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FEDERAL TRADE COMMISSION

16 CFR Part 310

Telemarketing Sales Rule

AGENCY: Federal Trade Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Trade Commission (“Commission”) published a final rule on August 10, 2010, adopting amendments to the Telemarketing Sales Rule that address the telemarketing of debt relief services. This document makes technical corrections to that final rule.

DATES: *Effective Date:* September 27, 2010.

FOR FURTHER INFORMATION CONTACT:

Allison Brown, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 (202-326-3224).

SUPPLEMENTARY INFORMATION: In FR Doc. 2010-19412 appearing on page 48458 in the **Federal Register** of Tuesday, August 10, 2010, the following corrections are made:

§ 310.8 [Corrected]

■ 1. On page 48523, in the first column, in § 310.8 (c), “\$54” is corrected to read “\$55” and, “\$14,580” is corrected to read “\$15,058”.

§ 310.8 [Corrected]

■ 2. On the same page, in the second column, in § 310.8 (d), in the fourth line, “\$54” is corrected to read “\$55”.

Donald S. Clark,

Secretary.

[FR Doc. 2010-20680 Filed 8-23-10; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9499]

RIN 1545-BF65

Clarification to Section 6411 Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations amending existing regulations under section 6411 of the Internal Revenue Code (Code) relating to the computation and allowance of the tentative carryback adjustment. These regulations adopt without change the rules of the temporary regulations, which clarify that, for purposes of allowing a tentative adjustment, the IRS may credit or reduce the tentative adjustment by both assessed and certain unassessed tax liabilities. These final regulations affect taxpayers that file an application for a tentative carryback allowance.

DATES: *Effective Date:* These regulations are effective on August 24, 2010.

Applicability Date: These regulations apply with respect to applications for tentative refund filed on or after August 24, 2010.

FOR FURTHER INFORMATION CONTACT:

Contact Elizabeth Mezheritsky at (202) 622-3600 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Revisions

This document contains final regulations amending the Income Tax Regulations (26 CFR part 1) under section 6411 relating to the computation and allowance of the tentative carryback adjustment.

On August 24, 2007, temporary regulations (TD 9355), 2007-37 IRB 577 (72 FR 48933) and a notice of proposed rulemaking by cross-reference to temporary regulations (REG-118886-06), 2007-37 IRB 591 (72 FR 48952) were published in the **Federal Register**. On October 4, 2007, corrections to the temporary regulations were published in the **Federal Register** (72 FR 56619). Only one set of written comments responding to the notice of proposed rulemaking was received, and the same commenter was the sole speaker at a public hearing on the notice of proposed rulemaking, which was held on February 5, 2008. After consideration of the comments, the temporary regulations are adopted without change by this Treasury decision. The comments are discussed in the preamble.

Explanation of Provisions and Summary of Comments

In general, section 6411(a) provides that, in the case of certain loss or credit carrybacks, a taxpayer may file an application for a tentative carryback adjustment of the tax for a prior taxable

year. Under section 6411(b), any resulting decrease in tax attributable to the carryback must be credited against any tax or installment “then due” from the taxpayer, or refunded to the taxpayer. Existing regulations at section 1.6411-3(d)(1)(iii) further provide that the decrease in tax is first applied against any unpaid amount of tax that is “due and payable” on the date the decrease is allowed.

These regulations amend existing regulations under section 6411 to clarify the computation and allowance of the tentative carryback adjustment. The tentative allowance is computed pursuant to § 1.6411-2 but applied pursuant to § 1.6411-3. The regulations provide that, for purposes of computing the tentative allowance under section 6411, the Commissioner will not consider amounts to which the taxpayer and the Commissioner are in disagreement. For purposes of applying the tentative allowance, however, the regulations provide that the Commissioner may credit or reduce the tentative adjustment by any assessed tax liabilities, unassessed liabilities determined in a statutory notice of deficiency, unassessed liabilities identified in a proof of claim filed in a bankruptcy proceeding, and other unassessed liabilities in rare and unusual circumstances. Regarding unassessed liabilities determined in a statutory notice of deficiency, *see* Rev. Rul. 2007-51. Regarding unassessed liabilities identified in a proof of claim filed in a bankruptcy proceeding, *see* Rev. Rul. 2007-52. *See also* § 601.601(d)(2).

The sole commenter asserted that the IRS lacks the authority to credit a tax decrease due to a tentative carryback adjustment against a tax liability unless the liability has been assessed against the taxpayer. According to the commenter, an assessed liability is the only proper interpretation of the terms “due and payable” and “then due” for purposes of section 6411(b). The Treasury Department and the IRS disagree with this position. The general authority to apply credits is provided by section 6402, which permits the IRS to credit the amount of any overpayment, including interest, against any tax liability of the person who made the overpayment. Nothing in section 6402 or the applicable regulations specifies when a liability arises for purposes of crediting overpayments. The Treasury Department and IRS have determined that both assessed and certain unassessed liabilities are appropriately considered “then due” for purposes of section 6411. Accordingly, the