

the debt, and agency program under which it arose. If you respond to us within the 15- or 60-day periods set forth in paragraphs (a)(4) and (a)(5) of this section, we will not disclose the information to consumer reporting agencies and will not refer the debt to another Federal agency until we consider your response and determine that you owe a past-due, legally enforceable debt.

(4) If we notify you that we intend to start a salary offset to satisfy your debt, you may request a hearing from SBA's Office of Hearings and Appeals (OHA). Part 134 of this title governs OHA proceedings. To have a hearing before OHA, you must request a hearing within 15 days of receiving the notice. If you file your request in time, we must stop collection proceedings until OHA's Administrative Law Judge (ALJ) decides your case. You must state in your request for an OHA hearing the date you received the notice and present the evidence you believe shows the debt is not past due or legally enforceable. You also must send a copy of your submission to the SBA Associate General Counsel for Litigation, Office of General Counsel, at the Small Business Administration, 409 Third Street, SW., Washington, DC 20416. OHA's ALJ will issue a decision within 60 days after you filed your request for a hearing with OHA.

(5) If we notify you that we intend to start an administrative offset or to refer your debt to another Federal agency for possible offset, you may request review from the SBA official identified in the notice. To obtain review of the debt, you must submit to the designated official, within 60 days of the notice, the evidence showing the debt is not past due or legally enforceable. By failing to request review within this period, you waive any objection to the offset action. If you request review of the debt, the relevant SBA official will notify you in writing of the final decision and whether we will continue with the offset action or refer your debt to another agency for offset.

(6) We need not follow these procedures to verify that a debt is past due and legally enforceable if another Federal agency already has made this determination.

(b) *Actions after SBA verifies a past-due, legally enforceable debt.* (1) After verifying a past-due, legally enforceable debt, we may—

(i) Begin an offset action to recover the debt;

(ii) Refer the debt to another agency for offset;

(iii) Notify consumer reporting agencies of the debt; or

(iv) Begin other appropriate action to attempt collection of the debt.

(2) If you are subject to an offset action, you may be required to pay, in addition to your debt, interest, penalties, and administrative costs, such as the costs of collection. We or another Federal agency will provide notice of any such interest, penalties, and administrative costs.

(3) If another Federal agency asks us to offset a debt, we may rely on the creditor agency's determination that a debt is past due and legally enforceable. We will not begin an offset until the creditor agency has provided written notice that you owe a past-due, legally enforceable debt, and of its amount, and that the agency has fully complied with its regulations concerning administrative offsets. After receiving such notice, we will provide you notice that we will begin an offset. You are not entitled to further review from us that the debt is valid or the offset proper.

(4) If we refer the debt to a consumer reporting agency and the status or amount of your debt substantially changes, we will report that change promptly to each consumer reporting agency we originally contacted. We will obtain satisfactory assurances from each consumer reporting agency that the consumer reporting agency has complied with all Federal laws relating to provision of consumer credit information.

(5) If another agency is beginning an offset of your debt and you make any additional payments to us, we will notify the other agency of these payments and your new balance as soon as reasonably possible.

(c) We or another Federal agency may make an offset prior to completing the procedures described in this part, if failure to make an offset would substantially prejudice the Government's ability to collect the debt; and the time before the Government otherwise would make payment to you does not reasonably permit the completion of the procedures. If we initiate the offset action, we then must provide you with an opportunity to present evidence that the debt is not past due or legally enforceable and take appropriate action in response to this evidence.

(d) If you owe us a past-due, legally enforceable debt that is over 180 days delinquent, including non-tax debt administered by a third party acting as an agent for the Federal Government, we must, as required by 31 U.S.C. 3716(c)(6), notify the Treasury of all such non-tax debts for purposes of administrative offset.

Dated: January 6, 1999.

**Aida Alvarez,**  
Administrator.

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## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Parts 1213, 1500, and 1513

#### Bunk Beds; Extension of Time To Issue Proposed Rule

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Extension of time to issue proposed rule.

**SUMMARY:** On January 22, 1998, the Consumer Product Safety Commission ("CPSC") or "Commission") issued an advance notice of proposed rulemaking ("ANPR") that began a rulemaking proceeding addressing possibly unreasonable risks of injury and death associated with children's entrapments in bunk beds. 63 FR 3280.

A rule mandating bunk bed performance requirements to reduce this hazard could be issued under either the Federal Hazardous Substances Act ("FHSA") or the Consumer Product Safety Act ("CPSA"), or both. The CPSA provides that a proposed standard under that act must be issued within 12 months of publication of the ANPR, unless the 12-month period is extended by the Commission for good cause. In this notice, the Commission extends the period for issuing any proposed CPSA rule until March 22, 1999.

**ADDRESSES:** Mail requests for documents concerning this rulemaking should be directed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207-0001.

Documents may be obtained or examined at the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504-0800. The Commission also may be contacted by telefacsimile to (301) 504-0127 or by e-mail to [cpssc-os@cpssc.gov](mailto:cpssc-os@cpssc.gov).

**FOR FURTHER INFORMATION CONTACT:** John Preston, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0494, ext. 1315.

**SUPPLEMENTARY INFORMATION:** Under Section 9(c) of the CPSA, the Commission must propose a consumer product safety rule within 12 months of the publication of an ANPR, unless the Commission extends that period for

good cause. 15 U.S.C. 2058(c). Since the ANPR for bunk beds was published on January 22, 1998, the 12-month period for proposal of any CPSA rule in that proceeding expires on January 22, 1999.

After publication of the ANPR, the public was given until April 7, 1998, to file written comments with the CPSC. The CPSC's staff then analyzed the comments and other available information and prepared a briefing package that was sent to the Commission on December 16, 1998. The Commission was briefed on this matter on January 7, 1999, and should decide whether to propose a rule in the near future.

However, the Commission is not certain that it will decide whether to issue a proposed rule before the 12-month deadline passes. Accordingly, the Commission extends the date for publishing an ANPR to March 22, 1999.

Dated: January 15, 1999.

**Sadye E. Dunn,**

*Secretary of the Commission.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-110524-98]

RIN 1545-AW85

#### Capital Gains, Installment Sales, Unrecaptured Section 1250 Gain

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed amendments to the regulations relating to the taxation of capital gains on installment sales of depreciable real property. The proposed regulations interpret changes made by the Taxpayer Relief Act of 1997, as amended by the Internal Revenue Service Restructuring and Reform Act of 1998 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999. The proposed regulations affect persons required to report capital gain from an installment sale where a portion of the capital gain is unrecaptured section 1250 gain and a portion is adjusted net capital gain.

**DATES:** Written comments or requests for a public hearing must be received by April 22, 1999.

**ADDRESSES:** Send submissions to CC:DOM:CORP:R (REG-110524-98),

room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-110524-98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at [http://www.irs.ustreas.gov/prod/tax\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax_regs/comments.html).

#### FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Susan Kassell, (202) 622-4930; concerning submissions, LaNita VanDyke, (202) 622-7190 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) relating to the taxation of capital gains on installment sales of depreciable real property.

Prior to 1997, the maximum rate on net capital gain for individuals was 28 percent. In the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788, 831) (1997 Act), Congress amended section 1(h) generally to reduce the maximum capital gain tax rates for individuals. Certain substantive changes and technical corrections to section 1(h) were enacted as part of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206 (112 Stat. 685), including the repeal of an 18-month holding period requirement for amounts properly taken into account after December 31, 1997, and by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277 (112 Stat. 2681).

As amended, section 1(h) generally divides net capital gain into three rate groups based on the nature of the property, the nature of the gain, and the holding period of the property.

A maximum marginal rate of 28 percent applies to 28-percent rate gain (28-percent gain), the combination of (1) capital gains and losses from the sale or exchange of collectibles held for more than one year; (2) an amount equal to gain excluded from income on the sale or exchange of certain small business stock under section 1202; (3) capital gains and losses determined under special transition rules in section 1(h)(13) for certain amounts taken into

account in 1997; (4) net short-term capital loss for the tax year; and (5) any long-term capital loss carryover to the tax year under section 1212.

A maximum marginal rate of 25 percent applies to unrecaptured section 1250 gain (25-percent gain), which is defined in section 1(h)(7)(A) as the amount of long-term capital gain (not otherwise treated as ordinary income) that would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, reduced by any net loss in the 28-percent rate category. Effectively, the amount of gain taxed at 25 percent is the amount of straight-line depreciation allowed for the property. Thus, the 25-percent rate category partially recaptures such depreciation, but the recapture is limited, *inter alia*, in that the recapture rate may be less than the marginal rates that applied to the depreciation deductions. Section 1(h)(7)(B) limits the unrecaptured section 1250 gain from section 1231 assets for any tax year to the net section 1231 gain for that year.

A maximum marginal rate of 20 percent generally applies to adjusted net capital gain (20/10-percent gain), defined in section 1(h)(4) as the portion of net capital gain that is not taxed at the 28-percent or 25-percent rates. Under section 1(h)(1)(B), a 10-percent rate applies to any portion of adjusted net capital gain that would otherwise be taxed at a 15-percent rate if capital gains were taxed as ordinary income.

For amounts properly taken into account after July 28, 1997, and before January 1, 1998, an 18-month holding period is required to obtain the maximum 25-percent, 20-percent, or 10-percent rates.

Section 453 provides that, unless taxpayers elect out, gain from an installment sale is recognized as payments on the installment obligation are received. Before the 1997 Act, reporting capital gain under the installment method was relatively straightforward: the capital gain portion of each payment was taxed at the maximum capital gain rate of 28 percent. Section 1(h) provides for multiple rates, but does not address how to treat an installment sale of depreciable real property when the gain to be reported consists of both 25-percent gain and 20/10-percent gain.

#### Explanation of Provisions

##### Front-Loaded Allocation of Unrecaptured Section 1250 Gain

Under the proposed regulations, if a portion of the capital gain from an