

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

Review of Calculation of Competitive
Products Assumed Income Tax, 2014

Docket No. T2015-1

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE CONCERNING
SUBMISSION OF FY 2014 ASSUMED FEDERAL
INCOME TAX ON COMPETITIVE PRODUCTS

(March 16, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2323.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice concerning submission of the FY 2014 assumed federal income tax on competitive products.² The Commission's Notice invites comments on whether the Postal Service's submission is consistent with the policies of 39 U.S.C. § 3634 and 39 C.F.R. § 3060.40 *et. seq.* Notice at 2.

Included with the Postal Service's Notice is an attachment which consists of two interrelated tables.³ The first table shows the FY 2014 competitive products Net Income Before Tax.⁴ The second table calculates the FY 2014 assumed federal income tax on the Net Income to be transferred to the Postal Service Fund (PSF).

Background. 39 U.S.C. § 3634 requires the computation and transfer of an "assumed Federal income tax on competitive products income" from the Competitive

¹ PRC Order No. 2323, Notice and Order Concerning the Review of the Calculation of the Assumed Federal Income Tax on Competitive Products, January 16, 2015 (Notice).

² United States Postal Service Notice of Submission of the Calculation of the FY 2014 Assumed Federal Income Tax on Competitive Products, January 8, 2015 (Postal Service Notice).

³ The one-page attachment is entitled, Calculation of Assumed Federal Income Tax on Competitive Products Income for the Fiscal Year ending September 30, 2014 (Attachment).

⁴ See Docket No. ACR2014, Library Reference USPS-FY14-39, PRC Form CP01, FY 2014 Competitive Products Income Statement.

Products Fund (CPF) to the PSF each fiscal year. 39 U.S.C. §§ 3634 (b)(1) and (2). The computation of the assumed federal income tax on competitive products income is determined by reference to Chapter 1 of the Internal Revenue Code of 1986. 39 U.S.C. §§ 3634(a)(1) and (2).

Commission rules implementing 39 U.S.C. § 3634 are codified in 39 C.F.R. § 3060.40 *et. seq.* Rule 3060.40 requires that the assumed federal income tax on competitive products income is to be calculated in compliance with Chapter 1 of the Internal Revenue Code of 1986 and filed with the Commission no later than January 15th following the close of each fiscal year. Rule 3060.41 specifies the documentation to be filed by the Postal Service in support of its calculations, including detailed schedules and adjustments to booked income, if any, to arrive at taxable income. Rule 3060.42 states that interested persons shall be provided with an opportunity to comment on the calculations and supporting documentation, and that the Commission shall approve or take such other action deemed appropriate based upon its review of the filing and any comments received. Rule 3060.43 requires an annual transfer of the assumed federal income tax due on competitive products income from the CPF to the PSF no later than January 15th following the close of the relevant fiscal year.

The instant docket is an outgrowth of Order No. 2329, wherein the Commission states its intention “to enhance transparency and alleviate any confusion associated with” the information required by 39 C.F.R. § 3060.41.⁵ The Commission observes that historically, information required by 39 C.F.R. § 3060.41 was filed by the Postal Service as part of its Annual Compliance Report. *Id.* However, this approach “did not provide the information as a separate filing as contemplated by” Rule 3060.41. *Id.*

COMMENTS

The principal policy issues before the Commission are whether the Postal Service 1) properly calculated the assumed federal income tax on competitive products income in accordance with Chapter 1 of the Internal Revenue Code of 1986 and 2)

⁵ PRC Order No. 2329, Final Order on Competitive Products Fund Inquiry, Docket No. PI2013-1, January 23, 2015, at 6.

transferred the assumed federal tax to the PSF on or before January 15th following the close of FY 2014.

The Public Representative has reviewed the Postal Service's Notice, the Attachment, and library reference USPS-FY14-39 filed in Docket No. ACR2014. For FY 2014, the Postal Service reports Net Income Before Tax from competitive products of \$2.422 billion and, after applying the 35 percent tax rate obtained from IRS Form 1120, Schedule J, calculates an assumed federal income tax obligation of \$848 million. Postal Service Notice, Attachment. The Postal Service states that this amount will be transferred to the PSF by January 15, 2015.⁶ The sum of the FY 2014 Net Income After Tax of \$1.574 billion and the Net Income (Loss) After Tax from prior years results in a cumulative ending balance for competitive products of \$4.559 billion.⁷ Based upon the foregoing, the Public Representative concludes that the calculations and supporting documentation filed in this docket are consistent with the policies of 39 U.S.C. § 3634 and 39 C.F.R. § 3060.40 *et. seq.*

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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⁶ Docket No. ACR2014, Library Reference USPS-FY14-39, The Postal Service's Annual Report to the Secretary of the Treasury Regarding the Competitive Products Fund for Fiscal Year 2014, Required by 39 U.S.C. § 2011(i), December 29, 2014, at 1.

⁷ *Id.*, Table 2. This amount would also be reported as the FY 2014 balance in the CPS if year-end reporting by the fund were required.