

**DEPARTMENT OF THE TREASURY****Fiscal Service****31 CFR Part 203**

RIN 1510-AA79

**Payment of Federal Taxes and the Treasury Tax and Loan Program**

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of the Treasury (Treasury), Financial Management Service (FMS), is proposing a revision of its regulations governing the Treasury Tax and Loan (TT&L) program and specifically a change to the interest rate Treasury charges on TT&L note balances, including funds loaned through the direct investment and special direct investment programs. Under the current rule, the TT&L rate of interest is the Federal funds rate published weekly by the Board of Governors of the Federal Reserve System less 25 basis points. Treasury is proposing to change the basis for computing the TT&L rate of interest to an overnight repurchase agreement rate in order to better approximate the market interest rate for collateralized lending.

Comments are specifically requested on whether the rule is well organized and states its requirement clearly. Also, we welcome suggestions on how to make the rule easier to understand.

Treasury invites comments on all aspects of the proposed change in the regulation.

**DATES:** Written comments must be received on or before September 28, 1999.

**ADDRESSES:** Comments or inquiries may be mailed to Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, Financial Management Service, Room 420, 401 14th Street, SW, Washington, DC 20227. Comments also may be submitted electronically via e-mail to 203.comments@fms.sprint.com or by filling out the comment form available on the EFT website at <http://www.fms.treas.gov/eftps>. A copy of this notice is being made available for downloading from the Financial Management Service web site at the following address: <http://www.fms.treas.gov/regs.html>.

Comments on the proposed rule will be available for public inspection at the Department of the Treasury Library, Room 5030, 1500 Pennsylvania Avenue, NW, Washington, DC. Please call (202) 622-0990 to make an appointment.

**FOR FURTHER INFORMATION CONTACT:**

Mary Bailey, Financial Program Specialist, at (202) 874-6749; Walt Henderson, Senior Financial Program Specialist, at (202) 874-6705; Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, at (202) 874-6590; or Ellen Neubauer, Senior Attorney, at (202) 874-6680.

**SUPPLEMENTARY INFORMATION:****Background on the Treasury Tax and Loan Program**

The Treasury Tax and Loan (TT&L) program encompasses two separate components—a depositary component through which the Treasury collects Federal tax deposits and payments from business taxpayers for employee withholding and other types of taxes, and an investment component through which the Treasury invests short-term operating balances not needed for immediate cash outlays.

Through the TT&L depositary component, which comprises nearly 10,500 commercial financial institutions and Federal Reserve Banks (FRBs), the Treasury collected almost \$1.4 trillion in Fiscal Year 1998, representing approximately 80 percent of the total Federal annual receipts, from approximately 5 million business taxpayers.

More than 1,500 of the TT&L depositaries borrow excess short-term Treasury operating funds by participating in the investment component of the TT&L program. Through agreements executed under this Part, participating depositaries borrow Treasury funds in the form of a note secured with collateral pledged to Treasury and pay interest to the Treasury on these balances. In Fiscal Year 1998, the Treasury earned \$1.2 billion in interest income through the TT&L investment component.

**Treasury Tax and Loan Rate of Interest**

The interest rate that the Treasury charges on a TT&L depositary's note balance is the Federal funds rate [computed on a weighted average effective basis by the Federal Reserve Bank of New York (FRBNY)] less 25 basis points (25 hundredths of one percentage point). The Federal funds rate is the interest rate at which financial institutions exchange balances in their accounts at the Federal Reserve with each other on an overnight, unsecured basis.

The current formula was put into place in 1978. At that time, the overnight repurchase agreement market was not mature and a published rate was not available. Thus, the TT&L rate of interest was set as an approximation

of an overnight repurchase agreement rate. When the current formula was put into place in 1978, it was generally believed that the Federal funds rate averaged 25 basis points above the volume-weighted average interest rate from overnight repurchase agreements secured by Treasury securities and select Agency securities executed by the FRBNY for its monetary operations. An overnight repurchase agreement is the economic equivalent of an overnight loan collateralized by securities.

Treasury is proposing to change the TT&L rate of interest to an explicit overnight repurchase agreement rate. This change will allow Treasury to receive the actual interest rate, rather than a proxy rate, on an economically similar transaction.

Specifically, Treasury is proposing that FRBNY, as fiscal agent for the U.S. Treasury, compile and publish a volume-weighted average overnight repurchase agreement rate. We propose that the FRBNY compile this rate from data it would obtain from its domestic open market counter parties ("the primary dealers") regarding the volume-weighted average overnight rate the primary dealers paid to finance general collateral securities. The Treasury requests comments on this proposed methodology.

Replacing the formula or proxy rate with an explicit overnight repurchase agreement rate will provide depositaries with an easily understandable rate which will be publicly available. Historically, these two rates generally have moved broadly in tandem. From the inception of the investment program in 1978 through May 1999 the Federal funds rate averaged approximately 29 basis points (29 hundredths of one percentage point) over the overnight repurchase agreement rate. Since 1990, however, the average difference between the two rates has been only approximately 2 basis points (2 hundredths of one percentage point).

**Availability of the Overnight Repurchase Agreement Rate**

It is important that the TT&L rate of interest be readily available to the public. The Treasury proposes to request that the Federal Reserve publish an overnight repurchase agreement rate on a basis similar to that used to publish the Federal funds rate. Thus, financial institutions that elect to maintain a TT&L note balance will have a readily accessible indicator on which to estimate the cost of funds.

**Section by Section Analysis****Section 203.2—Definitions**

Treasury proposes to change the definition of the “Treasury Tax and Loan (TT&L) rate of interest” from the Federal funds rate less 25 basis points to a volume-weighted average overnight repurchase agreement rate. Treasury also proposes to add a definition of “Overnight Repurchase Agreement Rate”. This new term is used in the redefined “Treasury Tax and Loan (TT&L) rate of interest”. As a result of this new definition, this section will be renumbered.

**Rulemaking Analysis**

Treasury has determined that this proposed regulation is not a significant regulatory action as defined in Executive Order 12866. It is hereby certified that this rule will not have a significant economic impact on a substantial number of small business entities. The proposed rule does not require any actions on the part of small entities. Accordingly, a Regulatory Flexibility Act analysis is not required.

**Request for Comment**

The Treasury invites comments on all aspects of the proposed change in the Treasury Tax and Loan rate of interest

for calculating interest due to the Treasury on TT&L note balances. In particular, the Treasury invites comments on the potential impact to the investment component of the TT&L program—specifically, whether depositaries are likely to alter their participation in the program and, if so, by how much—and on the proposed methodology for determining the overnight repurchase agreement rate. Treasury is also interested in comments regarding the extent to which TT&L participants would be interested in obtaining TT&L note balances for a guaranteed term.

**List of Subjects in 31 CFR Part 203**

Banks, Banking, Electronic funds transfers, Taxes.

Accordingly, it is proposed to amend 31 CFR part 203 as follows:

**PART 203—PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM**

**Subpart A—General Information**

1. The authority citation for Part 203 continues to read as follows:

**Authority:** 26 U.S.C. 6302; 31 U.S.C. 321; 31 U.S.C. 323; 31 U.S.C. 3301–3304; 12 U.S.C. 90; 12 U.S.C. 265–266; 12 U.S.C. 332; 12 U.S.C. 391; 12 U.S.C. 1452(d); 12 U.S.C.

1464(k); 12 U.S.C. 1767; 12 U.S.C. 1789a; 12 U.S.C. 2013; 12 U.S.C. 2122; and 12 U.S.C. 3102.

2. Section 203.2 is amended by deleting paragraph (j), redesignating paragraphs (k) through (w) as paragraphs (j) through (v), adding a new paragraph (w) and revising paragraph (kk) to read as follows:

**Subpart A—General Information.****§ 203.2 Definitions.**

\* \* \* \* \*

(w) *Overnight repurchase agreement rate* means the interest rate calculated by the Federal Reserve Bank of New York from the volume-weighted average overnight rate paid to finance general collateral securities compiled by the Federal Reserve Bank of New York and published weekly by the Board of Governors of the Federal Reserve System.

\* \* \* \* \*

(kk) *Treasury tax and loan (TT&L) rate of interest* means the overnight repurchase agreement rate.

Dated: July 26, 1999.

**Donald V. Hammond,**

*Fiscal Assistant Secretary.*

[FR Doc. 99–19564 Filed 7–29–99; 8:45 am]

BILLING CODE 4810–35–P