondent broker in the United States.

Who Must File a Return. The person who is required to pay the tax must file a return on Form 720. (Form 720 is an existing Treasury form for the payment of excise taxes, to which we understand will be added a single line labeled "Tax on Foreign Insurances", and you will simply enter the gross amount of tax.)

When Does Liability for the Tax Attach. The liability for the tax attaches at the time the premium payment is transferred to the foreign insurer or reinsurer or to the nonresident agent or broker. Note that it is also permissible to assume the liability for the tax at the time you accrue the liability for the premium under your normal accounting procedures.

Basis of the Tax. The tax is computed and paid on the basis of the premium paid, not the premium charged. Where you have already paid the tax on the basis of the premium charged prior to January 1, 1966, and the premium is paid after January 1, 1966, you have no further liability for the tax. For example, in the case of a policy with an installment premium on which you paid the tax on the full premium in 1965 and an installment payment is received after January 1, 1966, you do not pay tax on that installment payment.

Tax Rate and Meaning of Premium. The tax rate remains the same and the definition of "premium" remains the same.

Administrative Provisions Incorporated by Reference. The regulations incorporate existing administrative provisions which are applicable to other excise taxes. These provisions require that the tax liability be reported on Form 720. A return on Form 720 shall be filed for a period of one calendar quarter. The return shall be filed on or before the last day of the first calendar month following the period for which it is made. The return shall

be filed with the District Director for the District in which is located the principal place of business or legal residence of an individual or principal office or agency in the case of a corporation.

Monthly Payments. If you have a tax liability of more than \$100 for a calendar month, the amount of the tax must be deposited with a Federal Reserve Bank on or before the last day of the next succeeding calendar month. Payment is to be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537). We understand this is the same procedure followed with respect to the payment of withholding taxes. The Bank returns the validated receipt and when you file your quarterly return you attach the validated receipt plus payment for the unpaid balance of the tax.

The above is not intended to be exhaustive but merely to cover the highlights and the essentials of the change effected by the amendment of the law and these regulations. Presumably, all existing regulations in this area continue in force except to the extent inconsistent with the amendment of the law and these new regulations.

RULES AND REGULATIONS

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES (T.D. 8868)

PART 145—TEMPORARY REGULATIONS IN CONNECTION WITH THE EXCISE TAX REDUCTION ACT OF 1965

Policies Issued by Foreign Insurers

In order to prescribe temporary regulations, which shall remain in force and effect until superseded by permanent regulations, to reflect the amendments made to sections 4371 and 4374 of the Internal Revenue Code of 1954 (relating to tax on policies issued by foreign insurers) by section 804 of the Excise Tax Reduction Act of 1965 (79 Stat. 160), the following regulations are hereby prescribed:

§ 145.5-1 Imposition and payment of tax on policies issued by foreign insurers.

(a) *In general.* Section 804 of the Excise Tax Reduction Act of 1965 (79 Stat. 160) amends section 4374 of the Internal Revenue Code of 1954 to provide that the Secretary or his delegate may prescribe by regulations that the tax imposed by section 4371, relating to the tax on policies issued by foreign insurers, shall be paid by return in lieu of by the affixing of documentary tax stamps. In addition, section 804 of such Act amends section 4371 of the Code to provide that if the tax imposed by section 4371 is paid by return under regulations prescribed under section 4374; the tax shall be computed on the premium paid in lieu of the premium charged. This section prescribes regulations under sections 4371 and 4374 with respect to premiums paid on or after January 1, 1966.

(b) *Payment of tax.*—(1) *Duty to remit tax.* With respect to premiums paid on or after January 1, 1966, the tax imposed by section 4371 shall be remitted by the person who makes the payment of the premium to a foreign insurer or reinsurer or to any nonresident agent, solicitor, or broker. For purposes of this subparagraph, the person who makes payment means that resident person who actually transfers the money, check, or its equivalent to the foreign insurer or reinsurer (including transfers to any bank, trust fund, or similar recipient, designated by the foreign insurer or reinsurer), or to any nonresident agent, solicitor, or broker. (See section 4372(a) for definition of foreign insurer or reinsurer.) For persons liable for the tax imposed by section 4371, see section 4384 and the regulations thereunder.

(2) *Filing of returns.* Every person required to remit under this section the tax imposed by section 4371 shall make a return on such tax on Form 720.

(3) *When liability for tax attaches.* The liability for the tax imposed by section 4371 with respect to premiums paid on or after January 1, 1966 shall attach

at the time the premium payment is transferred to the foreign insurer or reinsurer (including transfers to any bank, trust fund or similar recipient, designated by the foreign insurer or reinsurer), or to any nonresident agent, solicitor, or broker. A person required to remit tax under this section may remit such tax before the time the tax attaches if he keeps records consistent with such practice.

(4) *Tax paid on the basis of premium charged.* With respect to a premium paid on or after January 1, 1966, to the extent that tax imposed by section 4371 was paid on the basis of the premium charged before January 1, 1966, in accordance with the provisions of § 47.4371-2 (Documentary Stamp Tax), no further tax is due under this section.

(c) *Rate and computation of tax.*—(1) *In general.* (i) With respect to premiums paid on or after January 1, 1966, the tax under section 4371(1) is imposed at the rate of 4 cents on each dollar, or fractional part thereof, of the premium payment. For example, upon a premium payment of \$10.10 the tax amounts to 44 cents.

(ii) With respect to premiums paid on or after January 1, 1966, the tax under section 4371 (2) and (3) is imposed at the rate of 1 cent on each dollar, or fractional part thereof, of the premium payment. For example, upon a premium payment of \$10.10 the tax amounts to 11 cents.

(2) *Meaning of premium.* For purposes of this section, the term "premium" means the agreed price or consideration for assuming and carrying the risk or obligation, and includes any additional assessment or charge which may be assessed or charged under the contract, whether payable in one sum or installments.

(d) *Administrative provisions applicable.* All the provisions of §§ 40.6011(a)-1 through 46.6404(a)-1 (except § 46.6011(a)-3) (Miscellaneous Excise Taxes Payable by Return) of this chapter shall, insofar as not inconsistent with this section, apply in respect of the tax imposed by section 4371 with respect to premiums paid after December 31, 1965, as though such tax were imposed by section 4501(a). For purposes of applying such provisions, the person who pursuant to paragraph (b) of this section is required to remit the tax imposed by section 4371 shall be treated as the person liable for such tax.

(e) *Records required with respect to foreign insurance policies.* (1) Each person required under the provisions of paragraph (b) of this section to remit the tax imposed by section 4371 shall keep or cause to be kept accurate records of all policies or other instruments subject to such tax upon which premiums have been paid. Such records must identify each such policy or other in-

strument in such manner so as to clearly establish: (i) The gross premium paid; (ii) whether such policy or other instrument is (a) a policy of casualty insurance or an indemnity bond subject to tax under section 4371(1), (b) a policy of life, sickness, or accident insurance or an annuity contract subject to tax under section 4371(2), or (c) a policy of reinsurance subject to tax under section 4371(3); (iii) the identity of the insured (as defined in section 4372(d)); (iv) the identity of the foreign insurer or reinsurer (as defined in section 4372(a)); and (v) the total premium charged and, if the premium is to be paid in installments, the amount and anniversary date of each such installment.

(2) The records required under the provisions of this paragraph must be kept on file at the place of business or at some other convenient location, for a period of at least 3 years from the date any part of the tax became due or the date any part of the tax is paid, whichever is later, in such manner as to be readily accessible to authorized internal revenue officers or employees.

(3) The person having control or possession of a policy or other instrument subject to tax under section 4371 shall retain such policy or other instrument for at least 3 years from the date any part of the tax with respect to such policy was paid.

(f) *Use of documentary stamps.* Except as provided in paragraph (b) (4) of this section, documentary stamps shall not be used in payment of the tax imposed by section 4371 with respect to premiums paid on or after January 1, 1966.

(g) *Penalty for failure to file return.* Any person who on or after January 1, 1966, fails to comply with the requirements of paragraph (b) of this section with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of tax. (See section 7270.)

Because of the need for prompt guidance with respect to the procedures authorized by this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitations of section 4(c) of that Act.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917; 20 U.S.C. 7805)

[SEAL] SHELDON E. COHEN,
Commissioner of Internal Revenue.

Approved: December 17, 1965.

STANLEY S. SURREY,
Assistant Secretary
of the Treasury.

[P.R. Doc. 65-13690; Filed, Dec. 20, 1965;
8:50 a.m.]

The records shall show the polariscopic test or total sugars of each grade and type of sugar and manufactured sugar.

§ 46.6001-3 RECORDS RELATING TO COCONUT AND PALM OIL.—(a) *Processing records.*—Every processor shall maintain records and accounts with respect to the first domestic processing of the oil or bills showing:

(1) The quantity of (i) all raw materials from which oils are produced, (ii) all crude or virgin oils, and (iii) all oils which were imported and upon which preliminary processing had been done prior to importation.

(2) Daily records of the quantity of oils put into process, showing the purpose for which used and the products produced therefrom.

(3) The quantity of oils put into process under bond for export.

(b) *Source records.*—Records relative to coconut oil or to any combination or mixture containing a substantial quantity of coconut oil, with respect to which oil no tax has been paid, must be maintained in such a manner as to show:

(1) Separately, the quantity of coconut oil, or combination or mixture containing a substantial quantity of coconut oil, which is wholly the production of

- (i) The Philippine Islands,
- (ii) Guam,
- (iii) American Samoa,
- (iv) All possessions of the United States, and
- (v) The Trust Territory of the Pacific Islands,

and

(2) Separately, the quantity of coconut oil, or combination or mixture containing a substantial quantity of coconut oil, produced wholly from materials which are the growth or production of

- (i) The Philippine Islands,
- (ii) Guam,
- (iii) American Samoa,
- (iv) All possessions of the United States, and
- (v) The Trust Territory of the Pacific Islands.

The records shall also show the country or possession in which the raw materials or oils were produced, when such articles were brought into the United States, and the name and address of the importer.

§ 46.6011 (a) STATUTORY PROVISIONS; GENERAL REQUIREMENT OF RETURN, STATEMENT, OR LIST

SEC. 6011. GENERAL REQUIREMENT OF RETURN, STATEMENT, OR LIST.

(a) *GENERAL RULE.*—When required by regulations prescribed by the Secretary or his delegate any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary or his delegate. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

§ 46.6011(a)-1 RETURNS.—(a) *In general.*—Liability for tax imposed under section 4501(a) or 4511 shall be reported on Form 720. Except as provided in paragraph (b) of this section, a return on Form 720 shall be filed for a period of one calendar quarter. Every person

required to make a return on Form 720 for a return period ended December 31, 1954, shall make a return for each subsequent calendar quarter or month (whether or not liability was incurred for any tax reportable on such return for such return period) until he has filed a final return in accordance with § 46.6011(a)-2. Every person not required to make a return on Form 720 for a return period ended December 31, 1954, shall make a return for the first calendar quarter thereafter in which he incurs liability for tax imposed under section 4501(a) or 4511, and shall make a return for each subsequent calendar quarter or month until he has filed a final return in accordance with § 46.6011(a)-2.

(b) *Monthly returns.*—(1) *Requirement.*—If the district director determines that any taxpayer who is required to make deposit of taxes under the provisions of § 46.6302(c)-1 has failed to make deposits of such taxes for the first or second month of any calendar quarter, such taxpayer shall be required, if so notified in writing by the district director, to file a monthly return on Form 720, except that, if some other form is furnished by the district director for use in lieu of Form 720, the return shall be made on such other form. Every person so notified by the district director shall make a return for the calendar month in which the notice is received and for each calendar month thereafter until he has filed a final return or is required to make quarterly returns pursuant to notification as provided in subparagraph (2) of this paragraph. However, if the notice provided for in this subparagraph is received after the close of the first calendar month of a calendar quarter, the first return under this subparagraph shall be made for the period beginning with the first day of the quarter and ending with the last day of the month in which the notice is received.

(2) *Termination of requirement.*—The district director, in his discretion, may notify the taxpayer in writing that he shall discontinue the filing of monthly returns under this paragraph. If the taxpayer is so notified, the last month for which a return shall be made under this paragraph is the last month of the calendar quarter in which such notice of discontinuance is received. Thereafter, the taxpayer shall make quarterly returns as provided in paragraph (a) of this section.

(c) *Signing and verification of returns.*—For provisions relating to the signing and verification of returns, see §§ 46.6061-1 and 46.6065, respectively.

(d) *Time and place for filing returns.*—For provisions relating to the time and place for filing returns, see §§ 46.6071(a)-1 and 46.6001-1, respectively.

§ 46.6011(a)-2 **FINAL RETURNS.**—(a) *In general.*—Any person who is required to make a return on Form 720 pursuant to § 46.6011(a)-1, and who in any return period ceases operations in respect of which he is required to make a return on such form, shall make such return for such period as a final return. Each return made as a final return shall be marked "Final Return" by the person filing the return. A person who has only temporarily ceased to incur liability for tax required to be reported on Form 720, because of temporary or seasonal suspension of his business or for other reasons, shall not make a final return but shall continue to file returns.