extent of the $8 gain recognized by Y by reason of paragraph (d)(1) of this section, or to the extent of the $22 gain realized but not recognized by Y by reason of paragraph (d)(3)(i) of this section.

Example 4. Section 1033(a) involuntary conversion of property held by a C corporation transferor. (i) *Facts.* Y owned uninsured, improved property (Property 1) that was involuntarily converted (within the meaning of section 1033(a)) in a fire. Y sold Property 1 for $100 to X, which owned an adjacent property and wanted Property 1 for use as a parking lot. Y had a $70 basis in Property 1 immediately before the sale. Y elected to defer gain recognition under section 1033(a)(2), and purchased qualifying replacement property (Property 2) for $100 from an unrelated party prior to the expiration of the period described in section 1033(a)(2)(B).

(ii) *Analysis.* The transfer of Property 1 by Y to X is a conversion transaction within the meaning of paragraph (a)(2)(ii) of this section. The conversion transaction (combined with Y's purchase of Property 2) is a nonrecognition transaction under section 1033(a) as to Y; thus, Y does not recognize any of its $30 gain. Therefore, the conversion transaction is not subject to paragraph (a)(1) of this section by reason of paragraph (d)(3)(i) of this section.

Example 5. Section 1033(a) involuntary conversion of property held by a REIT. (i) *Facts.* X owned property (Property 1). On January 1, Year 2, Property 1 had a fair market value of $100 and a basis of $70, and X was not subject to section 1374 treatment with respect to Property 1. On that date, when Property 1 was under a threat of condemnation, X sold Property 1 to an unrelated party for $100 (First Transaction). X elected to defer gain recognition under section 1033(a)(2), and purchased qualifying replacement property (Property 2) for $100 from Y (Second Transaction) prior to the expiration of the period described in section 1033(a)(2)(B).

(ii) *Analysis.* The transfer of Property 2 by Y to X in the Second Transaction is a conversion transaction within the meaning of paragraph (a)(2)(ii) of this section. The Second Transaction (combined with the First Transaction) is a nonrecognition transaction under section 1033(a) as to X, but not as to Y. Assume no nonrecognition provision applied to Y; thus, Y recognized gain or loss on its sale of Property 2 in the Second Transaction, and the Second Transaction is not subject to paragraph (a)(1) of this section by reason of paragraph (d)(1) of this section.

(4) *Special rule if C corporation is a tax-exempt entity.* Paragraph (a)(1) of this section does not apply to a conversion transaction in which the C corporation that owned the converted property is a tax-exempt entity described in § 1.337(d)–4(c)(2) to the extent that gain (if any) would not be subject to tax under Title 26 of the United States Code if a deemed sale election under paragraph (c)(5) of this section were made.

(e) *Special rule for partnerships*—(1) *In general.* The principles of this section apply to property transferred by a partnership to a RIC or REIT to the extent of any gain or loss in the converted property that would be allocated directly or indirectly, through one or more partnerships, to a C corporation if the partnership sold the converted property to an unrelated party at fair market value on the deemed sale date (as defined in paragraph (c)(3) of this section). If the partnership were to elect deemed sale treatment under paragraph (c) of this section in lieu of section 1374 treatment under paragraph (b) of this section with respect to such transfer, then any net gain recognized by the partnership on the deemed sale must be allocated to the C corporation partner, but does not increase the capital account of any partner. Any adjustment to the partnership's basis in the RIC or REIT stock as a result of deemed sale treatment under paragraph (c) of this section shall constitute an adjustment to the basis of that stock with respect to the C corporation partner only. The principles of section 743 apply to such basis adjustment.

(2) Example; Transfer by partnership of property to REIT. (i) *Facts.* PRS, a partnership for Federal income tax purposes, has three partners: TE, a C corporation (within the meaning of paragraph (a)(2)(i) of this section) that is also a tax-exempt entity (within the meaning of § 1.337(d)-4(c)(2)), owns 50 percent of the capital and profits of PRS; A, an individual, owns 30 percent of the capital and profits of PRS; and Y, a C corporation (within the meaning of paragraph (a)(2)(i) of this section), owns the remaining 20 percent. PRS owns a building that it leases for commercial use (Property 1). On January 1, Year 2, when PRS has an adjusted basis in Property 1 of $100 and Property 1 has a fair market value of $500, PRS transfers Property 1 to X, a REIT, in exchange for stock of X in an exchange described in section 351. PRS does not elect deemed sale treatment under paragraph (c) of this section. TE would not be subject to tax with respect to any gain that would be allocated to it if PRS had sold Property 1 to an unrelated party at fair market value.

(ii) *Analysis.* The transfer of Property 1 by PRS to X is a conversion transaction within the meaning of paragraph (a)(2)(ii) of this section to the extent of any gain or loss that would be allocated to any C corporation partner if PRS sold Property 1 at fair market value to an unrelated party on the deemed sale date. TE and Y are C corporations, but A is not a C corporation within the meaning of paragraph (a)(2)(i) of this section. Therefore, the transfer of Property 1 by PRS to X is a conversion transaction within the meaning of paragraph (a)(2)(ii) of this section to the extent of the gain in Property 1 that would be allocated to TE and Y. Pursuant to paragraph (d)(4) of this section, paragraph (a)(1) of this section does not apply to the extent of the gain that would be allocated to TE if PRS had sold Property 1 to an unrelated party at fair market value on the deemed sale date. If PRS were to sell Property 1 to an unrelated party at fair market value on the deemed sale date, PRS would allocate $80 of built-in gain to Y. Thus, X is subject to section 1374 treatment on Property 1 with respect to $80 of built-in gain.

(f) *Effective/Applicability date*—(1) *In general.* Except as provided in paragraph (f)(2) of this section, this section applies to conversion transactions that occur on or after January 2, 2002. For conversion transactions that occurred on or after June 10, 1987, and before January 2, 2002, see §§ 1.337(d)–5 and 1.337(d)–6.

(2) *Special rule.* Paragraphs (a)(2), (d)(1), (d)(3), (d)(4), and (e) of this section apply to conversion transactions that occur on or after August 2, 2013. However, taxpayers may apply paragraphs (a)(2), (d)(1), (d)(3), (d)(4), and (e) of this section to conversion transactions that occurred before August 2, 2013. For conversion transactions that occurred on or after January 2, 2002 and before August 2, 2013, see § 1.337(d)–7 as contained in 26 CFR part 1 in effect on April 1, 2013.

Beth Tucker,

Deputy Commissioner for Services and Enforcement.

Approved: June 25, 2013.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013–18695 Filed 8–1–13; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9627]

RIN 1545–BL04

Mixed Straddles; Straddle-by-Straddle Identification Under Section 1092(b)(2)(A)(i)(I)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains guidance for those taxpayers electing to establish a mixed straddle using straddle-by-straddle identification. These temporary regulations explain how to account for unrealized gain or loss on a position held by a taxpayer prior to the time the taxpayer establishes a mixed straddle using straddle-by-straddle identification. The text of these temporary regulations also serves as the text of the proposed regulations (REG–112815–12) set forth

in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on August 1, 2013.

Applicability Date: For the date of applicability, see § 1.1092(b)–6T(c).

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Bouzis or Robert B. Williams at (202) 622–3950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

The Tax Reform Act of 1984 (Pub. L. 98–369, 98 Stat. 494) amended section 1092(b) of the Internal Revenue Code (Code) to add, among other items, an election to establish a mixed straddle using straddle-by-straddle identification (a section 1092(b)(2) identified mixed straddle).

On January 24, 1985, the Treasury Department and the IRS published a notice of proposed rulemaking by cross-reference to temporary regulations (50 FR 3351, January 24, 1985). Included in the temporary regulations was § 1.1092(b)–3T (TD 8008, 1985–1 CB 276), which describes how to account for a section 1092(b)(2) identified mixed straddle. In particular, § 1.1092(b)–3T(b)(6) currently requires that unrealized gain or loss on a position that becomes a position in a section 1092(b)(2) identified mixed straddle be recognized on the day prior to establishing the section 1092(b)(2) identified mixed straddle. After filing of these temporary regulations in the **Federal Register**, § 1.1092(b)–3T(b)(6) will apply to only those section 1092(b)(2) identified mixed straddles established on or before August 1, 2013.

The approach taken in § 1.1092(b)–3T(b)(6) is suggested by the legislative history of section 1092, but it has come to the attention of the Treasury Department and the IRS that this paragraph arguably permits taxpayers to selectively recognize gains and losses in inappropriate circumstances and without market constraints. Thus, for example, a taxpayer could seek to use the identified mixed straddle rules in § 1.1092(b)–3T(b)(6) to accelerate a loss on a position that could not be marked to market or easily disposed of. When taxpayers use the section 1092(b)(2) identified mixed straddle rules to serve as an alternative to selling or otherwise disposing of a position, the general rules governing when gain and loss are recognized are undermined. The Treasury Department and the IRS believe that it is appropriate to act promptly to prevent these types of transactions because they represent a use of section 1092 that was not intended. Accordingly, these temporary regulations add a new § 1.1092(b)–6T and limit the application of § 1.1092(b)–3T as described in this preamble. Section 1.1092(b)–6T will apply to all section 1092(b)(2) identified mixed straddles established after August 1, 2013.

Section 1.1092(b)–6T provides that unrealized gain or loss on a position held prior to establishing a section 1092(b)(2) identified mixed straddle is taken into account at the time, and has the character, provided by provisions of the Code that would apply if the section 1092(b)(2) identified mixed straddle had not been established, rather than on the day prior to establishing the section 1092(b)(2) identified mixed straddle as is required by § 1.1092(b)–3T(b)(6). Section 1.1092(b)–6T does not, however, override other provisions that require the recognition of gain or loss. Thus, for example, if a taxpayer enters into a transaction that creates a constructive sale under section 1259, the rules of section 1259 continue to apply. Under § 1.1092(b)–6T, the provisions of § 1.1092(b)–3T, with the exception of § 1.1092(b)–3T(b)(6), will also continue to apply to changes in the value of a position held after a section 1092(b)(2) identified mixed straddle is established. As a result, pre-straddle gain or loss will be accounted for under other provisions of the Code, while gain or loss incurred while the straddle is in place will be accounted for using the straddle rules in section 1092. Under § 1.1092(b)–6T, the holding period of a position held prior to establishing a section 1092(b)(2) identified mixed straddle will continue to be determined using the rules in § 1.1092(b)–2T.

It is important to account for pre-straddle gain and loss separately from gain and loss on positions while a straddle is in place. Therefore, § 1.1092(b)–6T will continue to require the segregation of pre-straddle and straddle period gain and loss, but it will do so without requiring current recognition of unrealized gain and loss.

Section 1.1092(b)–6T will apply to all section 1092(b)(2) identified mixed straddles established after August 1, 2013, regardless of when any position that is a component of the section 1092(b)(2) identified mixed straddle was purchased or otherwise acquired.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. 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. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. 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 their impact on small business.

Drafting Information

The principal author of these regulations is Elizabeth M. Bouzis, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

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

Section 1.1092(b)–6T also issued under 26 U.S.C. 1092(b)(1).

Section 1.1092(b)–6T also issued under 26 U.S.C. 1092(b)(2). * * *

■ **Par. 2.** Section 1.1092(b)–3T is amended by:

■ 1. Revising the paragraph heading of paragraph (b)(6).

■ 2. Adding a new first sentence to paragraph (b)(6).

The revision and addition read as follows:

§ 1.1092(b)–3T Mixed straddles; straddle-by-straddle identification under section 1092(b)(2)(A)(i)(I) (Temporary).

* * * * *

(b) * * *

(6) *Accrued gain and loss with respect to positions of a section 1092(b)(2) identified mixed straddle established on or before* August 1, 2013. The rules of this paragraph (b)(6) apply to all section 1092(b)(2) identified mixed straddles established on or before August 1, 2013; see § 1.1092(b)–6T for section 1092(b)(2)

identified mixed straddles established after August 1, 2013.* * *

* * * * *

■ **Par. 3.** Section 1.1092(b)–6T is added to read as follows:

§ 1.1092(b)–6T Mixed straddles; accrued gain and loss associated with a position that becomes part of a section 1092(b)(2) identified mixed straddle that is established after August 1, 2013 (Temporary).

(a) *In general.* Except as otherwise provided, if one or more positions of a section 1092(b)(2) identified mixed straddle were held by the taxpayer on the day prior to the day the section 1092(b)(2) identified mixed straddle is established, any unrealized gain or loss on the day prior to the day the section 1092(b)(2) identified mixed straddle is established with respect to such position or positions is taken into account at the time, and has the character, provided by the provisions of the Internal Revenue Code that would apply to the gain or loss if the section 1092(b)(2) identified mixed straddle were not established. Unrealized gain or loss is the difference between the fair market value of the position or positions on the day before a section 1092(b)(2) identified mixed straddle is established and the taxpayer's basis in that position or positions. See § 1.1092(b)–2T for treatment of holding periods with respect to such positions. Changes in value of the position or positions that occur after the section 1092(b)(2) identified mixed straddle is established are accounted for under the other provisions of § 1.1092(b)–3T.

(b) *Examples.* Paragraph (a) of this section may be illustrated by the following examples. It is assumed in each example that the positions are the only positions held directly or indirectly (through a related person or flowthrough entity) by an individual calendar year taxpayer during the taxable year and no section 1256 contract is substantially identical to an offsetting non-section 1256 contract. It is also assumed that any gain or loss recognized on disposition of any position in the straddle would be capital gain or loss.

Example 1. On August 13, 2013, A enters into a section 1256 contract. As of the close of the day on August 15, 2013, there is $500 of unrealized loss on the section 1256 contract. On August 16, 2013, A enters into an offsetting non-section 1256 position and makes a valid election to treat the straddle as a section 1092(b)(2) identified mixed straddle. A continues to hold both positions of the section 1092(b)(2) identified mixed straddle on January 1, 2014. Under these circumstances, A will recognize the $500 loss on the section 1256 contract that existed prior to establishing the section 1092(b)(2) identified mixed straddle on the last business day of 2013 because the section 1256 contract would be treated as sold on December 31, 2013, (the last business day of the taxable year) under section 1256(a). The loss recognized in 2013 will be treated as 60% long-term capital loss and 40% short-term capital loss. All gains and losses occurring after the section 1092(b)(2) identified mixed straddle is established are accounted for under the applicable provisions in § 1.1092(b)–3T.

Example 2. On September 3, 2012, A enters into a non-section 1256 position. As of the close of the day on August 22, 2013, there is $400 of unrealized short-term capital gain on the non-section 1256 position. On August 23, 2013, A enters into an offsetting section 1256 contract and makes a valid election to treat the straddle as a section 1092(b)(2) identified mixed straddle. On September 10, 2013, A closes out the section 1256 contract at a $500 loss and disposes of the non-section 1256 position, realizing an $875 gain. Under these circumstances, A has $400 of short-term capital gain attributable to the non-section 1256 position prior to the day the section 1092(b)(2) identified mixed straddle was established. The $400 unrealized gain earned on the non-section 1256 position will be recognized on September 10, 2013, when the non-section 1256 position is disposed of. The gain will be short-term capital gain because, if the non-section 1256 position had been disposed of prior to establishing the section 1092(b)(2) identified mixed straddle, the gain would not have been long-term capital gain. See § 1.1092(b)–2T for rules concerning holding period. On September 10, 2013, the gain of $875 on the non-section 1256 position will be reduced to $475 to take into account the $400 of unrealized gain when the section 1092(b)(2) identified mixed straddle was established. The $475 gain on the non-section 1256 position will be offset by the $500 loss on the section 1256 contract. The net loss of $25 from the straddle will be treated as 60% long-term capital loss and 40% short-term capital loss because it is attributable to the section 1256 contract.

(c) *Effective/applicability date.* The rules of this section apply to all section 1092(b)(2) identified mixed straddles established after August 1, 2013.

(d) *Expiration date.* The applicability of this section expires on August 1, 2016.

Beth Tucker,

Deputy Commissioner for Operations Support.

Approved: June 16, 2013.

Mark J. Mazur

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013–18702 Filed 8–1–13; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG–2012–1036]

Safety Zones and Special Local Regulations; Recurring Marine Events in Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for one regatta and seven safety zones for five fireworks displays and two swim events in the Sector Long Island Sound area of responsibility on the dates and times listed in the tables below. This action is necessary to provide for the safety of life on navigable waterways during the events. During the enforcement period, no person or vessel may enter the regulated area or safety zones without permission of the Captain of the Port (COTP) Sector Long Island Sound or designated representative.

DATES: The regulations in 33 CFR 100.100 and 33 CFR 165.151 will be enforced during the dates and times that follow in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Scott Baumgartner, Waterways Management Division, U.S. Coast Guard Sector Long Island Sound; telephone 203–468–4559, email *Scott.A.Baumgartner@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the regulated area listed in 33 CFR 100.100 and safety zones listed in 33 CFR 165.151 on the specified dates and times as indicated in tables that follow. If the event is delayed by inclement weather, the regulation will be enforced on the rain date indicated in tables below. These regulations were published in the **Federal Register** on May 24, 2013 (78 FR 31402).