

(j) Example 1. In year 1, Taxpayer A makes a payment of \$500 to an entity described in section 170(c). In return for the payment, A receives a dollar-for-dollar State income tax credit. Prior to application of the credit, A's State income tax liability for year 1 was more than \$500. A applies the \$500 credit to A's year 1 State income tax liability. Under paragraph (j)(1) of this section, A treats the \$500 payment as a payment of State income tax in year 1. To determine A's deduction amount, A must apply the provisions of section 164 applicable to payments of State and local taxes, including the limitation in section 164(b)(6). See paragraph (j)(3) of this section.

(ii) Example 2. In year 1, Taxpayer B makes a payment of \$7,000 to an entity described in section 170(c). In return for the payment, B receives a dollar-for-dollar State income tax credit, which under State law may be carried forward for three taxable years. Prior to application of the credit, B's State income tax liability for year 1 was \$5,000; B applies \$5,000 of the \$7,000 credit to B's year 1 State income tax liability. Under paragraph (j)(1) of this section, B treats \$5,000 of the \$7,000 payment as a payment of State income tax in year 1. Prior to application of the remaining credit, B's State income tax liability for year 2 exceeds \$2,000. B applies the excess credit of \$2,000 to B's year 2 State income tax liability. For year 2, under paragraph (j)(2) of this section, B treats the \$2,000 as a payment of State income tax under section 164. To determine B's deduction amounts in years 1 and 2, B must apply the provisions of section 164 applicable to payments of State and local taxes, including the limitation under section 164(b)(6). See paragraph (j)(3) of this section.

(iii) Example 3. In year 1, Taxpayer C makes a payment of \$7,000 to an entity described in section 170(c). In return for the payment, C receives a local real property tax credit equal to 25 percent of the amount of this payment (\$1,750). Prior to application of the credit, C's local real property tax liability in year 1 was more than \$1,750. C applies the \$1,750 credit to C's year 1 local real property tax liability. Under paragraph (j)(1) of this section, for year 1, C treats \$1,750 of the \$7,000 payment as a payment of local real property tax for purposes of section 164. To determine C's deduction amount, C must apply the provisions of section 164 applicable to payments of State and local taxes, including the limitation under section 164(b)(6). See paragraph (j)(3) of this section.

(7) Applicability date. This paragraph (j) applies to payments made to section 170(c) entities on or after June 11, 2019. However, a taxpayer may choose to apply this paragraph (j) to payments made to section 170(c) entities after August 27, 2018.

■ Par. 4. Section 1.170A-1 is amended as follows:

- 1. Paragraph (c)(5) is revised.
- 2. In paragraph (h)(1) introductory text, remove the cross-references to “§ 1.170A-13(f)(6)” and “§ 1.170A-13(f)(5)” and add in their places “paragraph (h)(4)(i) of this section” and “paragraph (h)(4)(ii) of this section”, respectively.
- 3. Paragraphs (h)(2)(i)(B) and (h)(3)(iii) are revised.
- 4. Paragraph (h)(3)(viii) is redesignated as paragraph (h)(3)(x).
- 5. New paragraph (h)(3)(viii) and paragraph (h)(3)(ix) are added.
- 6. Paragraphs (h)(4) through (6) are redesignated as paragraphs (h)(5) through (7).
- 7. New paragraph (h)(4) is added.

The revisions and additions read as follows:

§ 1.170A-1 Charitable, etc., contributions and gifts; allowance of deduction.

* * * * *

(c) * * *

(5) For payments or transfers to an entity described in section 170(c) by a taxpayer carrying on a trade or business, see § 1.162-15(a).

* * * * *

(h) * * *

(2) * * *

(i) * * *

(B) The fair market value of the goods or services received or expected to be received in return.

* * * * *

(3) * * *

(iii) In consideration for. For purposes of paragraph (h) of this section, the term in consideration for has the meaning set forth in paragraph (h)(4)(i) of this section.

* * * * *

(viii) Safe harbor for payments by C corporations and specified passthrough entities. For payments by a C corporation or by a specified passthrough entity to an entity described in section 170(c), where the C corporation or specified passthrough entity receives or expects to receive a State or local tax credit that reduces the charitable contribution deduction for such payments under paragraph (h)(3) of this section, see § 1.162-15(a)(3) (providing safe harbors under section 162(a) to the extent of that reduction).

(ix) Safe harbor for individuals. Under certain circumstances, an individual

who itemizes deductions and makes a payment to an entity described in section 170(c) in consideration for a State or local tax credit may treat the portion of such payment for which a charitable contribution deduction is disallowed under paragraph (h)(3) of this section as a payment of State or local taxes under section 164. See § 1.164-3(j), providing a safe harbor for certain payments by individuals in exchange for State or local tax credits.

* * * * *

(4) Definitions. For purposes of this paragraph (h), the following definitions apply:

(i) In consideration for. A taxpayer receives goods or services in consideration for a taxpayer's payment or transfer to an entity described in section 170(c) if, at the time the taxpayer makes the payment to such entity, the taxpayer receives or expects to receive goods or services from that entity or any other party in return.

(ii) Goods or services. Goods or services means cash, property, services, benefits, and privileges.

(iii) Applicability date. The definitions provided in this paragraph (h)(4) are applicable to amounts paid or property transferred on or after December 17, 2019.

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§ 1.170A-13 [Amended]

■ Par. 5. Section 1.170A-13 is amended in paragraph (f)(7) by removing the cross-reference “§ 1.170A-1(h)(5)” and adding in its place “§ 1.170A-1(h)(6)”.

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

Approved: July 27, 2020.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 501

Adjustment of Applicable Schedule Amount

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is issuing this final rule to make technical amendments to the

definition of “applicable schedule amount” in its regulations. In recent years, OFAC has adjusted its civil monetary penalties (CMPs) as required by the Federal Civil Penalties Inflation Adjustment Act, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. While OFAC’s “applicable schedule amount” values are not civil monetary penalties that are required to be adjusted pursuant to such statute, OFAC is making technical changes to this definition to ensure the applicable schedule amount values continue to correspond appropriately to OFAC’s CMPs.

DATES: This rule is effective August 11, 2020.

FOR FURTHER INFORMATION CONTACT:

OFAC: Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC’s website (www.treasury.gov/ofac).

Background

On September 8, 2008, OFAC issued as an interim final rule the “Economic Sanctions Enforcement Guidelines” (Enforcement Guidelines) as appendix A to the Reporting, Procedures and Penalties Regulations at 31 CFR part 501 (73 FR 51933, September 8, 2008). On November 9, 2009, OFAC re-issued as a final rule the Enforcement Guidelines (74 FR 57593, November 9, 2009). OFAC’s Enforcement Guidelines provide a general framework for the enforcement of all economic sanctions programs administered by OFAC. Section V.B.2.a.ii. of the Enforcement Guidelines states that the base amount of a proposed civil penalty in a Pre-Penalty Notice shall be the “applicable schedule amount,” subject to certain caps noted in that section, where the case is deemed non-egregious and the apparent violation has come to OFAC’s attention by means other than a voluntary self-disclosure. Section I.B. of the Enforcement Guidelines provides a definition of “applicable schedule amount.”

Separately, as required by the Federal Civil Penalties Inflation Adjustment Act (1990 Pub. L. 101–410, 104 Stat. 890; 28 U.S.C. 2461 note), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of

2015 (Pub. L. 114–74, 129 Stat. 599, 28 U.S.C. 2461 note) (collectively, the FCPIA Act), OFAC has adjusted its CMPs five times since the Federal Civil Penalties Inflation Adjustment Act Improvements Act went into effect on November 2, 2015: An initial catch-up adjustment on August 1, 2016 (81 FR 43070, July 1, 2016), and annual adjustments on February 10, 2017 (82 FR 10434, February 10, 2017), March 19, 2018 (83 FR 11876, March 19, 2018), June 14, 2019 (84 FR 27714, June 14, 2019), and April 9, 2020 (85 FR 19884, April 9, 2020).

OFAC’s applicable schedule amount values in the Enforcement Guidelines, while not required to be adjusted pursuant to the FCPIA Act, correspond in certain ways with OFAC’s CMPs. As a result, to correspond with OFAC’s recent CMP adjustments required by the FCPIA Act, OFAC is now amending the definition of “applicable schedule amount” in section I.B. of appendix A to 31 CFR part 501, to adjust applicable schedule amount values for transactions valued at \$100,000 or more. Specifically, OFAC is amending sections I.B.6. and I.B.7., such that in the case of transactions valued at \$100,000 or more but less than \$200,000, the applicable schedule amount is now \$200,000, and in the case of transactions valued at \$200,000 or more, the applicable schedule amount is now \$307,922, which corresponds with the current maximum CMP amount for a violation of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706, at 1705). These changes are not required pursuant to the FCPIA; however, OFAC is making these changes to ensure the applicable schedule amount values continue to correspond appropriately to OFAC’s CMPs as the CMPs are adjusted pursuant to the FCPIA annually. Additionally, OFAC is amending the authorities section of 31 CFR part 501 to shorten citations to conform to **Federal Register** guidance.

Public Participation

Because this final rule imposes no obligations on any person, but only amends OFAC’s enforcement policy and procedures based on existing substantive rules, provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Further, this final rule is not a significant regulatory action for purposes of Executive Order 12866. Accordingly, the provisions of Executive Order 13771 are inapplicable. Because no notice of proposed

rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 31 CFR Part 501

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Licensing, Penalties, Sanctions.

For the reasons set forth in the preamble, the Department of the Treasury’s Office of Foreign Assets Control amends 31 CFR part 501 as follows:

PART 501—REPORTING, PROCEDURES AND PENALTIES REGULATIONS

- 1. The authority citation for part 501 is revised to read as follows:

Authority: 8 U.S.C. 1189; 18 U.S.C. 2332d, 2339B; 19 U.S.C. 3901–3913; 21 U.S.C. 1901–1908; 22 U.S.C. 287c; 22 U.S.C. 2370(a), 6009, 6032, 7205; 28 U.S.C. 2461 note; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; 50 U.S.C. 4301–4341; 22 U.S.C. 8501–8551.

Appendix A to Part 501 [Amended]

- 2. Amend appendix A to part 501 as follows:
 - a. In section I.B.6., remove “\$170,000” in both places it appears and add in its place “\$200,000” in both places.
 - b. In section I.B.7., remove “\$250,000” and add in its place “\$307,922”, and remove “\$170,000” and add in its place “\$200,000”.

Dated: August 5, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control.

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

RIN 0596–AD36

Land Uses; Special Uses; Procedures for Operating Plans and Agreements for Powerline Facility Maintenance and Vegetation Management Within and Abutting the Linear Boundary of a Special Use Authorization for a Powerline Facility; Correction

AGENCY: Forest Service, USDA.