

# Rules and Regulations

Federal Register

Vol. 71, No. 159

Thursday, August 17, 2006

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 101

[Docket No. 2001N-0548] (formerly 01N-0548)

#### Food Labeling; Guidelines for Voluntary Nutrition Labeling of Raw Fruits, Vegetables, and Fish; Correction

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of July 25, 2006 (71 FR 42031). The document amended the voluntary nutrition labeling regulations by updating the names and the nutrition labeling values for the 20 most frequently consumed raw fruits, vegetables, and fish in the United States. The document published with incorrect units of measures for nutrients and an incorrect number in the Final Regulatory Impact Analysis section. This document corrects those errors.

**EFFECTIVE DATE:** January 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mary Brandt, Center for Food Safety and Applied Nutrition (HFS-840), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-1788.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 06-6436, appearing in the **Federal Register** of Tuesday, July 25, 2006, the following corrections are made:

1. On page 42037, in the third column, in the first full paragraph, in the fourth sentence, “total carbohydrate

(34 g, 11 percent DV, from 21 mg, 7 percent DV)” is corrected to read “total carbohydrate (34 g, 11 percent DV, from 21 g, 7 percent DV)”.

2. On page 42037, in Table 1, in the second and fourth columns for Apples, Total Carbohydrate, “21 mg” and “34 mg” are corrected to read “21 g” and “34 g”.

3. On page 42038, in Table 1, in the fourth column for Tangerine, Sodium, “0 g” is corrected to read “0 mg”.

4. On page 42038, in Table 1, in the second and fourth columns for Mushrooms, Sodium, “0 g” and “15 g” are corrected to read “0 mg” and “15 mg”.

5. On page 42041, in the third column, in the first full paragraph, in the second sentence, “one-half of the 48,000 to 68,000 stores” is corrected to read “one-half of the 48,000 to 63,000 stores”.

6. On pages 42045 through 42047, in Appendices C and D, the unit of measure for Total Carbohydrate, “(mg)” is corrected to read “(g)”; Appendices C and D to part 101 are corrected to read as follows:

**BILLING CODE** 4160-01-S

Appendix C to Part 101.--Nutrition Facts for Raw Fruits and Vegetables

Nutrition facts for raw fruits and vegetables edible portion	Cal-ories	Cal-ories from fat	Total Fat (g) (%)	Saturated Fat (g) (%)	Trans Fat (g)	Cholesterol (mg) (%)	Sodium (mg) (%)	Potassium (mg) (%)	Total Carbo-hydrate (g) (%)	Dietary Fiber (g) (%)	Sug-ars (g)	Pro-tein (g)	Vita-min A (%)	Vita-min C (%)	Cal-cium (%)	Iron (%)	
																	(g)
Apple, 1 large (242 g/8 oz)	130	0	0	0	0	0	0	260	7	34	11	5	20	25	1	2	2
Avocado, California, 1/5 medium (30 g/1.1 oz)	50	35	4.5	7	0.5	3	0	0	140	4	3	1	4	0	1	0	2
Banana, 1 medium (126 g/4.5 oz)	110	0	0	0	0	0	0	450	13	30	10	3	12	19	1	2	2
Cantaloupe, 1/4 medium (134 g/4.8 oz)	50	0	0	0	0	0	20	1	240	7	12	4	1	4	11	1	2
Grapefruit, 1/2 medium (154 g/5.5 oz)	60	0	0	0	0	0	0	160	5	15	5	2	8	11	1	35	100
Grapes, 3/4 cup (126 g/4.5 oz)	90	0	0	0	0	0	15	1	240	7	23	8	1	4	20	0	2
Honeydew Melon, 1/10 medium melon (134 g/4.8 oz)	50	0	0	0	0	0	30	1	210	6	12	4	1	4	11	1	2
Kiwifruit, 2 medium (148 g/5.3 oz)	90	10	1	2	0	0	0	450	13	20	7	4	16	13	1	2	240
Lemon, 1 medium (58 g/2.1 oz)	15	0	0	0	0	0	0	75	2	5	2	2	8	2	0	0	40
Lime, 1 medium (67 g/2.4 oz)	20	0	0	0	0	0	0	75	2	7	2	2	8	0	0	0	35
Nectarine, 1 medium (140 g/5.0 oz)	60	5	0.5	1	0	0	0	250	7	15	5	2	8	11	1	8	15
Orange, 1 medium (154 g/5.5 oz)	80	0	0	0	0	0	0	250	7	19	6	3	12	14	1	2	130
Peach, 1 medium (147 g/5.3 oz)	60	0	0.5	1	0	0	0	230	7	15	5	2	8	13	1	6	15
Pear, 1 medium (166 g/5.9 oz)	100	0	0	0	0	0	0	190	5	26	9	6	24	16	1	0	10
Pineapple, 2 slices, 3" diameter, 3/4" thick (112 g/4 oz)	50	0	0	0	0	0	10	0	120	3	13	4	1	4	10	1	2
Plums, 2 medium (151 g/5.4 oz)	70	0	0	0	0	0	0	230	7	19	6	2	8	16	1	8	10
Strawberries, 8 medium (147 g/5.3 oz)	50	0	0	0	0	0	0	170	5	11	4	2	8	8	1	0	160
Sweet cherries, 21 cherries; 1 cup (140 g/5.0 oz)	100	0	0	0	0	0	0	350	10	26	9	1	4	16	1	2	15
Tangerine, 1 medium (109 g/3.9 oz)	50	0	0	0	0	0	0	160	5	13	4	2	8	9	1	6	45
Watermelon, 1/18 medium melon; 2 cups diced pieces (280 g/10.0 oz)	80	0	0	0	0	0	0	270	8	21	7	1	4	20	1	30	25

**Appendix C to Part 101.--Nutrition Facts for Raw Fruits and Vegetables--continued**

Nutrition facts <sup>1</sup> for raw fruits and vegetables edible portion	Cal-ories	Cal-ories from fat	Total Fat		Saturated Fat	Trans Fat	Cholesterol	Sodium		Potassium	Total Carbo-hydrate		Dietary Fiber	Sug-ars	Pro-tein	Vita-min A	Vita-min C	Cal-cium	Iron		
			(g)	(%)				(mg)	(%)		(g)	(%)								(g)	(%)
Asparagus, 5 spears (93 g/3.3 oz)	20	0	0	0	0	0	0	0	0	230	7	4	1	2	8	2	2	15	2	2	
Bell pepper, 1 medium (148 g/5.3 oz)	25	0	0	0	0	0	0	40	2	220	6	6	2	2	8	4	1	4	190	2	4
Broccoli, 1 medium stalk (148 g/5.3 oz)	45	0	0.5	1	0	0	0	80	3	460	13	8	3	3	12	2	4	6	220	6	6
Carrot, 1 carrot, 7" long, 1 1/4" diameter (78 g/2.8 oz)	30	0	0	0	0	0	0	60	3	250	7	7	2	2	8	5	1	110	10	2	2
Cauliflower, 1/6 medium head (99 g/3.5 oz)	25	0	0	0	0	0	0	30	1	270	8	5	2	2	8	2	2	0	100	2	2
Celery, 2 medium stalks (110 g/3.9 oz)	15	0	0	0	0	0	0	115	5	260	7	4	1	2	8	2	0	10	15	4	2
Cucumber, 1/3 medium (99 g/3.5 oz)	10	0	0	0	0	0	0	0	0	140	4	2	1	1	4	1	1	4	10	2	2
Green (snap) beans, 3/4 cup cut (83 g/3.0 oz)	20	0	0	0	0	0	0	0	0	200	6	5	2	3	12	2	1	4	10	4	2
Green cabbage, 1/12 medium head (84 g/3.0 oz)	25	0	0	0	0	0	0	20	1	190	5	5	2	2	8	3	1	0	70	4	2
Green onion, 1/4 cup chopped (25 g/0.9 oz)	10	0	0	0	0	0	0	10	0	70	2	2	1	1	4	1	0	2	8	2	2
Iceberg lettuce, 1/6 medium head (89 g/3.2 oz)	10	0	0	0	0	0	0	10	0	125	4	2	1	1	4	2	1	6	6	2	2
Leaf lettuce, 1 1/2 cups shredded (85 g/3.0 oz)	15	0	0	0	0	0	0	35	1	170	5	2	1	1	4	1	1	130	6	2	4
Mushrooms, 5 medium (84 g/3.0 oz)	20	0	0	0	0	0	0	15	0	300	9	3	1	1	4	0	3	0	2	0	2
Onion, 1 medium (148 g/5.3 oz)	45	0	0	0	0	0	0	5	0	190	5	11	4	3	12	9	1	0	20	4	4
Potato, 1 medium (148 g/5.3 oz)	110	0	0	0	0	0	0	0	0	620	18	26	9	2	8	1	3	0	45	2	6
Radishes, 7 radishes (85 g/3.0 oz)	10	0	0	0	0	0	0	55	2	190	5	3	1	1	4	2	0	0	30	2	2
Summer squash, 1/2 medium (98 g/3.5 oz)	20	0	0	0	0	0	0	0	0	260	7	4	1	2	8	2	1	6	30	2	2
Sweet corn, kernels from 1 medium ear (90 g/3.2 oz)	90	20	2.5	4	0	0	0	0	0	250	7	18	6	2	8	5	4	2	10	0	2
Sweet Potato, 1 medium, 5" long, 2" diameter (130 g/4.6 oz)	100	0	0	0	0	0	0	70	3	440	13	23	8	4	16	7	2	120	30	4	4
Tomato, 1 medium (148 g/5.3 oz)	25	0	0	0	0	0	0	20	1	340	10	5	2	1	4	3	1	20	40	2	4

<sup>1</sup> Raw, edible weight portion. Percent (%) Daily Values are based on a 2,000 calorie diet.

Appendix D to Part 101.--Nutrition Facts for Cooked Fish

Nutrition facts fish (84 g/3 oz)	Cal-ories	Cal-ories from fat	Total Fat		Saturated Fat		Trans Fat		Cholesterol (mg) (%)	Sodium (mg) (%)	Potassium (mg) (%)	Total Carbohydrate (g) (%)	Dietary Fiber (g) (%)	Sugars (g)	Protein (g)	Vitamin A (%)	Vitamin C (%)	Calcium (%)	Iron (%)			
			(g)	(%)	(g)	(%)	(g)	(%)														
Blue crab	100	10	1	2	0	0	0	0	95	32	330	14	300	9	0	0	0	0	0	4		
Carfish	130	60	6	9	2	10	0	0	50	17	40	2	230	7	0	0	0	0	0	0		
Clams, about 12 small	110	15	1.5	2	0	0	0	0	80	27	95	4	470	13	6	2	0	0	0	10	0	
Cod	90	5	1	2	0	0	0	0	50	17	65	3	460	13	0	0	0	0	0	20	0	2
Flounder/sole	100	15	1.5	2	0	0	0	0	55	18	100	4	390	11	0	0	0	0	0	19	0	2
Haddock	100	10	1	2	0	0	0	0	70	23	85	4	340	10	0	0	0	0	0	21	2	0
Halibut	120	15	2	3	0	0	0	0	40	13	60	3	500	14	0	0	0	0	0	23	4	0
Lobster	80	0	0.5	1	0	0	0	0	60	20	320	13	300	9	1	0	0	0	0	17	2	0
Ocean perch	110	20	2	3	0.5	3	0	0	45	15	95	4	290	8	0	0	0	0	0	21	0	2
Orange roughy	80	5	1	2	0	0	0	0	20	7	70	3	340	10	0	0	0	0	16	2	0	
Oysters, about 12 medium	100	35	4	6	1	5	0	0	80	27	300	13	220	6	6	2	0	0	0	10	0	6
Pollock	90	10	1	2	0	0	0	0	80	27	110	5	370	11	0	0	0	0	20	2	0	
Rainbow trout	140	50	6	9	2	10	0	0	55	18	35	1	370	11	0	0	0	0	20	4	4	
Rockfish	110	15	2	3	0	0	0	0	40	13	70	3	440	13	0	0	0	0	21	4	0	
Salmon, Atlantic/Coho/Sockeye/Chinook	200	90	10	15	2	10	0	0	70	23	55	2	430	12	0	0	0	0	24	4	4	
Salmon, Chum/Pink	130	40	4	6	1	5	0	0	70	23	65	3	420	12	0	0	0	0	22	2	0	
Scallops, about 6 large or 14 small	140	10	1	2	0	0	0	0	65	22	310	13	430	12	5	2	0	0	27	2	0	
Shrimp	100	10	1.5	2	0	0	0	0	170	57	240	10	220	6	0	0	0	0	21	4	4	
Swordfish	120	50	6	9	1.5	8	0	0	40	13	100	4	310	9	0	0	0	0	16	2	2	
Tilapia	110	20	2.5	4	1	5	0	0	75	25	30	1	360	10	0	0	0	0	22	0	2	
Tuna	130	15	1.5	2	0	0	0	0	50	17	40	2	480	14	0	0	0	0	26	2	2	

<sup>1</sup> Cooked, edible weight portion. Percent (%) Daily Values are based on a 2,000 calorie diet.

Dated: August 10, 2006.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 06-6957 Filed 8-16-06; 8:45 am]

BILLING CODE 4160-01-C

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 602

[TD 9281]

RIN 1545-BF70

#### Determination of Interest Expense Deduction of Foreign Corporations

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains revised Income Tax Regulations relating to the determination of the interest expense deduction of foreign corporations and applies to foreign corporations engaged in a trade or business within the United States. This action is necessary to conform the rules to subsequent U.S. Income Tax Treaty agreements and to adopt changes to facilitate improved administrability for taxpayers and the IRS.

**DATES:** *Effective Date:* These regulations are effective starting the tax year end for which the original tax return due date (including extensions) is after August 17, 2006.

*Applicability Date:* These regulations are applicable starting the tax year end for which the original tax return due date (including extensions) is after August 17, 2006.

**FOR FURTHER INFORMATION CONTACT:** Gregory Spring or Paul Epstein, (202) 622-3870 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545-2030. Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless the collection of information displays a valid control number.

For further information concerning these collections of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble of the cross-referencing notice of proposed rulemaking published in this issue of the **Federal Register**.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### Background

On December 30, 1980, the Treasury Department and the IRS published final regulations TD 7749 [46 FR 16100 (1981-1 CB 390) (see § 601.601(d)(2) of this chapter)] under section 882(c) of the Internal Revenue Code (Code) regarding the determination of a foreign corporation's interest expense allocable to income effectively connected with the conduct of a trade or business within the United States. On March 8, 1996, the Treasury Department and the IRS published final regulations TD 8658 [61 FR 15891 (1996-1 CB 161) (see § 601.601(d)(2) of this chapter)], and new proposed amendments INTL-0054-95 [61 FR 28118 (1996-1 CB 844) (see § 601.601(d)(2) of this chapter)]. The 1996 amendments implemented certain statutory changes enacted in the Tax Reform Act of 1986, Public Law 99-514 (100 Stat. 2085), and took account of developments in international financial markets. Comments were received on both the final and proposed 1996 regulations. Since then, two new U.S. income tax treaties have entered into force that follow a different approach for determining the limit on profits attributable to a permanent establishment in a contracting state and for determining interest expense allowed in computing such profits. On July 14, 2005, the Treasury Department and the IRS published Notice 2005-53 (2005-32 IRB 32, see § 601.601(d)(2)), which described those new treaties and announced the intention to update the final § 1.882-5 regulations to take account of changes in the international banking sector and to promote both ease of administration and certainty of application.

These temporary regulations in this document implement Notice 2005-53, make effective one part of the 1996 proposed regulations, make

miscellaneous clarifications to the 1996 final regulations, and modify the branch profits tax liability reduction regulations under § 1.884-1(e)(3).

#### Explanation of Provisions

The following discussion is divided into several parts. Section 1 of the following discussion summarizes Notice 2005-53. Section 2 addresses the coordination of § 1.882-5 with U.S. tax treaties and discusses other modifications made by these temporary regulations to the three-step calculation of interest expense under § 1.882-5. Section 3 addresses changes made to the branch profits tax regulations under section 884. Section 4 then addresses miscellaneous technical modifications made by these temporary regulations that clarify application of the existing final regulations. Section 5 describes the effective date of these regulations.

##### 1. Notice 2005-53

Notice 2005-53 provided guidance regarding the interaction of § 1.882-5 and U.S. income tax treaties and explained that since the recent treaties with the United Kingdom and Japan entered into force, § 1.882-5 no longer provides the exclusive rules for determining the interest expense attributable to the business profits of a U.S. permanent establishment. The Notice also provided guidance and requested comments regarding certain potential modifications to certain elements of the three-step calculation of interest expense under § 1.882-5. More specifically, the Notice requested information regarding a possible increase to the existing 93-percent fixed ratio in Step 2 of the calculation and announced the intention to allow the use of a safe-harbor interest rate for determining excess interest under the "adjusted U.S.-booked liabilities" method in Step 3. The Notice also requested comments regarding the effect of intangibles on the Step-1 determination of U.S. assets under the elective fair market value method and the Step-2 determination of U.S. liabilities using the fixed or actual ratio.

##### 2. Modifications to Three-Step Calculation Under § 1.882-5

###### a. Introduction/Background

Section 1.882-5 generally requires a foreign corporation to use a three-step calculation to determine the amount of interest expense that is allocable under section 882(c) to income effectively connected (or treated as effectively connected) with the foreign corporation's conduct of a trade or business within the United States.