

## **INTRO to MODIFIED Volume 1 of 13 of Part 1 Subtitle A—Income Taxes**

There are thirteen volumes in the Part 1 Subtitle A—Income Taxes. This is an excerpt of Volume one of thirteen that I have modified to show that the IRS has only included part of the very important federal regulation 19 FR 5167 of August 17<sup>th</sup>, 1954, being promulgated one day after the passing of the 1954 Code.

In this Volume 1 of 13 volumes of the Part 1 Subtitle A—Income Taxes the IRS left out the last part of paragraph 4 of the 19 FR 5167 to hide the fact the IRS were NOT going to be in compliance with the Administrative Procedure Act of 1946 (60 Stat. 237-244, 4(a) and 4(c) [5 U.S.C. 553(b)(c)(d)—informal rulemaking] today codified in 5 U.S.C. Chapters 5-9) to have “substantive regulations<sup>1</sup>” (5 U.S.C. § 553(b)(c)(d) that have the “force and effect of law.”<sup>2</sup>) In the **republished Regulations for Part 1 Subtitle A—Income Taxes** in 25 FR 11402-12162 of Nov. 26<sup>th</sup>, **1960**, the **compliance with the APA of 25 FR 11402-12162 is published almost one month later in 25 FR 14021 on Dec. 21<sup>st</sup>, 1960** “Regulations under the 1939 Code, as made applicable to the corresponding provision of the 1954 Code by Treasury Decision 6091, 19 F.R. 5167, Aug. 17, 1954.” If the only authority is 26 U.S.C. § 7805, then the regulations are merely “interpretative regulations” and have no “force and effect of law.” These are the Part 301, *i.e.* 26 CFR § 301.xxxx regulation (housekeeping only.)

Extremely important is the Federal Register Act of 1935 (49 Stat. 500-503 today codified in 44 U.S.C. Sections 1501-1511) that mandated that the Federal Register Committee prescribe regulations<sup>3</sup> to implement the Federal Register Act.

The Federal Register Committee did prescribe the regulations and they are found in the 1 CFRs 1.1 – 22.7. Extremely important are the regulations of 1 CFR § 21.40 (must publish “a complete citation of the authority . . . General or specific authority delegated by statute”; and, 1 CFR §21.41 “Each issuing agency is responsible for the accuracy and integrity of the documents it issues”; and, 1 CFR § 21.43 “[T]he agency shall place the complete authority citation directly after the table of contents and before the regulatory text.” In this excerpt I have shown where the after the table of contents starts for 1 CFR § 21.43 (after the “Authority 28 U.S.C. § 7805) and then you will see the inclusion of a **specific regulations plus a specific statutory authority/authorities. When Congress mandates regulations be promulgated in a specific statute**, then the **ONLY** place that you can **verify conclusively if that regulation has been promulgated has been accomplished is tying the Federal Register Act to the §§§ 21.40, 21.41 and 21.43; and, checking behind the Table of Contents..**

### **Attachments:**

1. Introduction.
2. Excerpt from Volume 1 of 13 of the CFR Part 1 Subtitle A—Income Taxes.
3. 19 FR 5167 of August 17<sup>th</sup>, 1954 complete – partial only in the Excerpt of Volume 1, *supra*.
4. 25 FR 14021, Dec. 21<sup>st</sup>, 1960 referencing back to the 19 FR 5167.
5. 1 CFR §§§ 21.40, 21.41 and 21.43.
6. One Line on the Lack of Substantive Regulations.

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<sup>1</sup> *Chrysler v. Brown*, 441 U.S. 281 (1979).

<sup>2</sup> *Production Tool Corp. v. Employment and Training Administration, U.S. Dept. of Labor*, 688 F.2d 1161, 1165 (7<sup>th</sup> Cir. 1982) citing the holdings in *Chrysler v. Brown*, “Legislative rules are said to have the “force and effect of law”- *i.e.*, they are as binding on the courts as any statute enacted by Congress. *Chrysler*, 441 U.S. at 295, 99 S.Ct. at 1714.”

<sup>3</sup> 49 Stat. 501 Sec. 6 - “The committee shall prescribe, with the approval of the President, regulations for carrying out the provisions of this Act.”

# CODE OF FEDERAL REGULATIONS

## **Title 26** Internal Revenue

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Part 1 (§§ 1.0 to 1.60)

Revised as of April 1, 2013

Containing a codification of documents  
of general applicability and future effect

As of April 1, 2013

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*Cite this Code:* CFR

*To cite the regulations in  
this volume use title,  
part and section num-  
ber. Thus, 26 CFR 1.0-1  
refers to title 26, part 1,  
section 0-1.*

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The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16.....	as of January 1
Title 17 through Title 27.....	as of April 1
Title 28 through Title 41.....	as of July 1
Title 42 through Title 50.....	as of October 1

The appropriate revision date is printed on the cover of each volume.

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Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a date certain for expiration, an appropriate note will be inserted following the text.

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Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

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Provisions of the Code that are no longer in force and effect as of the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on any given date in the past by using the appropriate List of CFR Sections Affected (LSA). For the convenience of the reader, a "List of CFR Sections Affected" is published at the end of each CFR volume. For changes to the Code prior to the LSA listings at the end of the volume, consult previous annual editions of the LSA. For changes to the Code prior to 2001, consult the List of CFR Sections Affected compilations, published for 1949-1963, 1964-1972, 1973-1985, and 1986-2000.

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An index to the text of “Title 3—The President” is carried within that volume.

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CHARLES A. BARTH,  
*Director,*  
*Office of the Federal Register.*  
*April 1, 2013.*





## THIS TITLE

Title 26—INTERNAL REVENUE is composed of twenty volumes. The contents of these volumes represent all current regulations issued by the Internal Revenue Service, Department of the Treasury, as of April 1, 2013. The first thirteen volumes comprise part 1 (Subchapter A—Income Tax) and are arranged by sections as follows: §§1.0–1.60; §§1.61–1.169; §§1.170–1.300; §§1.301–1.400; §§1.401–1.440; §§1.441–1.500; §§1.501–1.640; §§1.641–1.850; §§1.851–1.907; §§1.908–1.1000; §§1.1001–1.1400; §§1.1401–1.1550; and §1.1551 to end of part 1. The fourteenth volume containing parts 2–29, includes the remainder of subchapter A and all of Subchapter B—Estate and Gift Taxes. The last six volumes contain parts 30–39 (Subchapter C—Employment Taxes and Collection of Income Tax at Source); parts 40–49; parts 50–299 (Subchapter D—Miscellaneous Excise Taxes); parts 300–499 (Subchapter F—Procedure and Administration); parts 500–599 (Subchapter G—Regulations under Tax Conventions); and part 600 to end (Subchapter H—Internal Revenue Practice).

The OMB control numbers for Title 26 appear in §602.101 of this chapter. For the convenience of the user, §602.101 appears in the Finding Aids section of the volumes containing parts 1 to 599.

For this volume, Cheryl E. Sirofchuck was Chief Editor. The Code of Federal Regulations publication program is under the direction of Michael L. White, assisted by Ann Worley.



# Title 26—Internal Revenue

(This book contains part 1, §§ 1.0 to 1.60)

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*Part*

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# CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

EDITORIAL NOTE: IRS published a document at 45 FR 6088, Jan. 25, 1980, deleting statutory sections from their regulations. In chapter I cross-references to the deleted material have been changed to the corresponding sections of the IRS Code of 1954 or to the appropriate regulations sections. When either such change produced a redundancy, the cross-reference has been deleted. For further explanation, see 45 FR 20795, Mar. 31, 1980.

## SUBCHAPTER A—INCOME TAX

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SUPPLEMENTARY PUBLICATIONS: *Internal Revenue Service Looseleaf Regulations System, Alcohol and Tobacco Tax Regulations, and Regulations Under Tax Conventions.*

EDITORIAL NOTE: Treasury Decision 6091, 19 FR 5167, Aug. 17, 1954, provides in part as follows:

PARAGRAPH 1. All regulations (including all Treasury decisions) prescribed by, or under authority duly delegated by, the Secretary of the Treasury, or jointly by the Secretary and the Commissioner of Internal Revenue, or by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, or jointly by the Commissioner of Internal Revenue and the Commissioner of Customs or the Commissioner of Narcotics with the approval of the Secretary of the Treasury, applicable under any provision of law in effect on the date of enactment of the Code, to the extent such provision of law is repealed by the Code, are hereby prescribed under and made applicable to the provisions of the Code corresponding to the provision of law so repealed insofar as any such regulation is not inconsistent with the Code. Such regulations shall become effective as regulations under the various provisions of the Code as of the dates the corresponding provisions of law are repealed by the Code, until superseded by regulations issued under the Code.

PAR. 2. With respect to any provision of the Code which depends for its application upon the promulgation of regulations or which is to be applied in such manner as may be prescribed by regulations, all instructions or rules in effect immediately prior to the enactment of the Code, to the extent such instructions or rules could be prescribed as regulations under authority of such provision of the Code, shall be applied as regulations under such provision insofar as such instructions or rules are not inconsistent with the Code. Such instructions or rules shall be applied as regulations under the applicable provision of the Code as of the date such provision takes effect.

PAR. 3. If any election made or other act done pursuant to any provision of the Internal Revenue Code of 1939 or prior internal revenue laws would (except for the enactment of the Code) be effective for any period subsequent to such enactment, and if corresponding provisions are contained in the Code, such election or other act shall be given the same effect under the corresponding provisions of the Code to the extent not inconsistent therewith. The term "act" includes, but is not limited to, an allocation, identification, declaration, agreement, option, waiver, relinquishment, or renunciation.

PAR. 4. The limits of the various internal revenue districts have not been changed by the enactment of the Code. Furthermore, delegations of authority made pursuant to the provisions of Reorganization Plan No. 26 of 1950 and Reorganization Plan No. 1 of 1952 (as well as redelegations thereunder), including those governing the authority of the Commissioner of Internal Revenue, the Regional Commissioners of Internal Revenue, or the District Directors of Internal Revenue, are applicable to the provisions of the Code to the extent consistent therewith.

This has been added by Ralph Kermit Winterrowd 2nd - This is the rest of 19 FR 5167 that has not been amended stating that the Administrative Procedures Act (APA) of June 11, 1946 does not apply. The total republishing of Part 1 was done in 25 FR 11402-12162 Nov. 26, 1960. To hide the non-compliance with the APA of 25 FR 11402-12162, they published another document in 25 FR 14021 in Dec. 21, 1960 almost one month later. This regulation then points you back to the 1954 - 19 FR 5167 above with the non-compliance with the APA left out of this document above [19 FR 5167 in part, supra].

The rest of 19 FR 5167 left out of the document, to wit:

"Because this Treasury decision merely provides for the continuance of existing rules pending further action, it is hereby found that it is impracticable and contrary to the public interest to incur the delay which would result if this Treasury decision were issued with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of said act. (68A Stat. 917; 26 U. S. C. 7805)

[SEAL] M. B. FOLSOM,  
Acting Secretary of the Treasury,  
AUGUST 16, 1954.  
[F. R. Doc, 54-6437; Filed, Aug. 16, 1954; 12:29 p. m.]"

25 FR 11402-12162 - Nov. 26, 1960  
All of Part 1 Republished

19 FR 5167 (1954)

25 FR 14021, Dec. 21, 1960 - "Regulations under the 1939 Code, as made applicable to the corresponding provisions of the 1954 Code by Treasury Decision 6091, 19 F.R. 5167, Aug. 17, 1954."

# SUBCHAPTER A—INCOME TAX

## PART 1—INCOME TAXES

Sec.

1.0-1 Internal Revenue Code of 1954 and regulations.

### NORMAL TAXES AND SURTAXES

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- 1.28-1 Credit for clinical testing expenses for certain drugs for rare diseases or conditions.

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- 1.58-7 Tax preferences attributable to foreign sources; preferences other than capital gains and stock options.
- 1.58-8 Capital gains and stock options.
- 1.58-9 Application of the tax benefit rule to the minimum tax for taxable years beginning prior to 1987.
- 1.59-1 Optional 10-year writeoff of certain tax preferences.
- 1.60 [Reserved]

Table of Contents starts with Authority - § 7805

AUTHORITY: 26 U.S.C 7805, unless otherwise noted.

- Section 1.1(h)-1 also issued under 26 U.S.C. 1(h);
- Section 1.21-1 also issued under 26 U.S.C. 21(f);
- Section 1.21-2 also issued under 26 U.S.C. 21(f);
- Section 1.21-3 also issued under 26 U.S.C. 21(f);
- Section 1.21-4 also issued under 26 U.S.C. 21(f);
- Sections 1.23-1-1.23-6 also issued under 26 U.S.C. 23;
- Section 1.25-1T also issued under 26 U.S.C. 25;
- Section 1.25-2T also issued under 26 U.S.C. 25;
- Section 1.25-3 also issued under 26 U.S.C. 25;
- Section 1.25-3T also issued under 26 U.S.C. 25;
- Section 1.25-4T also issued under 26 U.S.C. 25;
- Section 1.25-5T also issued under 26 U.S.C. 25;

Statutory Authorities Mandated by 1 CFR 21.43(a)(1) after table of contents "If a document sets out an entire CFR part, the agency shall place the complete authority citations directly after the table of contents and before the regulatory text" § 7805 is an "interpretative regulation" only having no "force and effect of law."

## § 1.0-1

## 26 CFR Ch. I (4-1-13 Edition)

Section 1.25-6T also issued under 26 U.S.C. 25;

Section 1.25-7T also issued under 26 U.S.C. 25;

Section 1.25-8T also issued under 26 U.S.C. 25;

Section 1.25A-1 also issued under section 26 U.S.C. 25A(i);

Section 1.25A-2 also issued under section 26 U.S.C. 25A(i);

Section 1.25A-3 also issued under section 26 U.S.C. 25A(i);

Section 1.25A-4 also issued under section 26 U.S.C. 25A(i);

Section 1.25A-5 also issued under section 26 U.S.C. 25A(i);

Section 1.28-0 also issued under 26 U.S.C. 28(d)(5);

Section 1.28-1 also issued under 26 U.S.C. 28(d)(5);

Section 1.30-1 also issued under 26 U.S.C. 30(d)(2);

Section 1.36B-4 also issued under 26 U.S.C. 36B(g);

Section 1.41-6 also issued under 26 U.S.C. 1502;

Section 1.41-8 also issued under 26 U.S.C. 41(c)(4)(B);

Section 1.41-8T also issued under 26 U.S.C. 41(c)(4)(B);

Section 1.41-9 also issued under 26 U.S.C. 41(c)(5)(C);

Section 1.41-9T also issued under 26 U.S.C. 41(c)(5)(C);

Section 1.42-1 also issued under 26 U.S.C. 42(n);

Sections 1.42-1T and 1.42-2T also issued under 26 U.S.C. 42(m);

Section 1.42-2 also issued under 26 U.S.C. 42(m);

Section 1.42-3 also issued under 26 U.S.C. 42(n);

Section 1.42-4 also issued under 26 U.S.C. 42(n);

Section 1.42-5 also issued under 26 U.S.C. 42(n);

Sections 1.42-6, 1.42-8, 1.42-9, 1.42-10, 1.42-11, and 1.42-12, also issued under 26 U.S.C. 42(n);

Section 1.42-13 also issued under 26 U.S.C. 42(n);

Section 1.42-14 also issued under 26 U.S.C. 42(n);

Section 1.42-15 also issued under 26 U.S.C. 42(n);

Section 1.42-16 also issued under 26 U.S.C. 42(n);

Section 1.42-17 also issued under 26 U.S.C. 42(n);

Section 1.42-18 also issued under 26 U.S.C. 42(h)(6)(F) and 42(h)(6)(K);

Sections 1.43-0-1.43-7 also issued under section 26 U.S.C. 43;

Section 1.45D-1 also issued under 26 U.S.C. 45D(e)(2) and (i);

Section 1.46-5 also issued under 26 U.S.C. 46(d)(6) and 26 U.S.C. 47(a)(3)(C);

Section 1.46-6 also issued under 26 U.S.C. 46(f)(7);

Section 1.47-1 also issued under 26 U.S.C. 47(a);

Section 1.48-9 also issued under 26 U.S.C. 38(b) (as in effect before the amendments made by subtitle F of the Tax Reform Act of 1984);

Sections 1.50A-1.50B also issued under 85 Stat. 553 (26 U.S.C. 40(b));

Section 1.52-1 also issued under 26 U.S.C. 52(b);

Section 1.56-1 also issued under 26 U.S.C. 56(f)(2)(H);

Section 1.56(g)-1 also issued under section 7611(g)(3) of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239, 103 Stat. 2373); and

Section 1.58-9 also issued under 26 U.S.C. 58(h).

SOURCE: T.D. 6500, 25 FR 11402, Nov. 26, 1960; 25 FR 14021, Dec. 21, 1960, unless otherwise noted.

### § 1.0-1 Internal Revenue Code of 1954 and regulations.

(a) *Enactment of law.* The Internal Revenue Code of 1954 which became law upon enactment of Public Law 591, 83d Congress, approved August 16, 1954, provides in part as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

(a) *Citation.* (1) The provisions of this Act set forth under the heading "Internal Revenue Title" may be cited as the "Internal Revenue Code of 1954"

(2) The Internal Revenue Code enacted on February 10, 1939, as amended, may be cited as the "Internal Revenue Code of 1939".

(b) *Publication.* This Act shall be published as volume 68A of the United States Statutes at Large, with a comprehensive table of contents and an appendix; but without an index or marginal references. The date of enactment, bill number, public law number, and chapter number, shall be printed as a headnote.

(c) *Cross reference.* For saving provisions, effective date provisions, and other related provisions, see chapter 80 (sec. 7801 and following) of the Internal Revenue Code of 1954.

(d) *Enactment of Internal Revenue Title into law.* The Internal Revenue Title referred to in subsection (a)(1) is as follows:

\* \* \* \* \*

In general, the provisions of the Internal Revenue Code of 1954 are applicable with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. Certain provisions of that Code are

25 FR 11402 that has the compliance in 25 FR 14021 Dec. 21, 1960 (attached below) references the 19 FR 1967 of Aug. 17, 1954. See Intro.

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(3) Definitions: As used in this section, "handler," "shipper," "ship," "Lodi District," "Florin District," "bunch," and "size" shall have the same meaning as when used in the amended marketing agreement and order; and "U. S. No. 1 Table Grapes," "fairly well colored berries," and "decay," shall have the same meaning as when used in the United States Standards for Table Grapes (§§ 51.880 to 51.911 of this title).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 13, 1954.

[SEAL] **S. R. SMITH,**  
Director, Fruit and Vegetable  
Division, Agricultural Marketing Service.

[F. R. Doc. 54-6405; Filed, Aug. 16, 1954; 8:58 a. m.]

**TITLE 19—CUSTOMS DUTIES**

**Chapter I—Bureau of Customs,  
Department of the Treasury**

[T. D. 53553]

**PART 25—CUSTOMS BONDS**

**GENERAL TERM BOND FOR ENTRY OF  
MERCHANDISE**

Section 25.3 (a) (3) of the Customs Regulations requires that an application for permission to file a General Term Bond for Entry of Merchandise on customs Form 7595 shall be filed with the collector and transmitted to the Bureau for approval. It has been determined that approval of this bond would be expedited with an appreciable saving of man hours if authority to approve the application were delegated to collectors. For the reason stated, the word "collector" is hereby substituted for the

word "Bureau" in the first sentence of § 25.3 (a) (3) and the second sentence thereof is amended to read as follows: "A principal desiring to execute this form of bond shall file with a collector at any headquarters port to be named in the bond an application, in duplicate, for permission to file the bond."

(Secs. 623, 624, 48 Stat. 759, as amended; 19 U. S. C. 1623, 1624)

[SEAL] **RALPH KELLY,**  
Commissioner of Customs.

Approved: August 10, 1954.

**H. CHAPMAN ROSE,**  
Acting Secretary of the Treasury.

[F. R. Doc. 54-6355; Filed, Aug. 16, 1954; 8:50 a. m.]

**TITLE 26—INTERNAL REVENUE**

**Chapter I—Internal Revenue Service,  
Department of the Treasury**

[T. D. 6091]

**PRESCRIBING STOPGAP REGULATIONS UNDER  
THE INTERNAL REVENUE CODE OF 1954;  
ELECTIONS OR OTHER ACTS**

In order to permit a proper administration of the Internal Revenue Code of 1954 (herein referred to as "the Code"), it is hereby prescribed in furtherance of the purposes of sections 7807 and 7851 (b) of the Code that—

PARAGRAPH 1. All regulations (including all Treasury decisions) prescribed by, or under authority duly delegated by, the Secretary of the Treasury, or jointly by the Secretary and the Commissioner of Internal Revenue, or by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, or jointly by the Commissioner of Internal Revenue and the Commissioner of Customs or the Commissioner of Narcotics with the approval of the Secretary of the Treasury, applicable under any provision of law in effect on the date of enactment of the Code, to the extent such provision of law is repealed by the Code, are hereby prescribed under and made applicable to the provisions of the Code corresponding to the provision of law so repealed insofar as any such regulation is not inconsistent with the Code. Such regulations shall come effective as regulations under the various provisions of the Code as of the dates the corresponding provisions of law are repealed by the Code, until superseded by regulations issued under the Code.

PAR. 2. With respect to any provision of the Code which depends for its application upon the promulgation of regulations or which is to be applied in such manner as may be prescribed by regulations, all instructions or rules in effect immediately prior to the enactment of the Code, to the extent such instructions or rules could be prescribed as regulations under authority of such provision of the Code, shall be applied as regulations under such provision insofar as such instructions or rules are not inconsistent with the Code. Such instructions or rules shall be applied as regulations under the applicable provision of the Code as of the date such provision takes effect.

PAR. 3. If any election made or other act done pursuant to any provision of the Internal Revenue Code of 1939 or prior internal revenue laws would (except for the enactment of the Code) be effective for any period subsequent to such enactment, and if corresponding provisions are contained in the Code, such election or other act shall be given the same effect under the corresponding provisions of the Code to the extent not inconsistent therewith. The term "act" includes, but is not limited to, an allocation, identification, declaration, agreement, option, waiver, relinquishment, or renunciation.

PAR. 4. The limits of the various internal revenue districts have not been changed by the enactment of the Code. Furthermore, delegations of authority made pursuant to the provisions of Reorganization Plan No. 26 of 1950 and Reorganization Plan No. 1 of 1952 (as well as redelegations thereunder), including those governing the authority of the Commissioner of Internal Revenue, the Regional Commissioners of Internal Revenue, or the District Directors of Internal Revenue, are applicable to the provisions of the Code to the extent consistent therewith.

Because this Treasury decision merely provides for the continuance of existing rules pending further action, it is hereby found that it is impracticable and contrary to the public interest to incur the delay which would result if this Treasury decision were issued with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of said act.

(68A Stat. 917; 26 U. S. C. 7805)

[SEAL] **M. B. FOLSOM,**  
Acting Secretary of the Treasury.

August 16, 1954.

[F. R. Doc. 54-6437; Filed, Aug. 16, 1954; 12:29 p. m.]

**TITLE 32A—NATIONAL DEFENSE,  
APPENDIX**

**Chapter VI—Business and Defense  
Services Administration, Department  
of Commerce**

[BDSA Order M-11A (Formerly NPA Order M-11A), Amdt. 6 of August 13, 1954]

**M-11A—COPPER AND COPPER-BASE ALLOYS  
AMOUNT OF PRODUCTION CAPACITY TO BE  
RESERVED**

This amendment is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this amendment, consultation with industry representatives has been rendered impracticable due to the need for immediate action.

This amendment affects BDSA Order M-11A (formerly NPA Order M-11A), as amended, by changing the amount of production capacity which producers of copper controlled materials must reserve for the acceptance of authorized controlled material orders. Paragraph (b)



promoted by regulating the handling of lettuce in the manner set forth below on and after the effective date of this section, (iii) compliance with this section will not require any special preparation on the part of handlers which cannot be completed by the effective date, (iv) reasonable time is permitted under the circumstances for such preparation, and (v) notice has been given of the Limitation of Shipments set forth in this section through publicity in the production area and by publication in the FEDERAL REGISTER of December 21, 1960 (25 F.R. 13142).

#### § 1034.301 Limitation of shipments.

No person shall package lettuce on any Sunday during the period beginning on January 8, 1961, through March 26, 1961, inclusive. During the period January 2, 1961, through March 31, 1961, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the grade requirements of paragraph (a), one of the sizing and pack requirements of paragraph (b), and the container requirements of paragraph (c), or unless such lettuce is handled in accordance with the provisions of paragraphs (d), (e), and (f) of this section.

(a) *Grade.* 70 percent U.S. No. 1, or better grade, not to exceed an average of 5 percent decay in any lot.

(b) *Sizing and pack.* Only lettuce that meets one of the following sizing and pack requirements may be handled:

- (1) 18 heads per container;
- (2) 24 heads per container; or
- (3) 30 heads per container.

(c) *Container.* Lettuce may be handled only if packed in one of the following containers:

(1) A carton with inside dimensions of 10 inches x 14 $\frac{1}{4}$  inches x 21 $\frac{1}{16}$  inches (designated as carrier container No. 7303);

(2) A carton with inside dimensions of 9 $\frac{3}{4}$  inches x 14 inches x 21 inches (designated as carrier container No. 7306).

(d) *Minimum quantities.* Any person may handle up to but not to exceed 5 cartons or 250 pounds of lettuce a day without regard to the requirements of this section or to the inspection and assessment requirements of this part, but this exception shall not apply to any portion of a shipment of over 5 cartons or 250 pounds of lettuce.

(e) *Special purpose shipments.* The requirements of paragraphs (a), (b), and (c), of this section, and the inspection and assessment requirements of this part, shall not be applicable to lettuce handled for the following special purposes:

- (1) Relief or charity;
- (2) Experimental purposes; and
- (3) Export to Mexico.

(f) *Safeguards.* (1) Each handler of lettuce which does not meet the requirements of paragraphs (a), (b), and (c) of this section, and which is handled pursuant to paragraph (e) of this section for relief or charity or experimental purposes shall, prior to handling, apply for and obtain a Certificate of Privilege from the committee which shall require the handler to furnish such reports and

documents as the committee may require showing that the lettuce was handled for the purpose specified in the Certificate of Privilege.

(2) Each person who sells or otherwise handles lettuce which does not meet the requirements of paragraphs (a), (b), and (c) of this section, and which is handled pursuant to paragraph (e) of this section for export to Mexico, shall maintain the following records with respect to such lettuce:

(i) Name and address of the purchaser;

(ii) Quantity involved in each sale;

(iii) Date of sale; and

(iv) Identification of the vehicle of the purchaser or trucker by make, model, and license number.

(g) *Inspection.* (1) No handler shall handle any lettuce for which an inspection certificate is required unless an appropriate inspection certificate has been issued with respect thereto.

(2) No handler shall transport or cause the transportation of any shipment of lettuce by motor vehicle for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which valid inspection certificates are applicable and a copy of such inspection certificate or committee document, upon request, is surrendered to authorities designated by the committee.

(3) For purpose of operation under this part each required inspection certificate or form required by the committee as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate or the date shown on the document.

(h) *Definitions.* The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Lettuce (§§ 51.2510 to 51.2524 of this title), including the tolerances set forth therein. All other terms used in this section shall have the same meaning as when used in Marketing Order No. 134 (Part 1034 of this title).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

*Effective date:* Dated December 28, 1960, to become effective January 2, 1961.

S. R. GRANGE,  
Acting Director,

Fruit and Vegetable Division.

[F.R. Doc. 60-12208; Filed, Dec. 30, 1960; 8:51 a.m.]

## Title 26—INTERNAL REVENUE

### Chapter I—Internal Revenue Service, Department of the Treasury

**EDITORIAL NOTE:** With the enactment of the Internal Revenue Code of 1954 it became necessary to carry two titles 26 in the Code of Federal Regulations: (1) "Title 26—Internal Revenue", containing regulations under the Internal Revenue Code of 1939 (cloth bound books); and (2) "Title 26—Internal Revenue, 1954",

containing regulations under the Internal Revenue Code of 1954 (paper bound books). Regulations under the 1939 Code, as made applicable to the corresponding provisions of the 1954 Code by Treasury Decision 6091, 19 F.R. 5167, Aug. 17, 1954, have been systematically superseded by regulations under the 1954 Code.

Since the greater portion of the regulations under the Internal Revenue Code of 1954 will have been issued as of January 1, 1961, two titles are no longer needed. Accordingly, the title heading as of that date is hereby designated "Title 26—Internal Revenue". Regulations under the Internal Revenue Code of 1954 will appear in the FEDERAL REGISTER under the new heading, together with amendatory regulations under the Internal Revenue Code of 1939.

The Code of Federal Regulations volumes will be revised under the new heading as of January 1, 1961. The new volumes will replace: (1) All volumes of the 1949 Edition of the Code, (2) the 1953 revisions of Parts 1 to 79, and Parts 183 to 299, and (3) all volumes issued as of January 1, 1960, under the heading "Title 26—Internal Revenue, 1954". The full text of the 1939 Code regulations, applicable to the 1954 Code provisions and not completely superseded, will be carried in the revision as appendices to appropriate subchapters.

Regulations under tax conventions in Part 7, appearing in Title 26—Internal Revenue, Parts 1 to 79, Revised 1953, and supplements, and Part 82, appearing in Title 26—Internal Revenue, 1949 Ed., Parts 80 to 169, and supplements, are hereby transferred to Subchapter G—Regulations Under Tax Conventions (Part 500 et seq.), and redesignated. Former §§ 505.201 to 505.210 are hereby redesignated §§ 505.301 to 505.310. The following table indicates these redesignations and shows the complete new structure of Subchapter G:

#### SUBCHAPTER G—REGULATIONS UNDER TAX CONVENTIONS

##### PART 501—AUSTRALIA

###### SUBPART—WITHHOLDING OF TAX

§§ 501.1 to 501.11.

##### PART 502—GREECE

###### SUBPART—WITHHOLDING OF TAX

§§ 502.1 to 502.10.

##### PART 503—GERMANY

###### SUBPART—WITHHOLDING OF TAX

§§ 503.1 to 503.9.

##### PART 504—BELGIUM

###### SUBPART—WITHHOLDING OF TAX

§§ 7.1100 to 7.1109 redesignated §§ 504.1 to 504.10

###### SUBPART—GENERAL INCOME TAX

§§ 504.101 to 504.121.

###### SUBPART—BELGIAN CONGO AND RUANDA-URUNDI

§§ 504.301 to 504.310.

##### PART 505—NETHERLANDS

###### SUBPART—WITHHOLDING OF TAX

§§ 7.800 to 7.810 redesignated §§ 505.1 to 505.11.

## RULES AND REGULATIONS

## SUBPART—GENERAL INCOME TAX

§§ 7.850 to 7.868 redesignated §§ 505.101 to 505.119.

## SUBPART—NETHERLANDS ANTILLES

§§ 505.201 to 505.210 redesignated §§ 505.301 to 505.310.

## PART 506—JAPAN

## SUBPART—WITHHOLDING OF TAX

§§ 506.1 to 506.9.

## PART 507—UNITED KINGDOM

## SUBPART—WITHHOLDING OF TAX

§§ 7.500 to 7.511 redesignated §§ 507.1 to 507.12.

## SUBPART—GENERAL INCOME TAX

§§ 7.512 to 7.532 redesignated §§ 507.101 to 507.121.

## SUBPART—ESTATE AND GIFT TAX

§§ 82.101 to 82.109 redesignated §§ 507.201 to 507.209.

## SUBPART—UNITED KINGDOM COLONIES

§§ 507.501 to 507.511.

## PART 509—SWITZERLAND

## SUBPART—WITHHOLDING OF TAX

§§ 7.800 to 7.809 redesignated §§ 509.1 to 509.10.

## SUBPART—GENERAL INCOME TAX

§§ 509.101 to 509.122.

## PART 510—NORWAY

## SUBPART—WITHHOLDING OF TAX

§§ 510.1 to 510.11.

## SUBPART—GENERAL INCOME TAX

§§ 510.101 to 510.120.

## PART 511—FINLAND

## SUBPART—WITHHOLDING OF TAX

§§ 7.700 to 7.710 redesignated §§ 511.1 to 511.11.

## SUBPART—GENERAL INCOME TAX

§§ 511.101 to 511.123.

## PART 512—ITALY

## SUBPART—WITHHOLDING OF TAX

§§ 512.1 to 512.10.

## PART 513—IRELAND

## SUBPART—WITHHOLDING OF TAX

§§ 7.1000 to 7.1010 redesignated §§ 513.1 to 513.11.

## PART 514—FRANCE

## SUBPART—WITHHOLDING OF TAX

§§ 514.1 to 514.10.

## SUBPART—GENERAL INCOME TAX

§§ 7.410 to 7.426 redesignated §§ 514.101 to 514.117.

## PART 515—HONDURAS

## SUBPART—WITHHOLDING OF TAX

§§ 515.1 to 515.10.

## PART 516—AUSTRIA

## SUBPART—WITHHOLDING OF TAX

§§ 516.1 to 516.12.

## PART 517—PAKISTAN

## SUBPART—WITHHOLDING OF TAX

§§ 517.1 to 517.9.

## PART 518—NEW ZEALAND

## SUBPART—WITHHOLDING OF TAX

§§ 7.600 to 7.610 redesignated §§ 518.1 to 518.11.

## PART 519—CANADA

## SUBPART—WITHHOLDING OF TAX

§§ 7.45 to 7.56 redesignated §§ 519.1 to 519.12.

## SUBPART—GENERAL INCOME TAX

§§ 7.20 to 7.39 redesignated §§ 519.101 to 519.120.

## PART 520—SWEDEN

## SUBPART—GENERAL INCOME TAX

§§ 7.200 to 7.218 redesignated §§ 520.101 to 520.119.

## PART 521—DENMARK

## SUBPART—WITHHOLDING OF TAX

§§ 7.900 to 7.907 redesignated §§ 521.1 to 521.8.

## SUBPART—GENERAL INCOME TAX

§§ 7.950 to 7.966 redesignated §§ 521.101 to 521.117.

## Title 13—BUSINESS CREDIT AND ASSISTANCE

### Chapter I—Small Business Administration

[Amdt. 2]

### PART 120—LOAN POLICY STATEMENT

#### Business Loans; Early Maturities Participation Plan

The Loan Policy Statement Regulation (23 F.R. 10513 as amended, 24 F.R. 8325) is hereby further amended as follows:

1. Section 120.4-2(b) (3) is amended to read as follows:

§ 120.4-2 Business loans.

\* \* \* \* \*

(b) \* \* \*

(3) No agreement to participate shall establish any preferences in favor of the bank or other lending institution participating in the loan with SBA, except in participation agreements entered into in accordance with the Early Maturities Participation Plan set forth in § 120.4-6.

2. A new § 120.4-6 is added to read as follows:

§ 120.4-6 Early Maturities Participation Plan.

Early Maturities Participation business loans are authorized on an immediate participation basis whereby the full amount of the early scheduled principal payments on a loan can be applied toward reduction of the participating financial institution's share of the total loan subject to the following limitations:

(a) The financial institution shall participate in an amount not less than the greater of the following sums: (1) the aggregate of the level amortized principal payments due in the first two years of the loan; (2) 25 percent of the loan; (3) the full amount of any existing credit the remaining term of which is more than one year and of any credit

the remaining term of which is less than one year upon which payments, if required, have not been made as originally agreed.

(b) All such loans shall be amortized on a level principal payment basis, plus interest, and only such principal payments as are made within 60 days of due date can be applied toward early reduction of the participating institution's share of the total loan. Upon expiration of 60 days after default of any payment of principal or interest due on the loan, unless the default is cured by payment within that period, the proportionate interests of the SBA and the institution participating in the loan shall be frozen or fixed in amounts equal to their respective percentages of exposure as of the date of the last principal payment received prior to the default, and all future payments on the loan from any source shall be paid over to, or credited to the participation of, bank and SBA according to their respective percentages of the frozen or fixed participation.

(c) No such agreement shall establish any preference in favor of the lending institution in any collateral security for the loan and at any time during the term of the loan while the participating institution continues to have an interest, regardless of whether bank's participation has been declared frozen or fixed, the proceeds from the liquidation or sale of any collateral or security supporting the loan, including voluntary or demanded payments by guarantors, or any other principal payments due to be applied in inverse order of maturity, shall be paid over to, or credited to the participation of the institution and SBA in amounts equal to their respective percentages of interest or exposure in the loan based upon the outstanding balance of the loan as of the date such principal payment is received.

(d) Upon the repayment of the aggregate amount of amortized payments due the participating institution it shall be released from the participation and SBA will assume servicing of the loan and sole custody and control of all collateral, provided that at the option of the participating institution it may purchase or enter into a new participation in the loan in an amount not less than its original participation and continue to service the loan. The new participation shall then be liquidated in the same manner as the original participation. The participating institution shall have additional options throughout the whole term of the loan to periodically enter into new participations in the loan, or may at any time purchase or acquire the full outstanding loan.

*Effective date.* This amendment shall become effective upon publication in the FEDERAL REGISTER.

PHILIP MCCALLUM,  
Administrator.

DECEMBER 29, 1960.

[F.R. Doc. 60-12219; Filed Dec. 30, 1960; 8:53 a.m.]

# CODE OF FEDERAL REGULATIONS

## **Title 1** General Provisions

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Revised as of January 1, 2011

Containing a codification of documents  
of general applicability and future effect

As of January 1, 2011

Published by the Office of the Federal Register  
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OMB CONTROL NUMBERS

§ 21.35 OMB control numbers.

To display OMB control numbers in agency regulations, those numbers shall be placed parenthetically at the end of the section or displayed in a table or codified section.

[50 FR 12468, Mar. 28, 1985]

Subpart B—Citations of Authority

§ 21.40 General requirements: Authority citations.

Each section in a document subject to codification must include, or be covered by, a complete citation of the authority under which the section is issued, including—

(a) General or specific authority delegated by statute; and

(b) Executive delegations, if any, necessary to link the statutory authority to the issuing agency.

[50 FR 12468, Mar. 28, 1985]

§ 21.41 Agency responsibility.

(a) Each issuing agency is responsible for the accuracy and integrity of the citations of authority in the documents it issues.

(b) Each issuing agency shall formally amend the citations of authority in its codified material to reflect any changes therein.

§ 21.42 Exceptions.

The Director of the Federal Register may make exceptions to the requirements of this subpart relating to placement and form of citations of authority whenever the Director determines that strict application would impair the practical use of the citations.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9682, Mar. 7, 1989]

PLACEMENT

§ 21.43 Placing and amending authority citations.

(a) The requirements for placing authority citations vary with the type of amendment the agency is making in a document. The agency shall set out the full text of the authority citation for each part affected by the document.

(1) If a document sets out an entire CFR part, the agency shall place the complete authority citation directly after the table of contents and before the regulatory text.

(2) If a document amends only certain sections within a CFR part, the agency shall present the complete authority citation to this part as the first item in the list of amendments.

(i) If the authority for issuing an amendment is the same as the authority listed for the whole CFR part, the agency shall simply restate the authority.

(ii) If the authority for issuing an amendment changes the authority citation for the whole CFR part, the agency shall revise the authority citation in its entirety. The agency may specify the particular authority under which certain sections are amended in the revised authority citation.

(b) The agency shall present a centralized authority citation. The authority citation shall appear at the end of the table of contents for a part or after each subpart heading within the text of a part. Citations of authority for particular sections may be specified within the centralized authority citation.

[50 FR 12469, Mar. 28, 1985, as amended at 54 FR 9682, Mar. 7, 1989]

§ 21.45 Nonstatutory authority.

Citation to a nonstatutory document as authority shall be placed after the statutory citations. For example:

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 944 (49 U.S.C. 1657). E.O. 11222, 30 FR 6469, 3 CFR, 1965 Comp., p. 10.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9682, Mar. 7, 1989]

FORM

§ 21.51 General.

(a) Formal citations of authority shall be in the shortest form compatible with positive identification and ready reference.

(b) The Office of the Federal Register shall assist agencies in developing model citations.

§ 21.52 Statutory material.

(a) United States Code. All citations to statutory authority shall include a



**IRS Regulations are all Interpretative Regulations Having no force and effect of law.**

NOTE: Individual Income tax regulations under the 1939 Code started in Part 19, then changed to Part 29 in 1943 (8 FR 14882-14979) and then changed to Part 39 Sept. 26, 1953 in 18 FR 5771-6199.

**Administrative State  
Headless 4th Branch of Government  
"The Presidents Committee on Management - 1937"**

**Part 39 regulations published Sept. 26, 1953  
at 18 FR 5771-6199**

**18 FR 6199 (Part 39) - States IRS not doing APA of 1946 Filed September 26, 1953 (Filed 324 Days before 1954 Code)**  
Because the provisions of the regulations in this part are provisions which have heretofore been prescribed pursuant to the Administrative Procedure Act, approved June 11, 1946, **it is found unnecessary to issue such regulations with notice and public procedure thereon under section 4 (a) of the Administrative procedure Act or subject to the effective date limitation of section 4 (c) of that Act.**

**IRS Internal Revenue Code Passed Aug. 16, 1954**

**Tuesday, August 17, 1954 - 19 FR 5167**  
**One day after the 1954 Code it was published in the Federal Register that the NEW regulations would not be in compliance with the APA of 1946.**

**19 FR 5167-68 "in part"** is published in volume 1 of the 13 volumes of the CFRs for Part 1, Individual Income Taxes (Contains §§ 1.0 to 1.60) every year leaving out Paragraph 4 (below, *infra*) that states the IRS is not going to do APA; and, therefore the IRS by **ADMISSION** conclusively confirms that all of the Pt. 1 Individual Income Tax regulations are ALL "interpretative" and not "substantive" regulations, *i.e.*, having no "force and effect of law" and creating no "known legal duty."

**"Paragraph 4 -** Because this Treasury decision merely provides for the continuance of existing rules pending action, it is hereby found that it is **impracticable and contrary to the public interest to incur the delay which would result if this Treasury decision were issued with the notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946 or subject to the effective date limitation of section 4 (c) of said act."**

**November 26, 1960 at 25 FR 11402 - 12162**  
**all of the Part 1 Individual Income Tax Regs were republished. There was no APA statement.**

1960 - APA republishing non-compliance published 35 days later in Dec. Pt.1

**December 21, 1960 at 25 FR 13032 - 13127**  
**all of Part 31 Employment Taxes Regs were republished.**

**June 24, 1958 at 23 FR 45209-4596** all of Part 20 Estates/Gift Regs were republished.

**November 3, 1967 at 32 FR 15241-15387**  
**all of the Part 301 regulations were republished. There is no APA statement as not required for 301 regs that are only for Federal Employees, etc. See 6331(a).**

**December 31, 1960 - 25 FR 14021-22**  
**Regulations under 1939 Code, as made applicable to the corresponding provision of the 1954 Code by Treasury Decision 6091, 19FR 5167 Aug. 17, 1954 have been systematically superseded by regulations under the 1954 Code.**

NOTE: All of 19 FR 5167 of 1954 are published in Vol. 1 of Part 1 MINUS the part of paragraph 4 above that states the IRS is not using the APA. To confirm all of the Part 1, Part 20 or Part 31 regs use the 25 FR 14021-22 of Dec. 31, 1960, see the Source note in brackets after the Table of Contents listing all of the regulations just before the TOC authorities as mandated by 1 CFR § 21.43 in the CFRs published each year.

**NOTE: The result demonstrated is that none of the IRS regulations have ever complied with the APA to be substantive regulations and as also proven when they were all republished in 1960, they were interpretative regulations. All of the regulations since the republishing will state they are interpretative (some) and all of the rest will state that they are not in compliance with 5 U.S.C. § 553(b) taking exception, therefore conclusively in the public record confirming that regulations IS NOT an "substantive regulations in compliance with 5 U.S.C. § 553(b)(c)(d). See the holding in Chrysler v. Brown, 441 U.S. 281 (1979). This can ONLY be found in the publications in the Federal Register for the particular CFRs. Do not be fooled when the IRS has comment periods as they still do not pass muster to be "substantive regulations."**