19 approach at Sawyer Airport, Gwinn, MI. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, March 27, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, November 21, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to accommodate an ILS, DME, and VOR to runway 01/19, Sawyer Airport, Gwinn, MI (61 FR 59208). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. The notice inadvertently listed incorrect coordinates and these coordinates have been corrected in this Final Rule. Class E5 airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E5 airspace to accommodate an Instrument Landing System (ILS), a Very High Frequency Omnidirectional Range (VOR) and a Distance Measuring Equipment (DME) to serve runway 01/19 approach at Sawyer Airport, Gwinn, MI. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 The Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AGL MI E5 Sawyer, MI [New]

Sawyer Airport, MI
(Lat. 46°21′13″N, long. 87°23′43″W)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of the Sawyer Airport, excluding that airspace within the Marquette, MI, Class E airspace area, and that airspace extending upward from 1,200 feet above the surface within a 34.8-mile radius of the Sawyer Airport.

* * * * *

Issued in Des Plaines, Illinois on January 8, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–1114 Filed 1–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 165

Beverages

CFR Correction

In Title 21 of the Code of Federal Regulations, parts 100 to 169, revised as of April 1, 1996, § 165.110 is corrected by transferring paragraph (b)(5) from page 531 and inserting text immediately following the note in the second column on page 526.

§ 165.110 Bottled water.

* * * * *

(b) * * *

(5) *Radiological quality.* (i) Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the methods described in paragraph (b((5)(ii) of this section, meet standards of radiological quality as follows:

(A) The bottled water shall not contain a combined radium–226 and radium–228 activity in excess of 5 picocuries per liter of water.

(B) The bottled water shall not contain a gross alpha particle activity (including radium–226, but excluding radon and uranium) in excess of 15 picocuries per liter of water.

(C) The bottled water shall not contain beta particle and photon radioactivity from manmade radionuclides in excess of that which would produce an annual dose equivalent to the total body or any internal organ of 4 millirems per year calculated on the basis of an intake of 2 liters of the water per day. If two or more beta or photon–emitting radionuclides are present, the sum of their annual dose equivalent to the total body or to any internal organ shall not exceed 4 millirems per year.

(ii) Analyses conducted to determine compliance with paragraph (b)(5)(i) of this section shall be made in accordance with the methods described in the applicable sections of ''Standard Methods for the Examination of Water and Wastewater,'' 15th Ed. (1980), and ''Interim Radiochemical Methodology for Drinking Water,'' U.S. EPA, EMSL, EPA–600/4–75–008 (Revised), March

1976, both of which are incorporated by reference. The availability of these incorporations by reference is given in paragraph (b)(2) of this section.

* * * * *

[FR Doc. 97–55572 Filed 1-15-97; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8711]

RIN 1545–AU82

Intangibles Under Sections 1060 and 338

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document amends the temporary regulations under sections 1060 and 338(b) of the Internal Revenue Code (Code) relating to purchase price allocations in taxable asset acquisitions and deemed asset purchases. The amendments revise the treatment of intangible assets in such acquisitions to take into account the enactment of section 197 by the Omnibus Budget Reconciliation Act of 1993. This document also makes conforming amendments to the final regulations under section 338. The regulations provide guidance regarding taxable asset acquisitions and deemed asset purchases resulting from elections under section 338. The text of the temporary regulations herein also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

EFFECTIVE DATE: These regulations are effective February 14, 1997.

For dates of applicability, see §§ 1.338(b)–2T(c)(4) and 1.1060–1T(a)(2)(ii).

FOR FURTHER INFORMATION CONTACT: Brendan P. O'Hara, Office of Assistant Chief Counsel (Corporate), (202) 622–7530 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

These regulations amend the current temporary regulations under sections 1060 (§ 1.1060–1T) and 338(b) (§§ 1.338(b)–2T and 1.338(b)–3T) (the current regulations) with respect to the treatment of acquired intangible assets. They also amend related examples in the final regulations under section 338. Section 1060 provides for the allocation of purchase price among the assets of a trade or business under regulations. Section 338(b) provides for a similar allocation, also under regulations, for a deemed purchase of assets under section 338. The current regulations employ a residual method of allocation. The legislative history of section 1060, adopted in 1986, noted with approval the use of the residual method under the section 338(b) regulations and required that the same method be used pursuant to regulations to be prescribed under section 1060. S. Rep. No. 99–313, 99th Cong., 2d Sess. 253, 254 (1986); 1986–3 C.B. Vol. 3, 253–54.

The current regulations place each acquired asset into one of four asset classes. The purchase price is allocated among the classes in priority order. No asset in any class except for the last class is allocated more than its fair market value. If the aggregate purchase price allocable to a particular class is less than the aggregate fair market value of the assets within the class, each asset is allocated an amount in proportion to its fair market value and nothing is allocated to any junior class.

The four classes under the current regulations are as follows:

Class I—Cash and cash equivalents;

Class II—Certificates of deposit, U.S. government securities, readily marketable stock or securities, and foreign currency;

Class III—All assets not in Class I, II, or IV; and

Class IV—Intangible assets in the nature of goodwill and going concern value.

Section 197 was enacted as part of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, 107 Stat. 312 (1993) (the 1993 Act). Prior to the 1993 Act, acquired goodwill and going concern value were not amortizable, but other acquired intangible assets were amortizable if they could be separately identified and their useful lives determined with reasonable accuracy. Section 197 responded to policy and administrative concerns regarding the treatment of acquired intangibles by providing similar treatment for goodwill, going concern value, and certain other intangible assets acquired in a taxable acquisition and held in connection with a trade or business. The 1993 Act allows taxpayers to amortize certain acquired intangible assets (amortizable section 197 intangibles) over 15 years, subject to certain exceptions.

The report of the House Committee on Ways and Means accompanying the 1993 Act states that:

> It is expected that the present [regulations under sections 338 and 1060] will be amended to reflect the fact that [section 197] allows an amortization deduction with respect to intangible assets in the nature of goodwill and going concern value. It is anticipated that the residual method specified in the regulations will be modified to treat all amortizable section 197 intangibles as Class IV assets and that this modification will apply to any acquisition of property to which [section 197] applies.

H.R. Rep. 111, 103d Cong., 1st Sess. 760, 776 (May 23, 1993), 1993–3 C.B. 336, 352.

The current regulations have not yet been amended in accordance with the legislative history of section 197. These new temporary regulations accomplish that change, with slight modifications, as discussed below.

Explanation of Provisions

The temporary and final regulations are amended to conform to the legislative history of the 1993 Act by placing all amortizable section 197 intangibles other than goodwill and going concern value in Class IV.

However, the new regulations also include nonamortizable section 197 intangibles in Class IV. Some section 197 intangibles are amortizable by the buyer though they were not amortizable by the seller. Other section 197 intangibles may not be amortizable because of the application of the anti-churning rules of section 197(f)(9). Although sections 338(b) and 1060 do not require conformity between the buyer and seller on purchase price allocations, they reflect strong policies encouraging conformity, including mandatory application of the rule of *Commissioner* v. *Danielson,* 378 F.2d 771 (3d Cir. 1967), *cert. denied*, 389 U.S. 858 (1967), in cases where the parties have agreed to an allocation, and a reporting system designed to reveal situations where the parties' allocations are inconsistent. These policies favoring conformity are best served by requiring both parties to include the same assets in each class. Moreover, this rule is also more consistent with section 1060(b) as amended by the 1993 Act. Section 1060(b)(1) requires the parties to report, under regulations, ''the amount of consideration received for the assets which is allocable to section 197 intangibles.'' The term *section 197 intangibles* is more inclusive than amortizable section 197 intangibles. The goals of consistency, simplification, and administrability will be better achieved with respect to allocations to section