

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

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Review of Calculation of Competitive
Products Assumed Income Tax, 2015

Docket No. T2016-1

ORDER APPROVING THE CALCULATION OF THE FY 2015
ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS

(Issued March 30, 2016)

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.* The Postal Service filed its calculation of the assumed Federal income tax on competitive products income for fiscal year (FY) 2015.¹ For the reasons discussed below, the Commission approves the calculation in accordance with 39 C.F.R. § 3060.42.

¹ United States Postal Service Notice of Submission of the Calculation of the FY 2015 Assumed Federal Income Tax on Competitive Products, January 19, 2016 (Notice). The calculation of the FY 2015 assumed Federal income tax on competitive products is attached to the Notice. Notice, Attachment. The Postal Service also filed a motion for late acceptance of its submission. Motion for Late Acceptance of the Postal Service Notice of Submission of the Calculation of the FY 2015 Assumed Federal Income Tax on Competitive Products, January 19, 2016 (Motion). The Motion was granted. Notice and Order Concerning the Review of the Calculation of the Assumed Federal Income Tax on Competitive Products, January 20, 2016, at 1 n.1 (Order No. 3038).

II. BACKGROUND

On January 19, 2016, 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 2015 assumed Federal income tax on competitive products net income. The calculation details the FY 2015 competitive product revenue and expenses, the competitive products net income before tax, and the assumed Federal income tax on that income. Notice, Attachment.

For FY 2015, the Postal Service reports a net income from competitive products of \$4.519 billion.² *Id.* After subtracting the \$1.860 billion required institutional cost contribution,³ the Postal Service reports a net income before tax of \$2.660 billion. *Id.* Accounting for no permanent differences, the Postal Service reports a taxable competitive products income of \$2.660 billion. Notice, Attachment. Multiplying its taxable income by a tax rate of 35 percent, the Postal Service calculates a FY 2015 assumed Federal income tax on competitive products income of \$931 million. *Id.*

On January 20, 2016, the Commission issued an order establishing this docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.⁴

III. COMMENTS

The Public Representative filed comments on March 24, 2016.⁵ No other interested person filed comments. In preparing her comments, the Public Representative reviewed the Notice and its attachment, as well as Library Reference

² For simplicity, this Order rounds all figures to three decimal places.

³ The required institutional cost contribution is at a minimum 5.5 percent of the Postal Service's total institutional costs. 39 C.F.R. § 3015.7(c). \$1.860 billion is 5.5 percent of the Postal Service's total FY 2015 institutional costs of \$33.814 billion as reported in Docket No. ACR2015, Library Reference USPS-FY15-1, FY 2015 Public Cost and Revenue Analysis (PCRA) Report, December 29, 2015, at 3.

⁴ Order No. 3038 at 2.

⁵ Public Representative Comments on Postal Service Notice Concerning Submission of FY 2015 Assumed Federal Income Tax on Competitive Products, March 24, 2016 (PR Comments).

USPS-FY15-39 filed in Docket No. ACR2015. PR Comments at 3. The Public Representative states that the two principal issues in this proceeding are: (1) whether the Postal Service properly calculated the assumed Federal income tax; and (2) whether the Postal Service transferred the assumed Federal income tax as required by 39 U.S.C. § 3634. *Id.* Based on the Postal Service's calculation and the Postal Service's statement in Docket No. ACR2015 that it would transfer the assumed Federal income tax to the Postal Service Fund by January 15, 2016, 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.*

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the attached calculation of the assumed Federal income tax on competitive products income for FY 2015, and the Public Representative's comments. For the reasons set forth below, the Commission approves the calculation of the assumed Federal income tax for FY 2015.

The Postal Accountability and Enhancement Act requires that the Postal Service annually calculate the assumed Federal income tax on competitive products income. 39 U.S.C § 3634(a)(1) 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."⁶ 39 U.S.C. § 3634 (b) and (c) 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

⁶ The Internal Revenue Code of 1986, as amended, is codified in title 26 of the United States Code. Chapter 1 of title 26 mandates how tax liability is calculated.

39 C.F.R. § 3060.21. 39 C.F.R. § 3060.40(a) 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 section 11 (regular) or section 55(b)(1)(B) (Alternative Minimum Tax) tax rates.⁷ 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 Notice contains two tables. The first table uses the first eight lines of the Competitive Products Income Statement to calculate the FY 2015 competitive products net income before tax. Notice, Attachment. The second table calculates the assumed Federal income tax on competitive products income by multiplying taxable income by a 35 percent tax rate. *Id.* Multiplying a taxable income of \$2.660 billion by a 35 percent tax rate, the Postal Service calculates an assumed Federal income tax on competitive products income for FY 2015 of \$931 million. *Id.*

The Commission approves of the calculation of the assumed Federal income tax on competitive products net income for FY 2015. The 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 2015 competitive products net income before tax and taxable income. In addition, the Commission finds that the 35 percent tax rate is the appropriate section 11 tax rate for the Postal Service's FY 2015 taxable competitive products income.⁸ Thus, in accordance with 39 C.F.R. § 3060.42, the Commission approves the Postal Service's FY 2015 calculation of the assumed Federal income tax on competitive products income.

⁷ Chapter 1 of title 26 prescribes, among other things, how the Federal income tax liability of corporations is calculated. 26 U.S.C. § 11 specifies the amount of Federal income tax on corporations.

⁸ See 26 U.S.C. § 11 and 2015 IRS Form 1120, Schedule J, Line 2 instructions *available at* <http://www.irs.gov/instructions/i1120/ch02.html#d0e2731>.

V. ORDERING PARAGRAPH

It is ordered:

In accordance with 39 C.F.R. § 3060.42, the Commission approves the Postal Service's FY 2015 calculation of the assumed Federal income tax on competitive products income.

By the Commission.

Stacy L. Ruble
Secretary