(1) We publish Social Security Rulings in the **Federal Register** under the authority of the Commissioner of Social Security. They are binding on all components of SSA. These rulings represent precedent final opinions and orders and statements of policy and interpretations that we have adopted.

(2) We publish Social Security Acquiescence Rulings in the **Federal Register** under the authority of the Commissioner of Social Security. They are binding on all components of SSA, except with respect to claims subject to the relitigation procedures established in 20 CFR 404.985(c) and 416.1485(c). For a description of Social Security Acquiescence Rulings, see 20 CFR 404.985(b) and 416.1485(b).

§ 402.165 Publications for sale through the Government Publishing Office.

The public may purchase publications containing information pertaining to the program, organization, functions, and procedures of SSA from the electronic U.S. Government Bookstore maintained by the Government Publishing Office. The publications for sale include but are not limited to:

(a) Title 20, parts 400 through 499, of the Code of Federal Regulations;

(b) **Federal Register** issues; and

(c) Compilation of the Social Security Laws.

[FR Doc. 2024–29647 Filed 12–17–24; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 10019]

RIN 1545–BR31

Definition of the Term ''Coverage Month'' for Computing the Premium Tax Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that amend the definition of ''coverage month'' and amend certain other rules in existing income tax regulations regarding the computation of an individual taxpayer's premium tax credit. The coverage month amendment generally provides that, in computing a premium tax credit, a month may be a coverage month for an individual if the amount of the premium paid, including by advance payments of the premium tax credit, for the month for the individual's coverage is sufficient to avoid termination of the individual's coverage for that month. The final regulations also amend the existing regulations relating to the amount of enrollment premiums used in computing the taxpayer's monthly premium tax credit if a portion of the monthly enrollment premium for a coverage month is unpaid. Finally, the final regulations clarify when an individual is considered to be not eligible for coverage under a State's Basic Health Program. The final regulations affect taxpayers who enroll themselves, or enroll a family member, in individual health insurance coverage through a Health Insurance Exchange and may be allowed a premium tax credit for the coverage.

DATES:

Effective date: These final regulations are effective on December 18, 2024.

Applicability date: These final regulations apply to taxable years beginning on or after January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Clara Raymond at (202) 317–4718 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 36B of the Internal Revenue Code (Code).[1] Section 36B(h) provides an express delegation of authority for the Secretary of the Treasury or her delegate (Secretary) to prescribe such regulations as may be necessary to carry out section 36B, including regulations that provide for the coordination of the premium tax credit (PTC) allowed under 36B with the program for advance payments of the PTC (APTC) under section 1412 of the Affordable Care Act.[2] The final regulations are also issued under the express delegation of authority under section 7805(a), which authorizes the Secretary to ''prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.''

[1] Unless otherwise indicated, references to ''section'' or ''§'' are to sections of the Code or the Treasury regulations issued thereunder.

[2] The Affordable Care Act (or ACA) refers to the Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, enacted on March 30, 2010).

Background

I. Section 36B Rules Relating to Coverage Months and Monthly PTC Amount

Section 36B provides a PTC for applicable taxpayers who meet certain eligibility requirements, including that a member of the taxpayer's family enrolls in a qualified health plan (QHP) through a Health Insurance Exchange (Exchange) for one or more ''coverage months.''

Section 1.36B–3(c)(1) provides that a month is a coverage month for an individual if (i) as of the first day of the month, the individual is enrolled in a QHP through an Exchange; (ii) the taxpayer pays the taxpayer's share of the premium for the individual's coverage under the plan for the month by the unextended due date for filing the taxpayer's income tax return for that taxable year, or the full premium for the month is paid by APTC; and (iii) the individual is not eligible for the full calendar month for minimum essential coverage (within the meaning of § 1.36B–2(c)) other than coverage described in section 5000A(f)(1)(C) of the Code (relating to coverage in the individual market).

Section 1.36B–3(d)(1) provides that the PTC (also called the premium assistance amount) for a coverage month is the lesser of (i) the premiums for the month, reduced by any amounts that were refunded, for one or more QHPs in which a taxpayer or a member of the taxpayer's family enrolls (enrollment premiums); or (ii) the excess of the adjusted monthly premium for the applicable benchmark plan over 1/12 of the product of a taxpayer's household income and the applicable percentage for the taxable year. The term ''family'' is defined in § 1.36B–1(d), and the applicable percentage is defined in § 1.36B–3(g).

Section 1.36B–2(c)(2)(i) provides that, for purposes of determining whether a given month is a coverage month for an individual, an individual generally is considered eligible for government-sponsored minimum essential coverage if the individual meets the criteria for coverage under a government-sponsored program described in section 5000A(f)(1)(A) as of the first day of the first full month the individual may receive benefits under the program.

Section 1.36B–2(c)(2)(v) provides that an individual is treated as not eligible for Medicaid, CHIP, or a similar program for a period of coverage under a QHP if, when the individual enrolls in the QHP, an Exchange determines or considers (within the meaning of 45 CFR 155.302(b)) the individual to be not eligible for Medicaid or CHIP.

Section 36B(f)(3) and § 1.36B–5 require Exchanges to report to QHP enrollees and the IRS certain information, including monthly enrollment premiums, needed to compute the PTC allowed for the enrollee. This information is reported to enrollees on IRS Form 1095–A, *Health Insurance Marketplace Statement.* The Centers for Medicare & Medicaid Services (CMS), part of the Department of Health and Human Services (HHS), is responsible for the Form 1095–A reporting for Exchanges that use the Federal eligibility and enrollment platform (Federally-facilitated Exchanges, or FFEs, and State-based Exchanges on the Federal platform, or SBE–FPs). State Exchanges with their own platforms (State Exchanges) are responsible for the Form 1095–A reporting for individuals who enroll in a QHP through their State Exchange.

II. HHS Rules Relating to Coverage When Premiums Are Unpaid

HHS regulations at 45 CFR 156.270(d) implement section 1412(c)(2)(B)(iv)(II) of the Affordable Care Act to require issuers of QHPs to allow a ''grace period'' for enrollees for whom the APTC is paid but who fail to timely pay their share of the premium for the coverage. In general, a QHP issuer must provide a grace period of 3 consecutive months for such an enrollee before the issuer may terminate the enrollee's coverage. During the first month of the grace period, the QHP issuer must pay all appropriate claims for services rendered, and, during the second and third months of the grace period, the QHP issuer may pend claims.

HHS regulations at 45 CFR 155.400(g) allow issuers to implement a premium payment threshold policy under which issuers can consider enrollees to have paid all amounts due if the enrollees pay an amount sufficient to maintain a percentage of total premium paid out of the total premium owed equal to or greater than a level prescribed by the issuer, provided that the level and the policy are applied in a uniform manner to all enrollees. If an enrollee satisfies these conditions, the issuer may provide coverage even though the full enrollment premium is not paid.

In certain States, issuers also may provide coverage without payment of the full enrollment premium if a State department of insurance prohibits an issuer from terminating QHP coverage during a declared emergency.

III. Proposed Regulations

On September 17, 2024, the Department of the Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking (REG–116787–23) in the **Federal Register** (89 FR 75984) under section 36B (proposed regulations). The proposed regulations would have changed the definition of ''coverage month'' in § 1.36B–3(c)(1) for some scenarios for which the full premium for the month is unpaid by the unextended due date of the taxpayer's return for the year of coverage, provided the amount of the premium paid for the month, including by APTC, is sufficient to avoid termination of the individual's coverage for that month. The proposed regulations would have provided that a month for which the enrollment premium is not fully paid may be a coverage month in the following scenarios: (i) the first month of a grace period described in 45 CFR 156.270(d); (ii) a month for which a premium payment threshold under 45 CFR 155.400(g) has been met and for which month the issuer of the individual's qualified health plan provides coverage; and (iii) a month for which a State department of insurance has, during a declared emergency, issued an order prohibiting the issuer of the individual's qualified health plan from terminating the individual's coverage for the month irrespective of whether the full premium for the month is paid.

The proposed amendment to the definition of ''coverage month'' would have required a conforming change to the calculation of the monthly PTC amount under § 1.36B–3(d)(1)(i) so that the premium for a month to be considered in determining the monthly PTC for an individual's coverage would be reduced by any portion of the premium that is unpaid as of the unextended due date for filing the taxpayer's income tax return for the taxable year that includes the month.

Finally, the proposed regulations would have clarified § 1.36B–2(c)(2)(v) to provide that an individual is treated as not eligible for Medicaid, CHIP, or a similar program such as a State's Basic Health Program (BHP), for a period of coverage under a QHP if, when the individual enrolls in the QHP, an Exchange conducts an eligibility determination or, if applicable, eligibility assessment (within the meaning of 45 CFR 155.302(b)) for Medicaid, CHIP, or a similar program and determines or assesses the individual to be not eligible for coverage under the program.

The Treasury Department and the IRS received nine public comments in response to the notice of proposed rulemaking. Copies of the comments are available for public inspection at *https://www.regulations.gov* or upon request. A public hearing on the proposed regulations was scheduled for December 13, 2024. There were no requests to speak at the scheduled public hearing. Consequently, the public hearing was cancelled. After considering all the comments received, the Treasury Department and the IRS adopt the proposed regulations without modifications.

Summary of Comments and Explanation of Revisions

I. Overview

All nine public comments on the proposed regulations were in support of the rules in the proposed regulations. One commenter requested that the final regulations include detailed requirements, expectations, and examples relating to reporting by Exchanges of enrollment premiums and second lowest cost silver plan (SLCSP) premiums on Form 1095–A for a month for which a taxpayer's share of the enrollment premium is not paid in full (non-payment month) that may be a coverage month. Another commenter requested that all non-payment months for which coverage is provided be considered coverage months. Finally, several commenters requested flexibility for Exchanges to comply with the new coverage month rule. The comments are addressed in more detail in Parts II through IV of this Summary of Comments and Explanation of Revisions.

II. Additional Guidance for Reporting on Form 1095–A

As discussed in Part I of the Background section of this preamble, section 36B(f)(3) and § 1.36B–5 require Exchanges to report to QHP enrollees and the IRS certain information needed to compute the PTC allowed for the enrollee. This information is reported to enrollees on IRS Form 1095–A. The enrollee's monthly enrollment premiums are reported in column A of Part III of Form 1095–A and the enrollee's monthly second lowest cost silver plan (SLCSP) premiums are reported in column B of the form.

The current instructions for Form 1095–A require Exchanges to report $0 in column A of Form 1095–A as the enrollment premium for a non-payment month. The instructions also require Exchanges to report $0 for a non-payment month in column B of Form 1095–A as the amount of the taxpayer's SLCSP premium for the month. Reporting $0 as the monthly amount in either column A or column B signals to the taxpayer and the IRS that this is not a coverage month and, thus, no PTC is allowed for the month.

One commenter requested that the final regulations include detailed requirements, expectations, and examples relating to how Exchanges should report enrollment premiums and SLCSP premiums on Form 1095–A for non-payment months that may be coverage months. The commenter asked that the examples demonstrate how Exchanges should report multiple grace periods in a calendar year, mid-month changes, and partial payments.

The commenter's request for detailed guidance on how Exchanges should report amounts on Form 1095–A is best addressed in the Instructions for Form 1095–A, rather than in regulatory text. The IRS intends to revise the 2025 Instructions for Form 1095–A to reflect the coverage month changes in these final regulations. Specifically, the revised instructions will require Exchanges to report in column A of Part III of Form 1095–A the full enrollment premium for any month that is a coverage month if such month is (i) the first month of a grace period described in 45 CFR 156.270(d) for the plan enrollees; (ii) a month for which a premium payment threshold under 45 CFR 155.400(g) has been met and for which month the issuer of the individual's qualified health plan provides coverage; or (iii) a month for which a State department of insurance has, during a declared emergency, issued an order prohibiting the issuer of the individual's qualified health plan from terminating the individual's coverage for the month (the three scenarios described in § 1.36B–3(c)(4)). The instructions will continue to provide that Exchanges must report $0 in column A for any other months for which the full enrollment premium for the month is not paid, and that the amount reported in column A should be reduced by any enrollment premium refunds or credits.

Similarly, the instructions for column B of Part III of Form 1095–A will be amended to provide that Exchanges should not report $0 as the SLCSP premium for any months for which the full enrollment premium is not paid, if the month is a coverage month under one of the three scenarios described in § 1.36B–3(c)(4). Instead, Exchanges should report the SLCSP premium that would apply if the enrollment premium had been paid in full.

With regard to the commenter's request for examples demonstrating how to report amounts on Form 1095–A under the final regulations, the Treasury Department and the IRS understand that State Exchanges may need additional guidance as they proceed with implementation of these final regulations. The Treasury Department and the IRS welcome additional input and will continue to work with State Exchanges to ensure that the Instructions for Form 1095–A adequately address how Exchanges should report non-payment months as coverage months under one of the three scenarios described in § 1.36B–3(c)(4).

III. Additional Scenarios for Which Non-Payment Months May Be Coverage Months

The proposed regulations included a request for comments on whether the final regulations should include scenarios in addition to those provided in the proposed regulations regarding non-payment months that may be coverage months. One commenter suggested that the final regulations should permit all non-payment months to be coverage months as long as the amount of the premium paid for the month, including by APTC, is sufficient to avoid termination of the individual's coverage for that month.

In drafting the proposed regulations, the Treasury Department and the IRS considered but rejected a rule that would allow all non-payment months to be coverage months if the amount of the premium paid for the month, including by APTC, is sufficient to avoid termination of the individual's coverage for the month. As stated in the preamble to the proposed regulations, a main reason for amending the coverage month definition is to promote reporting consistency among Exchanges regarding the reporting of enrollment premiums for non-payment months. The Treasury Department and the IRS worked closely with HHS staff to identify the three scenarios described in § 1.36B–3(c)(4) as scenarios for which there is inconsistent reporting among Exchanges. In addition, the Treasury Department and the IRS have determined that an open-ended rule that could be interpreted differently by different Exchanges, based on their particular State law or practices, would not achieve more consistent reporting among Exchanges. Exchanges, as well as taxpayers and the IRS, need clarity on the definition of a coverage month, and that definition needs to apply uniformly to all taxpayers under the Federal tax law. Consequently, the Treasury Department and the IRS do not adopt this comment, and the change to the coverage month rule in the final regulations applies only for the three scenarios described in § 1.36B–3(c)(4).

IV. Applicability Date of Final Regulations

The proposed regulations provided that the changes under §§ 1.36B–2 and 1.36B–3 were proposed to apply for taxable years beginning on or after the first date of the calendar year that begins after the date these regulations are published as final regulations in the **Federal Register**. Several commenters noted that State Exchanges will need to make extensive changes to their platform architecture to report for non-payment months that are coverage months under one of the three scenarios described in § 1.36B–3(c)(4) and, thus, requested that the final regulations provide adequate time for states to make the necessary changes to ensure accurate reporting. One commenter stated that a 9–12-month period is generally needed to implement IT changes. Another commenter requested that the final rule include detailed scenarios addressing the applicability date. One commenter supported the proposed applicability date of the next calendar year following the date of publication.

Consistent with the proposed applicability date, the rules in these final regulations apply to taxable years beginning on or after January 1, 2025. Thus, a taxpayer may be allowed a PTC for 2025 for a non-payment month that is a coverage month as described in these final regulations. However, the Treasury Department and the IRS understand that Exchanges need time to implement their reporting for the coverage month rule in the final regulations, and some Forms 1095–A filed by State Exchanges for the 2025 coverage year may not reflect that non-payment months described in § 1.36B–3(c)(4) are coverage months for which a PTC is allowed. Exchanges should do the best they can to timely implement the coverage month rule in these final regulations. Exchanges are reminded that, because section 36B(f)(3) imposes the requirement on Exchanges to report QHP enrollment information to the IRS and to Enrollees on Form 1095–A, Form 1095–A is not an information return within the meaning of section 6721, and there is no penalty imposed on an Exchange for filing a Form 1095–A that does not include all of the information required to be shown on the return or that includes incorrect information. The Treasury Department and the IRS will continue to consult with State Exchanges to assist with their implementation of the coverage month rule under these final regulations.

Finally, the proposed regulations included various applicability dates to incorporate existing applicability dates for prior amendments to the regulations under section 36B, but all of the amendments under §§ 1.36B–2 and 1.36B–3 in the proposed regulations

were proposed to apply on the same date. Those amendments to proposed §§ 1.36B–2 and 1.36B–3, as finalized in these regulations, all apply to taxable years beginning on or after January 1, 2025. Thus, the Treasury Department and the IRS do not believe detailed scenarios are needed to address the final regulation's applicability date as requested by one of the commenters.

V. Conforming Change to the PTC Calculation and Clarification of Eligibility

As noted in Part III of the Background section of this preamble, the proposed regulations addressed two items in addition to the change to the coverage month definition. First, the proposed regulations included a proposed change that would have conformed the calculation of the monthly PTC amount under § 1.36B–3(d)(1)(i) with the proposed rule allowing certain non-payment months to be coverage months. Under the proposed rule, taxpayers would have reduced the amount of the enrollment premiums used to compute their monthly PTC by any portion of the premium that is unpaid as of the unextended due date of the taxpayer's income tax return for the taxable year that includes the month. Second, the proposed regulations would have clarified § 1.36B–2(c)(2)(v) to provide that an individual is treated as not eligible for Medicaid, CHIP, or a similar program such as a State BHP, for a period of coverage under a QHP if, when the individual enrolls in the QHP, an Exchange conducts an eligibility determination or, if applicable, eligibility assessment (within the meaning of 45 CFR 155.302(b)) for Medicaid, CHIP, or a similar program and determines or assesses the individual to be not eligible for coverage under the program. Because no negative comments or suggested changes were received with respect to these two items, this Treasury decision adopts these amendments without change.

VI. Severability

If any provision in this rulemaking is held to be invalid or unenforceable facially, or as applied to any person or circumstance, it shall be severable from the remainder of this rulemaking, and shall not affect the remainder thereof, or the application of the provision to other persons not similarly situated or to other dissimilar circumstances.

Special Analyses

I. Regulatory Planning and Review

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

II. Paperwork Reduction Act

These final regulations do not impose any additional information collection requirements in the form of reporting, recordkeeping requirements, or third-party disclosure statements. Taxpayers who claim PTC on their income tax returns are required to file Form 8962, *Premium Tax Credit (PTC),* which is the sole collection of information requirement imposed on individuals by section 36B and the regulations under section 36B. The rules in these final regulations will require the IRS to revise the instructions for Form 8962. For purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(c)), the reporting burden associated with the collection of information for Form 8962 will be reflected in the PRA submission associated with income tax returns under the OMB control number 1545–0074. To the extent there is a change in burden because of these final regulations, the change in burden will be reflected in the updated burden estimates for Form 8962.

In addition, Exchanges are required to report to QHP enrollees on Form 1095–A certain information the enrollees need to compute the PTC allowed for the enrollee and to reconcile the PTC with any APTC paid for their coverage. Exchanges must also report this information to the IRS. The rules in these final regulations will require the IRS to revise the instructions for recipients of Form 1095–A and the instructions for Exchanges completing Form 1095–A. For purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(c)), the reporting burden associated with the collection of information for Form 1095–A will be reflected in the PRA submission associated with Form 1095–A under the OMB control number 1545–2232. To the extent there is a change in burden because of these final regulations, the change in burden will be reflected in the updated burden estimates for Form 1095–A.

III. Regulatory Flexibility Act

The Treasury Department and the IRS hereby certify that these final regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). This certification is based on the fact that the majority of the effect of the final regulations falls on individual taxpayers, and entities will experience only small changes.

Pursuant to section 7805(f), the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on their impact on small business, and no comments were received.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million (updated annually for inflation). This final rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

E.O. 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the E.O. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the E.O.

VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Statement of Availability of IRS Documents

Guidance cited in this preamble is published in the Internal Revenue Bulletin and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *https://www.irs.gov.*

Drafting Information

The principal author of these final regulations is Clara L. Raymond of the Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the Treasury

Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by:
■ 1. Removing the entry for § 1.36B–0;
■ 2. Adding entries in numerical order for §§ 1.36B–1 through 1.36B–3;
■ 3. Revising the entries for §§ 1.36B–4 and 1.36B–5; and
■ 4. Adding an entry in numerical order for § 1.36B–6.

The additions and revisions read as follows:

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

* * * * *

Section 1.36B–1 also issued under 26 U.S.C. 36B(h).

Section 1.36B–2 also issued under 26 U.S.C. 36B(h).

Section 1.36B–3 also issued under 26 U.S.C. 36B(h).

Section 1.36B–4 also issued under 26 U.S.C. 36B(h).

Section 1.36B–5 also issued under 26 U.S.C. 36B(h).

Section 1.36B–6 also issued under 26 U.S.C. 36B(h).

* * * * *

■ **Par. 2.** Section 1.36B–0 is amended by:
■ 1. Redesignating the entries for § 1.36B–3(c)(4) and § 1.36B–3(c)(5) as the entries for § 1.36B–3(c)(5) and § 1.36B–3(c)(6), respectively; and
■ 2. Adding a new entry for § 1.36B–3(c)(4).

The addition reads as follows:

§ 1.36B–0 Table of contents.

* * * * *

§ 1.36B–3 Computing the premium assistance credit amount.

* * * * *

(c) * * *

(4) Scenarios for payments sufficient to avoid coverage termination.

* * * * *

■ **Par. 3.** Section 1.36B–2 is amended by:
■ 1. Revising the first sentence in paragraph (c)(2)(v);
■ 2. Revising paragraph (e)(1); and
■ 3. Adding paragraph (e)(6).

The revisions and addition read as follows:

§ 1.36B–2 Eligibility for premium tax credit.

* * * * *

(c) * * *

(2) * * *

(v) * * * An individual is treated as not eligible for Medicaid, CHIP, or a similar program such as a Basic Health Program, for a period of coverage under a qualified health plan if, when the individual enrolls in the qualified health plan, an Exchange conducts an eligibility determination or, if applicable, eligibility assessment (within the meaning of 45 CFR 155.302(b)) for Medicaid, CHIP, or a similar program and determines or assesses the individual to be not eligible for coverage under the program. * * *

* * * * *

(e) * * *

(1) Except as provided in paragraphs (e)(2) through (6) of this section, this section applies to taxable years ending after December 31, 2013.

* * * * *

(6) The first sentence of paragraph (c)(2)(v) of this section applies to taxable years beginning on or after January 1, 2025. The first sentence of paragraph (c)(2)(v) of this section, as contained in 26 CFR part 1 edition revised as of April 1, 2024, applies to taxable years ending after December 31, 2013, and beginning before January 1, 2025.

■ **Par. 4.** Section 1.36B–3 is amended by:
■ 1. Revising paragraph (c)(1)(ii);
■ 2. Redesignating paragraphs (c)(4) and (5) as paragraphs (c)(5) and (6), respectively;
■ 3. Adding new paragraph (c)(4); and
■ 4. Revising paragraphs (d)(1)(i) and (n).

The revisions and addition read as follows:

§ 1.36B–3 Computing the premium assistance credit amount.

* * * * *

(c) * * *

(1) * * *

(ii) The taxpayer pays the taxpayer's share of the premium for the individual's coverage under the plan for the month by the unextended due date for filing the taxpayer's income tax return for that taxable year, the full premium for the month is paid by advance credit payments, or the amount of the premium paid (including by advance credit payments) for the month is sufficient to avoid termination of the individual's coverage for that month under one of the scenarios described in paragraph (c)(4) of this section; and

* * * * *

(4) *Scenarios for payments sufficient to avoid coverage termination.* The scenarios under which the amount of the premium paid (including by advance credit payments) for the month is sufficient to avoid termination of an individual's coverage for that month under paragraph (c)(1)(ii) of this section are the following:

(i) The first month of a grace period described in 45 CFR 156.270(d) for the individual.

(ii) A month for which a premium payment threshold under 45 CFR 155.400(g) has been met and for which month the issuer of the individual's qualified health plan provides coverage.

(iii) A month for which a State department of insurance has, during a declared emergency, issued an order prohibiting the issuer of the individual's qualified health plan from terminating the individual's coverage for the month irrespective of whether the full premium for the month is paid.

* * * * *

(d) * * *

(1) * * *

(i) The enrollment premiums, which are the premiums for the month for one or more qualified health plans in which a taxpayer or a member of the taxpayer's family enrolls, reduced by any amounts—

(A) Refunded in the same taxable year as the premium liability is incurred; or

(B) Unpaid as of the unextended due date for filing the taxpayer's income tax return for the taxable year that includes the month; or

* * * * *

(n) *Applicability dates.* (1) Except as provided in paragraphs (n)(2) through (4) of this section, this section applies to taxable years ending after December 31, 2013.

(2) Paragraphs (d)(1) (except for paragraph (d)(1)(i)) and (2) of this section apply to taxable years beginning after December 31, 2016. Paragraph (f) of this section applies to taxable years beginning after December 31, 2018. Paragraphs (d)(1) and (2) of § 1.36B–3, as contained in 26 CFR part 1 edition revised as of April 1, 2016, apply to taxable years ending after December 31, 2013, and beginning before January 1, 2017. Paragraph (f) of § 1.36B–3, as contained in 26 CFR part 1 edition revised as of April 1, 2016, applies to taxable years ending after December 31, 2013, and beginning before January 1, 2019.

(3) Paragraphs (c)(4) through (6) of this section apply to taxable years beginning on or after January 1, 2025. Paragraph (c)(4) of this section, as contained in 26 CFR part 1 edition revised as of April 1, 2024, applies to taxable years beginning after December

31, 2016, and beginning before January 1, 2025. Paragraph (c)(5) of this section, as contained in 26 CFR part 1 edition revised as of April 1, 2024, applies to taxable years ending after December 31, 2013, and beginning before January 1, 2025.

(4) Paragraph (d)(1)(i) of this section applies to taxable years beginning on or after January 1, 2025. Paragraph (d)(1)(i) of § 1.36B–3, as contained in 26 CFR part 1 edition revised as of April 1, 2016, applies to taxable years ending after December 31, 2013, and beginning before January 1, 2017. Paragraph (d)(1)(i) of § 1.36B–3, as contained in 26 CFR part 1 edition revised as of April 1, 2022, applies to taxable years beginning after December 31, 2016, and beginning before January 1, 2023. Paragraph (d)(1)(i) of § 1.36B–3, as contained in 26 CFR part 1 edition revised as of April 1, 2024, applies to taxable years beginning after December 31, 2022, and beginning before January 1, 2025.

Douglas W. O'Donnell,

Deputy Commissioner.

Approved: December 5, 2024.

Aviva R. Aron-Dine,

Deputy Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 5

[Docket No. TTB–2022–0007; T.D. TTB–199; Re: Notice No. 213]

RIN 1513–AC88

Addition of American Single Malt Whisky to the Standards of Identity for Distilled Spirits

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule amends the Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations that set forth the standards of identity for distilled spirits to include ''American single malt whisky'' as a type of whisky that is produced in the United States and meets certain criteria. TTB proposed the new standard of identity in response to petitions and comments submitted by several distillers and the American Single Malt Whisky Commission. TTB is finalizing the amendments to the regulations to establish the standard of identity with some changes to reflect comments received.

DATES: This final rule is effective January 19, 2025.

FOR FURTHER INFORMATION CONTACT: Selina M. Ferguson, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; telephone 202–453–1039.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers regulations regarding the labeling of distilled spirits, which include those setting forth ''standards of identity.'' The authority to establish these standards is based on section 105(e) of the Federal Alcohol Administration Act (FAA Act),[1] codified in the United States Code at 27 U.S.C. 205(e). That section authorizes the Secretary of the Treasury (the Secretary) to prescribe regulations relating to the ''packaging, marking, branding, and labeling'' of alcohol beverage containers ''as will prohibit deception of the consumer with respect to such products'' and ''as will provide consumers with adequate information as to the identity and quality of the products.'' Section 105(e) of the FAA Act also generally requires bottlers and importers of alcohol beverages to obtain approval of the product labels through certificates of label approval (COLAs) prior to bottling or importing alcohol beverages for sale in interstate commerce.

TTB administers these FAA Act provisions pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary has delegated certain administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

Part 5 of title 27 of the Code of Federal Regulations (27 CFR part 5) sets forth the regulations implementing those provisions of section 105(e) of the FAA Act as they pertain to distilled spirits.

Classes and Types of Spirits

The TTB regulations establish standards of identity for distilled spirits products and categorize these products according to various classes and types. See 27 CFR part 5, subpart I. As used in 27 CFR 5.141(a), the term ''class'' refers to a general category of spirits. Subpart I sets forth the various classes of distilled spirits and their characteristics. Examples of classes of distilled spirits include ''whisky,'' ''rum,'' ''gin,'' and ''brandy.'' As used in § 5.141(a), the term ''type'' refers to a subcategory within a class of spirits. These types generally have additional or more specific characteristics than the class. For example, ''Cognac'' is a type within the class of brandy, specifically grape brandy distilled exclusively in the Cognac region of France and meeting the laws and regulations of the French government for designation as Cognac. See 27 CFR 5.145(c)(2).

The TTB labeling regulations at 27 CFR 5.63(a)(2) require that the class and type of distilled spirits appear on the product's label. These regulations provide that the class and type must be stated in conformity with 27 CFR part 5, subpart I, of the TTB regulations.

Current Standards of Identity, Classification of Malt Whisky, and Treatment of Products Labeled as ''American Single Malt Whisky''

Current TTB regulations at 27 CFR 5.143(a) set forth the standard of identity for the class whisky. In § 5.143, paragraphs (c)(2) through (18) categorize the specific types of whisky, such as ''Bourbon whisky'' and ''malt whisky.'' The current regulations provide standards for identifying whisky as ''malt whisky,'' at paragraph (c)(2), and ''whisky distilled from malt mash,'' at paragraph (c)(7), but do not further specify standards for ''single malt whisky.'' Malt whisky is described as whisky produced at not more than 160° proof from a fermented mash of not less than 51 percent malted barley and stored at not more than 125° proof in charred new oak barrels. Such whisky stored in charred new oak barrels for a period of 2 years or more may optionally be further designated as ''straight'' malt whisky. See 27 CFR 5.143(c)(5). A ''whisky distilled from malt mash'' is whisky produced in the United States at not more than 160° proof from a fermented mash of not less than 51 percent malted barley and stored in used oak barrels.

With respect to geographical designators such as ''American,'' § 5.154(a)(3) provides that geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, may not be used unless the product is produced in the particular place or region indicated in the name. Accordingly, a product currently designated as ''American whisky'' must be produced in the United States. Additionally, §§ 5.143(b)

[1] Aug. 29, 1935, ch. 814, title I, sec. 101 *et seq.,* formerly sec. 1 *et seq.,* 49 Stat. 977; renumbered title I, sec. 101 *et seq.,* and amended Public Law 100–690, title VIII, Nov. 18, 1988, 102 Stat. 4517.