Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923. A copy of the petition also will be made available for viewing under ''Supporting and Related Materials'' in *www.regulations.gov* under this docket number.

Dated: June 18, 2012.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2012–15328 Filed 6–22–12; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–134935–11]

RIN 1545–BK55

Overall Foreign Loss Recapture on Property Dispositions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations provide guidance regarding the coordination of the rules for determining high-taxed income with capital gains adjustments and the allocation and recapture of overall foreign losses and overall domestic losses, as well as the coordination of the recapture of overall foreign losses on certain dispositions of property and other rules concerning overall foreign losses and overall domestic losses. These regulations affect individuals and corporations claiming foreign tax credits.

DATES: Written or electronic comments and requests for a public hearing must be received by August 24, 2012.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–134935–11), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–134935–11), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20044, or sent electronically, via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–134935–11).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Jeffrey L. Parry, (202) 622–3850; concerning submissions of comments, Oluwafunmilayo (Funmi) Taylor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

1. High-Taxed Income

Section 904(d)(2)(F) of the Internal Revenue Code (Code) provides that certain high-taxed income that would otherwise be passive income will be treated as general category income if the foreign taxes paid or accrued, and deemed paid or accrued, with respect to such income exceed the highest rate of tax specified in section 1 or section 11, whichever applies, multiplied by the amount of such income. Section 1.904–4(c) provides detailed rules for determining whether income is high-taxed, including rules for testing income based on subgroups within passive income and allocating expenses, losses and other deductions to that income.

Questions have arisen regarding the coordination of these rules with the capital gains adjustments under section 904(b) and loss allocations and loss account recapture under section 904(f) and (g). The proposed regulations at § 1.904–4(c) clarify that the determination as to whether income is high-taxed is made before taking into account any adjustments under section 904(b) or any allocation of losses or recapture of loss accounts under section 904(f) and (g). The Treasury Department and the IRS believe these ordering rules are consistent with the use in section 904(d)(2)(F) of the highest statutory U.S. tax rate, rather than the taxpayer's pre-credit effective U.S. tax rate, to determine whether income is high-taxed.

2. Dispositions of Property Under Section 904(f)(3)

Section 904(f)(3) provides that if a taxpayer disposes of certain property used or held for use predominantly without the United States in a trade or business, gain is recognized on that disposition and treated as foreign source income, regardless of whether the gain would otherwise be recognized, to the extent of any overall foreign loss account in the separate category of foreign source taxable income generated by the property. Section 1.904(f)–2(d) provides separate rules for dispositions in which gain is recognized irrespective of section 904(f)(3) and dispositions in which the gain would not otherwise be recognized.

Questions have arisen regarding the coordination of overall foreign loss recapture under section 904(f)(3) with other provisions of section 904(f) and (g). Accordingly, these proposed regulations revise the ordering rules under § 1.904(g)–3 that generally provide for the coordination of section 904(f) and (g) to include specific references for taking into account overall foreign loss recapture under section 904(f)(3).

In the case of dispositions in which gain is recognized irrespective of section 904(f)(3), the overall foreign loss recapture is included in Step Five along with other general overall foreign loss recapture.

Dispositions in which the gain would not otherwise be recognized are addressed separately. Section 1.904(f)–2(d)(4)(i) provides, in part, that where gain would not otherwise be recognized on a disposition, the amount of gain that will be recognized under section 904(f)(3) is equal to the balance in the applicable foreign loss account after taking into account any amounts recaptured from the account from other recognized income for the year (as well as certain other adjustments). In other words, the additional amount of income to be recognized can only be determined after the first seven steps of the ordering rules in § 1.904(g)–3 have been completed. Accordingly, a new Step Eight is added to those ordering rules to address the recognition of the additional income under section 904(f)(3) and the corresponding recapture of the applicable overall foreign loss account. New Step Eight also provides that if the additional recognition of gain increases the allowable amount of the net operating loss deduction, then the recapture of the overall foreign loss account occurs first before the additional net operating loss carryover is taken into account to offset all or a portion of that gain. The Treasury Department and the IRS believe priority should be given to the additional recapture of the overall foreign loss account pursuant to section 904(f)(3) before any net operating loss carryover reduces that gain. This is because the primary reason for recognizing the otherwise unrecognized gain is to recapture the overall foreign loss account.

Proposed Effective Date

The regulations, as proposed, will apply to any taxable year ending on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Jeffrey L. Parry of the Office of Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.904–4 is amended by adding paragraph (c)(2)(iii) and by adding a sentence at the end of paragraph (n) to read as follows:

§ 1.904–4 Separate application of section 904 with respect to certain categories of income.

* * * * *

(c) * * *

(2) * * *

(iii) *Coordination with section 904(b), (f) and (g).* The determination of whether foreign-source passive income is high-taxed is made before taking into account any adjustments under section 904(b) or any allocation or recapture of a separate limitation loss, overall foreign loss or overall domestic loss under section 904(f) and (g).

* * * * *

(n) * * * Paragraph (c)(2)(iii) of this section applies to taxable years ending on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Par. 3. Section 1.904(g)–3 is amended by revising paragraph (f), adding paragraph (i) and adding a sentence at the end of paragraph (k) to read as follows:

§ 1.904(g)–3 Ordering rules for the allocation of net operating losses, net capital losses, U.S. source losses, and separate limitation losses, and for the recapture of separate limitation losses, overall foreign losses, and overall domestic losses.

* * * * *

(f) *Step Five: Recapture of overall foreign loss accounts.* If the taxpayer's separate limitation income for the taxable year (reduced by any losses carried over under paragraph (b) of this section) exceeds the sum of the taxpayer's U.S. source loss and separate limitation losses for the year, so that the taxpayer has separate limitation income remaining after the application of paragraphs (d)(1) and (e) of this section, then the taxpayer shall recapture prior year overall foreign losses, if any, in accordance with § 1.904(f)–2, and reduce overall foreign loss accounts in accordance with § 1.904(f)–2. Such recapture shall include amounts determined under § 1.904(f)–2(c) and (d)(3) but not § 1.904(f)–2(d)(4).

* * * * *

(i) *Step Eight: Dispositions under section 904(f)(3) in which gain would not otherwise be recognized.* The taxpayer shall determine the amount of gain that would otherwise not be recognized but that must be recognized in accordance with § 1.904(f)–2(d)(4) (not exceeding the taxpayer's applicable overall foreign loss account) and then apply § 1.904(f)–2(a) and (b) to recapture overall foreign loss accounts in an amount equal to the gain recognized. To the extent this recognition of gain in a taxable year increases the amount of a net operating loss carryover to that taxable year, paragraphs (b) through (e) of this section shall be applied to determine the allocation of the additional net operating loss, but only after the applicable overall foreign loss account has been recaptured as provided in this paragraph (i).

(k) * * * Paragraphs (f) and (i) of this section apply to taxable years ending on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2012–15443 Filed 6–22–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–125570–11]

RIN 1545–BK38

Disregarded Entities and the Indoor Tanning Services Excise Tax

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to disregarded entities (including qualified subchapter S subsidiaries) and the indoor tanning services excise tax. These regulations affect disregarded entities responsible for collecting the indoor tanning services excise tax and owners of those disregarded entities. The text of the temporary regulations also serves as the text of the proposed regulations.

DATES: Comments and requests for a public hearing must be received by September 24, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–125570–11), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered to: CC:PA:LPD:PR Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–125570–11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–125570–11).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations,