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#### List of Subjects in 17 CFR Part 4

Advertising, Commodity futures, Consumer protection, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular sections 2(a)(1), 4b, 4c, 4l, 4m, 4n, 4o, and 8a, 7 U.S.C. 2, 6b, 6c, 6l, 6m, 6n, 6o, and 12a, the Commission amends chapter I of title 17 of the Code of Federal Regulations as follows:

### PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

#### Subpart A—General Provisions, Definitions and Exemptions

1. The authority citation for part 4 continues to read as follows:

**Authority:** 7 U.S.C. 1a, 2, 4, 6b, 6c, 6l, 6m, 6n, 6o, 12a and 23.

2. Section 4.1 is amended by adding paragraphs (c) and (d) to read as follows:

#### § 4.1 Requirements as to form.

(a) \* \* \*

(b) \* \* \*

(c) Where a document is distributed through an electronic medium:

(1) The requirements of paragraphs (a) of this section shall mean that required information must be presented in a format that is readily communicated to the recipient. For purposes of this paragraph (c), information is readily communicated to the recipient if it is accessible to the ordinary user by means of commonly available hardware and software and if the electronically delivered document is organized in substantially the same manner as would be required for a paper document with respect to the order of presentation and the relative prominence of information. Where a table of contents is required, the electronic document must either include page numbers in the text or employ a substantially equivalent cross-reference or indexing method or tool;

(2) The requirements of paragraph (b) of this section shall mean that such information must be presented in capital letters and boldface type or, as warranted in the context, another manner reasonably calculated to draw the recipient's attention to the information and accord it greater

prominence than the surrounding text; and

(3) A complete paper version of the document that complies with the applicable provisions of this part 4 must be provided to the recipient upon request.

(d) If graphic, image or audio material is included in a document delivered to a prospective or existing client or pool participant, and such material cannot be reproduced in an electronic filing, a fair and accurate narrative description, tabular representation or transcript of the omitted material must be included in the filed version of the document. Inclusion of such material in a Disclosure Document shall be subject to the requirements of § 4.24(v) in the case of pool Disclosure Documents, and § 4.34(n) in the case of commodity trading advisor Disclosure Documents.

3. Section 4.21 paragraph (b) is to be revised to read as follows:

#### Subpart B—Commodity Pool Operators

##### § 4.21 Required delivery of pool Disclosure Document.

(a) \* \* \*

(b) The commodity pool operator may not accept or receive funds, securities or other property from a prospective participant unless the pool operator first receives from the prospective participant an acknowledgment signed and dated by the prospective participant stating that the prospective participant received a Disclosure Document for the pool. Where a Disclosure Document is delivered to a prospective pool participant by electronic means, in lieu of a manually signed and dated acknowledgment, the pool operator may establish receipt by electronic means that use a unique identifier to confirm the identity of the recipient of such Disclosure Document, Provided, however, That the requirement of § 4.23(a)(3) to retain the acknowledgment specified in this paragraph (b) applies equally to such substitute evidence of receipt, which must be retained either in hard copy form or in another form approved by the Commission.

#### Subpart C—Commodity Trading Advisors

4. Section 4.31 paragraph (b) is to be revised to read as follows:

##### § 4.31 Required delivery of Disclosure Document to prospective clients.

(a) \* \* \*

(b) The commodity trading advisor may not enter into an agreement with a prospective client to direct the client's

commodity interest account or to guide the client's commodity interest trading unless the trading advisor first receives from the prospective client an acknowledgment signed and dated by the prospective client stating that the client received a Disclosure Document for the trading program pursuant to which the trading advisor will direct his account or will guide his trading. Where a Disclosure Document is delivered to a prospective client by electronic means, in lieu of a manually signed and dated acknowledgment the trading advisor may establish receipt by electronic means that use a unique identifier to confirm the identity of the recipient of such Disclosure Document, Provided, however, That the requirement of § 4.33(a)(2) to retain the acknowledgment specified in this paragraph (b) applies equally to such substitute evidence of receipt, which must be retained either in hard copy form or in another form approved by the Commission.

Issued in Washington, DC on July 15, 1997, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 97-19147 Filed 7-21-97; 8:45 am]

BILLING CODE 6351-01-P

### DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

#### 26 CFR Parts 1 and 301

[TD 8725]

RIN 1545-AU64

#### Miscellaneous Sections Affected by the Taxpayer Bill of Rights 2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to joint returns, property exempt from levy, interest, penalties, offers in compromise, and the awarding of costs and certain fees. The regulations reflect changes to the law made by the Taxpayer Bill of Rights 2 and a conforming amendment made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The regulations affect taxpayers with respect to filing of returns, interest, penalties, court costs, and payment, deposit, and collection of taxes.

**DATES:** These regulations are effective July 22, 1997.

For dates of applicability of these regulations, see §§ 301.6334-1 (e) and (f), 301.6601-1(f) (3) and (4), 301.6651-1 (a)(3) and (g)(2), 301.6656-3(c), 301.7122-1(e)(2), 301.7430-2(c)(3)(i)(B), 301.7430-4(b)(3)(ii), 301.7430-5(a) and (c)(3), and 301.7430-6.

**FOR FURTHER INFORMATION CONTACT:** Beverly A. Baughman, (202) 622-4940 regarding joint returns and penalties; Robert A. Miller, (202) 622-3640 regarding levy; Donna J. Welch, (202) 622-4910 regarding interest; Thomas D. Moffitt, (202) 622-7900 regarding court costs; and Kevin B. Connelly, (202) 622-3640 regarding compromises (not toll-free numbers).

#### **SUPPLEMENTARY INFORMATION:**

##### **Paperwork Reduction Act**

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1356. Responses to this collection of information are required to obtain an award of reasonable administrative costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The estimated annual burden per respondent varies from 10 minutes to 30 minutes, depending on individual circumstances, with an estimated average of 15 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

##### **Background**

This document contains amendments to the Income Tax Regulations and the Regulations on Procedure and Administration (26 CFR parts 1 and 301, respectively) relating to joint returns under section 6013, levy under section 6334, interest under section 6601, the

failure to file penalty under section 6651, the failure to deposit penalty under section 6656, compromise under section 7122, and awards of costs and certain fees under section 7430. These sections were amended by the Taxpayer Bill of Rights 2 (TBOR2) (Pub. L. 104-168, 110 Stat. 1452 (1996)) and section 110(l)(6) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193, 110 Stat. 2105, 2173 (1996)). The changes made by TBOR2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 are reflected in the final regulations.

A notice of proposed rulemaking was published in the **Federal Register** for January 2, 1997 (62 FR 77). One written comment was received in response to the notice of proposed rulemaking. No public hearing was requested or held. The proposed regulations under sections 6013, 6334, 6601, 6651, 6656, 7122, and 7430 are adopted by this Treasury decision with minor revisions, which are discussed below.

##### **Explanation of Revisions and Summary of Comments**

The IRS received one comment regarding the proposed regulations. The commentator remarked that § 301.6601-1(f)(3) of the proposed regulations is unclear because, as drafted, the regulation implies that interest on all additions to tax, including those covered by section 6601(e)(2)(B), runs from the date of the notice and demand. Therefore, the final regulations clarify that interest on any addition to tax, except additions to tax described in section 6601(e)(2)(B), begins to run from the date of the notice and demand.

The commentator also requested clarification for purposes of computing the \$100,000 threshold in §§ 301.6601-1(f)(3) and (4) and 301.6651-1(a)(3). Sections 303(a) and (b) of TBOR2 extend the interest-free period to 21 calendar days or 10 business days if the amount for which the notice and demand is made equals or exceeds \$100,000. The commentator suggested that the \$100,000 threshold should include tax, interest, and penalties. The language in the statute supports this interpretation. Under section 303(b)(1) of TBOR2, the 10 day period specifically applies to a notice and demand for interest and penalties. Therefore, the final regulations clarify that 10 business days is the applicable interest-free period if the total amount assessed, including tax, penalties, and interest, and shown on the notice and demand equals or exceeds \$100,000.

In addition, § 301.6651-1(a)(3), regarding the failure to pay penalty, has

been clarified by cross-referencing the definitions of calendar day and business day in § 301.6601-1(f)(5).

##### **Effective Dates**

These regulations are applicable on July 31, 1996, except that § 301.7122-1(e) is applicable on July 30, 1996, and § 301.6334-1(a)(2), (a)(3), (a)(11)(i), and (e), § 301.6601-1(f)(3), (f)(4), and (f)(5), § 301.6651-1(a)(3), and § 301.7430-4(b)(3)(ii) are applicable on January 1, 1997.

##### **Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Moreover, it is hereby certified that the regulations in this document will not have a significant economic impact on a substantial number of small entities. This certification is based on a determination that in the past only an average of 38 taxpayers per year, the majority of whom were individuals, have filed a request to recover administrative costs. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small business.

**Drafting Information:** The principal authors of these regulations are Beverly A. Baughman and Donna J. Welch, Office of Assistant Chief Counsel (Income Tax and Accounting), Robert A. Miller and Kevin B. Connelly, Office of Assistant Chief Counsel (General Litigation), and Thomas D. Moffitt, Office of Assistant Chief Counsel (Field Service). However, other personnel from the IRS and Treasury Department participated in their development.

##### **List of Subjects**

###### **26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

###### **26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes,

Penalties, Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

#### PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Par. 2. Section 1.6013-2(b)(1) is amended by removing the language "Unless" and adding "Beginning on or before July 30, 1996, unless" in its place.

#### PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Par. 4. Section 301.6334-1 is amended by:

1. Revising paragraph (a)(2).
2. Removing the language "\$1,100 (\$1,050 for levies issued prior to January 1, 1990)" from paragraph (a)(3) and adding "\$1,250" in its place.
3. Removing the language "(relating to aid to families with dependent children)" from paragraph (a)(11)(i).
4. Revising paragraph (e).
5. Adding paragraph (f).

The additions and revisions read as follows:

##### § 301.6334-1 Property exempt from levy.

(a) \* \* \*

(2) *Fuel, provisions, furniture, and personal effects.* So much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, that does not exceed \$2,500 in value.

\* \* \* \* \*

(e) *Inflation adjustment.* For any calendar year beginning after December 31, 1997, each dollar amount referred to in paragraphs (a)(2) and (3) of this section will be increased by an amount equal to the dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year (substituting "calendar year 1996" for "calendar year 1992" in section 1(f)(3)(B)). If any dollar amount as adjusted is not a multiple of \$10, the dollar amount will be rounded to the nearest multiple of \$10 (rounding up if the amount is a multiple of \$5).

(f) *Effective date.* Generally, these provisions are applicable with respect to levies made on or after July 1, 1989.

However, any reasonable attempt by a taxpayer to comply with the statutory amendments addressed by the regulations in this section prior to February 21, 1995, will be considered as meeting the requirements of the regulations in this section. In addition, paragraphs (a)(2), (3), (11)(i) and (e) of this section are applicable with respect to levies issued after December 31, 1996.

Par. 5. Section 301.6601-1 is amended by:

1. Revising paragraphs (f)(3) and (f)(4).
2. Redesignating paragraph (f)(5) as paragraph (f)(6) and adding new paragraph (f)(5).

The additions and revisions read as follows:

##### § 301.6601-1 Interest on underpayments.

\* \* \* \* \*

(f) \* \* \*

(3) Interest will not be imposed on any assessable penalty, addition to the tax (other than an addition to tax described in section 6601(e)(2)(B)), or additional amount if the amount is paid within 21 calendar days (10 business days if the amount assessed and shown on the notice and demand equals or exceeds \$100,000) from the date of the notice and demand. If interest is imposed, it will be imposed only for the period from the date of the notice and demand to the date on which payment is received. This paragraph (f)(3) is applicable with respect to any notice and demand made after December 31, 1996.

(4) If notice and demand is made after December 31, 1996, for any amount and the amount is paid within 21 calendar days (10 business days if the amount assessed and shown on the notice and demand equals or exceeds \$100,000) from the date of the notice and demand, interest will not be imposed for the period after the date of the notice and demand.

(5) For purposes of paragraphs (f)(3) and (4) of this section—

(i) The term *business day* means any day other than a Saturday, Sunday, legal holiday in the District of Columbia, or a statewide legal holiday in the state where the taxpayer resides or where the taxpayer's principal place of business is located. With respect to the tenth business day (after taking into account the first sentence of this paragraph (f)(5)(i)), see section 7503 relating to time for performance of acts where the last day falls on a statewide legal holiday in the state where the act is required to be performed.

(ii) The term *calendar day* means any day. With respect to the twenty-first calendar day, see section 7503 relating to time for performance of acts where

the last day falls on a Saturday, Sunday, or legal holiday.

\* \* \* \* \*

Par. 6. Section 301.6651-1 is amended by:

1. Revising paragraph (a)(3).
2. Adding paragraph (g).

The addition and revision read as follows:

##### § 301.6651-1 Failure to file tax return or to pay tax.

(a) \* \* \*

(3) *Failure to pay tax not shown on return.* In the case of failure to pay any amount of any tax required to be shown on a return specified in paragraph (a)(1) of this section that is not so shown (including an assessment made pursuant to section 6213(b)) within 21 calendar days from the date of the notice and demand (10 business days if the amount assessed and shown on the notice and demand equals or exceeds \$100,000) with respect to any notice and demand made after December 31, 1996, there will be added to the amount stated in the notice and demand the amount specified below unless the failure to pay the tax within the prescribed time is shown to the satisfaction of the district director or the director of the service center to be due to reasonable cause and not to willful neglect. The amount added to the tax is 0.5 percent of the amount stated in the notice and demand if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate. For purposes of this paragraph (a)(3), see § 301.6601-1(f)(5) for the definition of *calendar day* and *business day*.

\* \* \* \* \*

(g) *Treatment of returns prepared by the Secretary—(1) In general.* A return prepared by the Secretary under section 6020(b) will be disregarded for purposes of determining the amount of the addition to tax for failure to file any return pursuant to paragraph (a)(1) of this section. However, the return prepared by the Secretary will be treated as a return filed by the taxpayer for purposes of determining the amount of the addition to tax for failure to pay the tax shown on any return and for failure to pay the tax required to be shown on a return that is not so shown pursuant to paragraphs (a)(2) and (3) of this section, respectively.

(2) *Effective date.* This paragraph (g) applies to returns the due date for which (determined without regard to extensions) is after July 30, 1996.

Par. 7. Section 301.6656-3 is added to read as follows:

**§ 301.6656-3 Abatement of penalty.**

(a) *Exception for first time depositors of employment taxes*—(1) *Waiver*. The Secretary will generally waive the penalty imposed by section 6656(a) on a person's failure to deposit any employment tax under subtitle C of the Internal Revenue Code if—

- (i) The failure is inadvertent;
- (ii) The person meets the requirements referred to in section 7430(c)(4)(A)(ii) (relating to the net worth requirements applicable for awards of attorney's fees);
- (iii) The failure occurs during the first quarter that the person is required to deposit any employment tax; and
- (iv) The return of the tax is filed on or before the due date.

(2) *Inadvertent failure*. For purposes of paragraph (a)(1)(i) of this section, the Secretary will determine if a failure to deposit is inadvertent based on all the facts and circumstances.

(b) *Deposit sent to Secretary*. The Secretary may abate the penalty imposed by section 6656(a) if the first time a depositor is required to make a deposit, the amount required to be deposited is inadvertently sent to the Secretary instead of to the appropriate government depository.

(c) *Effective date*. This section applies to deposits required to be made after July 30, 1996.

Par. 8. In § 301.7122-1, paragraph (e) is revised to read as follows:

**§ 301.7122-1 Compromises.**

\* \* \* \* \*

(e) *Record*—(1) *In general*. If an offer in compromise is accepted, there will be placed on file the opinion of the Chief Counsel of the IRS with respect to the compromise, with the reasons for the opinion, and including a statement of—

- (i) The amount of tax assessed;
- (ii) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed; and
- (iii) The amount actually paid in accordance with the terms of the compromise.

(2) *Exception*. For compromises accepted on or after July 30, 1996, no opinion will be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than \$50,000. However, the compromise will be subject to continuing quality review by the Secretary.

\* \* \* \* \*

Par 9. Section 301.7430-0 is amended by adding entries for § 301.7430-1(b)(4) and 301.7430-5(c)(3) to read as follows:

**§ 301.7430-0 Table of contents.**

\* \* \* \* \*

**§ 301.7430-1 Exhaustion of administrative remedies.**

\* \* \* \* \*

(b) \* \* \*

(4) Failure to agree to extension of time for assessments.

\* \* \* \* \*

**§ 301.7430-5 Prevailing party.**

\* \* \* \* \*

(c) \* \* \*

(3) Presumption.

\* \* \* \* \*

Par. 10. Section 301.7430-1 is amended by adding paragraph (b)(4) to read as follows:

**§ 301.7430-1 Exhaustion of administrative remedies.**

\* \* \* \* \*

(b) \* \* \*

(4) *Failure to agree to extension of time for assessments*. Any failure by the prevailing party to agree to an extension of the time for the assessment of any tax will not be taken into account for purposes of determining whether the prevailing party has exhausted the administrative remedies available to the party within the Internal Revenue Service.

\* \* \* \* \*

Par. 11. Section 301.7430-2 is amended by:

1. Removing the language “7430(c)(4)(B)(ii)” from the third sentence of paragraph (b)(2) and adding “7430(c)(4)(C)(ii)” in its place.
2. Removing the colon from the introductory text of paragraph (c)(3) and adding a dash in its place.
3. Revising paragraph (c)(3)(i)(B).
4. Removing the language “If more than \$75” from paragraph (c)(3)(ii)(C) and adding “In the case of administrative proceedings commenced after July 30, 1996, if more than \$110” in its place.

The revision reads as follows:

**§ 301.7430-2 Requirements and procedures for recovery of reasonable administrative costs.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(i) \* \* \*

(B) A clear and concise statement of the reasons why the taxpayer alleges that the position of the Internal Revenue Service in the administrative proceeding was not substantially justified. For administrative proceedings commenced

after July 30, 1996, if the taxpayer alleges that the Internal Revenue Service did not follow any applicable published guidance, the statement must identify all applicable published guidance that the taxpayer alleges that the Internal Revenue Service did not follow. For purposes of this paragraph (c)(3)(i)(B), the term applicable published guidance means final or temporary regulations, revenue rulings, revenue procedures, information releases, notices, announcements, and, if issued to the taxpayer, private letter rulings, technical advice memoranda, and determination letters. Also, for purposes of this paragraph (c)(3)(i)(B), the term administrative proceeding includes only those administrative proceedings or portions of administrative proceedings occurring on or after the administrative proceeding date as defined in § 301.7430-3(c);

\* \* \* \* \*

Par. 12. Section 301.7430-4 is amended by:

1. Removing the language “\$75” from paragraph (b)(3)(i) and adding “, in the case of proceedings commenced after July 30, 1996, \$110” in its place.
2. Revising paragraph (b)(3)(ii).
3. Removing the language “\$75” from the first, second, and third sentences of paragraph (b)(3)(iii)(B) and adding “\$110” in its place.
4. Removing the language “\$75” from the first sentence of paragraph (b)(3)(iii)(C) and adding “\$110” in its place.
5. Removing the language “\$75” from the third sentence of the example in paragraph (b)(3)(iii)(D) and adding “\$110” in its place.
6. Removing the language “\$75” from the second and third sentences of paragraph (c)(2)(ii) and adding “\$110” in its place.

The revision reads as follows:

**§ 301.7430-4 Reasonable administrative costs.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) *Cost of living adjustment*. The Internal Revenue Service will make a cost of living adjustment to the \$110 per hour limitation for fees incurred in any calendar year beginning after December 31, 1996. The cost of living adjustment will be an amount equal to \$110 multiplied by the cost of living adjustment determined under section 1(f)(3) for the calendar year (substituting “calendar year 1995” for “calendar year 1992” in section 1(f)(3)(B)). If the dollar limitation as adjusted by this cost of living increase is not a multiple of \$10, the dollar amount will be rounded to

the nearest multiple of \$10 (rounding up if the amount is a multiple of \$5).

\* \* \* \* \*

Par. 13. Section 301.7430-5 is amended by:

1. Revising paragraph (a).
2. Adding paragraph (c)(3).

The addition and revision read as follows:

**§ 301.7430-5 Prevailing party.**

(a) *In general.* For purposes of an award of reasonable administrative costs under section 7430 in the case of administrative proceedings commenced after July 30, 1996, a taxpayer is a prevailing party only if—

(1) The position of the Internal Revenue Service was not substantially justified;

(2) The taxpayer substantially prevails as to the amount in controversy or with respect to the most significant issue or set of issues presented; and

(3) The taxpayer satisfies the net worth and size limitations referenced in paragraph (f) of this section.

\* \* \* \* \*

(c) \* \* \*

(3) *Presumption.* If the Internal Revenue Service did not follow any applicable published guidance in an administrative proceeding commenced after July 30, 1996, the position of the Internal Revenue Service, on those issues to which the guidance applies and for all periods during which the guidance was not followed, will be presumed not to be substantially justified. This presumption may be rebutted. For purposes of this paragraph (c)(3), the term applicable published guidance means final or temporary regulations, revenue rulings, revenue procedures, information releases, notices, announcements, and, if issued to the taxpayer, private letter rulings, technical advice memoranda, and determination letters (see § 601.601(d)(2) of this chapter). Also, for purposes of this paragraph (c)(3), the term administrative proceeding includes only those administrative proceedings or portions of administrative proceedings occurring on or after the administrative proceeding date as defined in § 301.7430-3(c).

\* \* \* \* \*

Par. 14. Section 301.7430-6 is revised to read as follows:

**§ 301.7430-6 Effective dates.**

Sections 301.7430-2 through 301.7430-6, other than §§ 301.7430-2(b)(2), (c)(3)(i)(B), (c)(3)(ii)(C), and (c)(5); §§ 301.7430-4(b)(3)(i), (b)(3)(ii), (b)(3)(iii)(B), (b)(3)(iii)(C), (b)(3)(iii)(D), and (c)(2)(ii); and §§ 301.7430-5(a) and

(c)(3), apply to claims for reasonable administrative costs filed with the Internal Revenue Service after December 23, 1992, with respect to costs incurred in administrative proceedings commenced after November 10, 1988. Section 301.7430-2(c)(5) is applicable March 23, 1993. Sections 301.7430-2(b)(2), (c)(3)(i)(B), and (c)(3)(ii)(C); 301.7430-4(b)(3)(i), (b)(3)(ii), (b)(3)(iii)(B), (b)(3)(iii)(C), (b)(3)(iii)(D), and (c)(2)(ii); and 301.7430-5(a) and (c)(3) are applicable for administrative proceedings commenced after July 30, 1996.

Dated: June 27, 1997.

**Margaret Milner Richardson,**

*Commissioner of Internal Revenue.*

Approved:

**Donald C. Lubick,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 97-19052 Filed 7-21-97; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### 28 CFR Part 32

[OJP(BJA)-1121]

RIN 1121-AA44

#### Federal Law Enforcement Dependents Assistance Program; Correction

**AGENCY:** Office of Justice Programs, Bureau of Justice Assistance, Public Safety Officers' Benefits Office, Justice.

**ACTION:** Correction to final rule.

**SUMMARY:** This document contains corrections to the final regulations that were published Tuesday, July 15, 1997 (62 FR 37713). These regulations were issued to comply with the Federal Law Enforcement Dependents Assistance (FLEDA) Act of 1996.

**DATES:** This correction is effective July 22, 1997.

**FOR FURTHER INFORMATION CONTACT:** Jeff Allison, Chief, Public Safety Officers' Benefits Office, 633 Indiana Avenue, NW., Washington, DC 20531. Telephone: (202) 307-0635.

**SUPPLEMENTARY INFORMATION:** The final regulations that are the subject of these corrections were drafted in accordance with the Federal Law Enforcement Dependents Assistance Act, Pub. L. 104-238, 110 Stat. 3114, Oct. 3, 1996, which established a new subpart 2 in Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3796 *et seq.* to provide financial assistance to the children and spouses of Federal civilian law enforcement

officers killed or permanently and totally disabled in the line of duty.

#### Executive Order 12866

This regulation has been written and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Office of Justice Programs has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

#### Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Regulatory Flexibility Act

The Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: The FLEDA program will be administered by the Office of Justice Programs, and any funds distributed under it shall be distributed to individuals, not entities, and the economic impact is limited to the Office of Justice Program's appropriated funds.

#### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private section, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in cost or prices; or