

ORDER NO. 6523

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Michael Kubayanda, Chairman;  
Mark Acton, Vice Chairman;  
Ann C. Fisher;  
Ashley E. Poling; and  
Robert G. Taub

Review of Calculation of Competitive  
Products Assumed Income Tax, 2022

Docket No. T2023-1

ORDER APPROVING THE CALCULATION OF THE FY 2022 ASSUMED FEDERAL  
INCOME TAX ON COMPETITIVE PRODUCTS

(Issued May 24, 2023)

I. INTRODUCTION

The Postal Service is required each year to calculate its assumed Federal income tax on Competitive products income and to transfer the amount of the assumed Federal income tax from the Competitive Products Fund to the Postal Service Fund. 39 U.S.C. § 3634; 39 C.F.R. § 3060.40 *et seq.* On January 11, 2023, the Postal Service filed its calculation of the assumed Federal income tax on Competitive products income for Fiscal Year (FY) 2022.<sup>1</sup> On March 30, 2023, in response to an information

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<sup>1</sup> Notice of the United States Postal Service of Submission of the Calculation of the FY 2022 Assumed Federal Income Tax on Competitive Products, January 11, 2023 (Notice). The calculation of the FY 2022 assumed Federal income tax on Competitive products is attached to the Notice. Notice, Attachment.

request, the Postal Service filed a revised calculation.<sup>2</sup> For the reasons discussed below, the Commission approves the revised calculation in accordance with 39 C.F.R. § 3060.42.

## II. BACKGROUND

On January 11, 2023, in accordance with 39 C.F.R. § 3060.40(c), the Postal Service filed the Notice, along with a supporting attachment containing the Postal Service's calculation of the FY 2022 assumed Federal income tax on Competitive products net income. The calculation detailed the FY 2022 Competitive products revenue and expenses, the Competitive products net income before tax, and the assumed Federal income tax on that income. Notice, Attachment. On January 12, 2023, the Commission issued an order establishing this docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>3</sup>

On March 30, 2023, in response to an information request, the Postal Service filed a revised calculation of the assumed Federal income tax on Competitive products for FY 2022, based on an intervening Commission order with respect to the appropriate accounting treatment of the forgiveness of the Postal Service's retiree health benefit (RHB) prefunding liabilities in FY 2022 pursuant to the Postal Service Reform Act of 2022 (PSRA).<sup>4</sup> For FY 2022, the Postal Service reported a net income from Competitive products of \$12.484 billion.<sup>5</sup> After subtracting the \$3.271 billion required

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<sup>2</sup> Response of the United States Postal Service to Question 1 of Chairman's Information Request No. 1, March 30, 2023, Attachment (Response to CHIR No. 1).

<sup>3</sup> Notice and Order Concerning the Review of the Calculation of the FY 2022 Assumed Federal Income Tax on Competitive Products, January 12, 2023 (Order No. 6412).

<sup>4</sup> Response to CHIR No. 1; see Docket No. RM2023-2, Order on Analytical Principles Used in Periodic Reporting (Proposal Seven), March 17, 2023 (Order No. 6459).

<sup>5</sup> Response to CHIR No. 1, Attachment. For simplicity, this Order rounds all non-whole figures to three decimal places.

institutional cost contribution pursuant to Table 1 of 39 C.F.R. § 3060.21,<sup>6</sup> the Postal Service reported a net income before tax of \$9.214 billion. Response to CHIR No. 1, Attachment. Excluding permanent differences, the Postal Service reported a taxable Competitive products income of \$9.214 billion.<sup>7</sup> Multiplying its taxable income by a tax rate of 21 percent, the Postal Service calculated a FY 2022 assumed Federal income tax on Competitive products income of \$1.935 billion. *Id.*

### III. COMMENTS

The Public Representative filed comments on April 14, 2023.<sup>8</sup> No other interested person filed comments. In preparing her comments, the Public Representative reviewed the Notice, its attachment, the Postal Service's Response to CHIR No. 1, and a relevant library reference filed in Docket No. ACR2022. PR Comments at 4. Based on the Postal Service's calculation and the Postal Service's statement in Docket No. ACR2022 that it would transfer the assumed Federal income tax to the Postal Service Fund by January 15, 2023, she concludes that the calculation and supporting documentation are consistent with 39 U.S.C. § 3634 and 39 C.F.R. § 3060.40 *et seq.* *Id.* at 5.

### IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the attached calculation of the assumed Federal income tax on Competitive products income for FY 2022, the Postal

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<sup>6</sup> \$3.271 billion is 10.0 percent of the Postal Service's total FY 2022 institutional costs of \$32.706 billion as reported in the Postal Service's Annual Compliance Report (ACR). Docket No. ACR2022, Library Reference USPS-FY22-1, December 29, 2022. The Commission reviewed this figure (*i.e.*, \$3.271 billion) and adopted it in its FY 2022 Annual Compliance Determination. See Docket No. ACR2022, Library Reference PRC-LR-ACR2022-1, March 29, 2023, Excel file "FY22 Summary LR-1.xlsx," tab "Competitive Income," cell E23.

<sup>7</sup> *Id.* The Postal Service reports its taxable income consistent with how it reports income for financial reporting purposes (*i.e.*, there are no permanent differences).

<sup>8</sup> Public Representative Comments on Postal Service Notice Concerning Submission of FY 2022 Assumed Federal Income Tax on Competitive Products, April 14, 2023 (PR Comments).

Service's Response to CHIR No. 1, and the Public Representative's comments. For the reasons set forth below, the Commission approves the Postal Service's revised calculation of the assumed Federal income tax for FY 2022.

The Postal Accountability and Enhancement Act of 2006 requires that the Postal Service annually calculate the assumed Federal income tax on Competitive products income.<sup>9</sup> Section 3634(a)(1) of title 39 of the U.S. Code defines the term "assumed Federal income tax on competitive products income" as "the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year." Sections 3634(b) and (c) of title 39 require that the Postal Service calculate the assumed Federal income tax on Competitive products for the year and transfer the amount from the Competitive Products Fund to the Postal Service Fund by the January 15th that follows the close of the fiscal year.

The Commission's regulations require that the Postal Service develop a Competitive Products Income Statement for each fiscal year, as shown in Table 1 of 39 C.F.R. § 3060.21. Moreover, section 3060.40(a) of title 39 of the Code of Federal Regulations requires that the Postal Service use the Competitive Products Income Statement to calculate the assumed Federal income tax on Competitive products income in compliance with chapter 1 of the Internal Revenue Code by computing tax liability at the applicable corporate tax rate.<sup>10</sup> The Postal Service is not required to calculate or pay estimated Federal income taxes or state, local, or foreign income taxes. 39 C.F.R. § 3060.40(d), (e).

The attachment to the Response to CHIR No. 1 contains two tables and a schedule based on Internal Revenue Service Form 1120. The first table uses the first 11 lines of the Competitive Products Income Statement to calculate the FY 2022

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<sup>9</sup> Postal Accountability and Enhancement Act (PAEA), Pub. L. 109-435, 120 Stat. 3198 (2006).

<sup>10</sup> Chapter 1 of title 26 prescribes, among other things, how the Federal income tax liability of corporations is calculated. The amount of Federal income tax imposed on corporations is specified in 26 U.S.C. § 11.

Competitive products net income before tax. Response to CHIR No. 1, Attachment. The second table calculates the assumed Federal income tax on Competitive products income. *Id.* Multiplying a taxable income of \$9.214 billion by a 21-percent tax rate, the Postal Service calculates an assumed Federal income tax on Competitive products net income for FY 2022 of \$1.935 billion.<sup>11</sup>

The revised calculation contains the information required by 39 C.F.R. §§ 3060.40 and 3060.41. The Commission finds that the Postal Service accurately calculated its FY 2022 Competitive products net income before tax and taxable income. In addition, the Commission finds that the 21-percent tax rate is the appropriate section 11 tax rate for the Postal Service's FY 2022 taxable Competitive products income.<sup>12</sup> Thus, in accordance with 39 C.F.R. § 3060.42, the Commission approves the Postal Service's revised FY 2022 calculation of the assumed Federal income tax on Competitive products income.

#### V. ORDERING PARAGRAPH

*It is ordered:*

In accordance with 39 C.F.R. § 3060.42, the Commission approves the Postal Service's revised FY 2022 calculation of the assumed Federal income tax on Competitive products income.

By the Commission.

Erica A. Barker  
Secretary

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<sup>11</sup> *Id.* The Commission observes that the amount transferred from the Competitive Products Fund to the Postal Service Fund in January 2023 (\$2.622 billion) was in excess of the Postal Service's recalculated assumed tax obligation based on the Response to CHIR No. 1. See Notice, Attachment; see also Docket No. ACR2022, Library Reference USPS-FY22-39, December 29, 2022, file "USPS-FY22-39 CPF Report\_Preface.pdf," at 3-4.

<sup>12</sup> See 26 U.S.C. § 11; Internal Revenue Service Form 1120 (2021), Schedule J, Line 2 instructions, available at <https://www.irs.gov/pub/irs-prior/i1120--2021.pdf>.