

engines are installed); or Airbus Service Bulletin A310-72-2023, Revision 1, dated December 22, 1993 (for airplanes on which Pratt & Whitney PW4152 and PW4156A engines are installed); as applicable.

Note 2: Flow checks accomplished prior to the effective date of this AD in accordance with the original issuance of Airbus Service Bulletin A310-72-2023 are considered acceptable for compliance with the applicable action specified in this AD.

(2) For Model A300-600 series airplanes: Perform the flow checks and correct discrepancies in accordance with Airbus Service Bulletin A300-72-6018, Revision 1, dated December 22, 1993 (for airplanes on which Pratt & Whitney JT9D-7R4H1 engines are installed); or Airbus Service Bulletin A300-72-6019, Revision 1, dated December 22, 1993 (for airplanes on which Pratt & Whitney PW4158 engines are installed); as applicable.

Note 3: Flow checks accomplished prior to the effective date of this AD in accordance with the original issuance of Airbus Service Bulletin A300-72-6018 or Airbus Service Bulletin A300-72-6019 are considered acceptable for compliance with the applicable action specified in this AD.

(b) Within 12 months after the effective date of this AD, replace (on both engines) the existing seal of the green hydraulic system gearbox with a new, improved seal assembly in accordance with either paragraph (b)(1) or (b)(2) of this AD, as applicable. Accomplishment of this replacement terminates the repetitive flow check requirements for this AD.

(1) For Model A310 series airplanes: Accomplish the replacement in accordance with Airbus Service Bulletin A310-72-2018, Revision 2, dated December 22, 1993 (for airplanes on which Pratt & Whitney PW JT9D-7R4D1 and -7R4E1 engines are installed); or Airbus Service Bulletin A310-72-2019, Revision 2, dated December 22, 1993 (for airplanes on which Pratt & Whitney PW4152 and PW4156A engines are installed); as applicable.

Note 4: Replacement of the existing seal on the green hydraulic system gearbox with a new, improved seal assembly accomplished prior to the effective date of this AD, in accordance with the original issuance or Revision 1 of Airbus Service Bulletin A310-72-2019, or with the original issuance or Revision 1 of Airbus Service Bulletin A310-72-2018, is considered acceptable for compliance with the applicable action specified in this AD.

(2) Model A300-600 series airplanes: Accomplish the replacement in accordance with Airbus Service Bulletin A300-72-6014, dated March 15, 1993 (for airplanes on which Pratt & Whitney PW JT9D-7R4H1 engines are installed); or Airbus Service Bulletin A300-72-6015, dated March 15, 1993 (for airplanes on which Pratt & Whitney PW4158 engines are installed); as applicable.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an

appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 10, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 97-3840 Filed 2-14-97; 8:45 am]

BILLING CODE 4910-13-U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-7388; File Number S7-6-97]

RIN 3235-AH14

Definition of "Prepared by or on Behalf of the Issuer" for Purposes of Determining if an Offering Document is Subject to State Regulation.

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The National Securities Markets Improvements Act of 1996 mandates that the Securities and Exchange Commission ("Commission") adopt a definition of the phrase "prepared by or on behalf of the issuer" found in newly revised Section 18 of the Securities Act of 1933. Today, the Commission proposes such a definition.

DATES: Comments should be received on or before March 20, 1997.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7-6-96; this file number should be included in the subject line if E-mail is used. Comment letters will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be

posted on the Commission's Internet Web Site (<http://www.sec.gov>).

FOR FURTHER INFORMATION CONTACT:

James R. Budge, Division of Corporation Finance, at (202) 942-2950, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission proposes adding Rule 146¹ under the Securities Act of 1933 ("Securities Act" or "the Act").² The Rule would define the term "prepared by or on behalf of the issuer," as that term is used in newly revised Section 18 of the Act.³

I. Background and Proposed Definition

On October 11, 1996, President Clinton signed into law the National Securities Markets Improvement Act of 1996.⁴ One significant goal of this legislation, embodied in revised Section 18 of the Act, is to reduce duplicative and unnecessary regulatory requirements resulting from the dual system of federal and state securities regulation. The statute reallocates regulatory responsibility relating to securities offerings between the federal and state governments based on the nature of the security or offering. Among other things, it preempts state laws requiring or with respect to registration or qualification of "covered securities" as defined in the Act.⁵ It also prohibits states from directly or indirectly prohibiting, limiting or imposing any conditions on the use of any offering document for a covered security if the offering document is "prepared by or on behalf of the issuer."⁶

The statute requires the Commission to define by rule the phrase "prepared by or on behalf of the issuer," as used in connection with the prohibition on state regulation of offering documents for covered securities.⁷ The Commission today proposes a definition of this term.

¹ The proposed rule would be codified at 17 CFR 230.146.

² 15 U.S.C. 77a et seq.

³ 15 U.S.C. 77r.

⁴ Public Law 104-290, 110 Stat. 3416 (1996).

⁵ The term "covered security" is defined in new section 18(b) [15 U.S.C. 77r(b)].

⁶ The term "offering document" is defined in new section 18(d)(1) [15 U.S.C. 77r(d)(1)], as follows:

(1) Offering Document.—The term "offering document"—

(A) has the meaning given the term "prospectus" in section 2(10), but without regard to the provisions of subparagraphs (A) and (B) of that section; and

(B) includes a communication that is not deemed to offer a security pursuant to a rule of the Commission.

⁷ New Section 18(d)(2) requires the Commission to adopt this definition not later than six months after the section's enactment.

The Commission believes that the phrase is intended to cover offering documents prepared with the issuer's knowledge and consent. Thus, the proposed definition would cover offering documents authorized by the issuer and prepared by specified persons. Conversely, documents that are prepared and circulated without issuer authorization would not be covered.

Specifically, as proposed, if the issuer authorizes the offering document's production and the document is prepared by a director, officer, general partner, employee, affiliate, underwriter, attorney, accountant or agent of the issuer, it would be "prepared by or on behalf of the issuer."⁸ The proposed definition also would include authorized documents prepared by representatives or agents of these persons.⁹

Comment is requested as to whether the definition should be broadened or narrowed by adding persons to or eliminating persons from the list; specific justification for additions or deletions should be provided. Should the list include specific examples of persons, such as employees or attorneys as proposed, or is it sufficient to state simply that the person be an agent or representative of the issuer? The second approach would eliminate the need for paragraph (a) of the proposed definition. As proposed, the definition does not include offering documents prepared by persons who do not have some formal connection to the issuer. Should the definition be expanded to include offering documents approved by the issuer but prepared by a person who does not have a managerial, employment or other agency relationship with the issuer? The proposed definition also would encompass only those offering documents prepared with the authorization of the issuer. Should such authorization be implied if the document is prepared by certain individuals, such as underwriters? If implied authorization is believed appropriate for some persons, commenters are asked to identify the specific parties and explain why it would be appropriate to imply consent in those cases.

⁸In the case of a registered investment company, an agent of the issuer would generally include the company's investment adviser or any other agent that performs administrative functions on behalf of the company.

⁹As provided by statute, the proposed definition would be applicable only to Section 18 of the Securities Act.

II. Submission of Comments

Interested persons should submit comment letters in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC, 20549.

Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File Number S7-6-96. This file number should be included on the subject line if E-mail is used. Comments received will be available for inspection and copying in the Commission's public reference room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (<http://www.sec.gov>).

III. Cost-Benefit Analysis

Commenters should address the costs and benefits of the proposed definition of "prepared by or on behalf of the issuer," and to provide any available support for such views, in order to aid the Commission in its own evaluation of its costs and benefits. The Commission believes that issuers will not experience changes to their compliance costs as a result of this rulemaking. For purposes of 5 U.S.C. 804(2), the Commission also requests information regarding the potential impact of the proposed rule on the economy on an annual basis. Commenters should provide data supporting their views.

IV. Summary of Initial Regulatory Flexibility Analysis

An initial regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 603 concerning the proposed definition. The analysis notes that the proposal relates to a Congressional mandate to define the term "prepared by or on behalf of the issuer" for purposes of Section 18 of the Act and describes the reasons for and purposes of the proposed definition.

As discussed more fully in the analysis, the proposals may affect persons that are small entities, as defined by the Commission's rules. It is not expected that significant changes to reporting, recordkeeping and compliance burdens would result from the proposal, inasmuch as the substantive effects of the changes to Section 18 are controlled primarily by the terms of the legislation, and not by the terms of this proposed definition. The purpose of the definition is to give guidance with regard to the meaning of a statutory term.

There are no current federal rules that duplicate, overlap or conflict with the proposed definition.

Several possible significant alternatives to the proposal were considered, including, among others, establishing different requirements for small entities or exempting them from all or part of the proposed definition. As discussed more fully in the analysis, this rulemaking does not lend itself to separate treatment for small businesses. The definition is purposefully crafted in broad terms to encompass small entities together with other issuers. No public interest would be served by a definition that would exclude small entities from enjoying the benefits of state preemption.

Written comments are encouraged with respect to any aspect of the analysis. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis if the proposed amendments are adopted. A copy of the analysis may be obtained by contacting James R. Budge, Division of Corporation Finance, Mail Stop 7-8, 450 Fifth Street, NW., Washington, DC 20549.

V. Statutory Basis

Rule 146 is being proposed pursuant to Sections 18 and 19 of the Securities Act.

List of Subjects in M CFR Part 230

Reporting and recordkeeping requirements, Securities.

Text of the Proposal

In accordance with the foregoing, Title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for part 230 is revised to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77r, 77s, 77sss, 78c, 78d, 78l, 78m, 78n, 78o, 78w, 78ll(d), 79t, 80a-8, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

* * * * *

2. By adding § 230.146, to read as follows:

§ 230.146 Definition of "prepared by or on behalf of the issuer" for purposes of Section 18 of the Act.

Prepared by or on behalf of the issuer. An offering document (as defined in Section 18(d)(1) of the Act [15 U.S.C. 77r(d)(1)]) shall be deemed "prepared by or on behalf of the issuer" for purposes of Section 18 of the Act, if the issuer authorizes its production and if it has been prepared by:

(a) A director, officer, general partner, employee, affiliate, underwriter,

attorney, accountant or agent of the issuer; or

(b) An agent or representative of any person specified in paragraph (a) of this section.

Dated: February 11, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-3845 Filed 2-14-97; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 20

[REG-209830-96]

RIN 1545-AU27

Estate and Gift Tax Marital Deduction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the estate tax marital deduction to conform the Estate Tax Regulations to recent court decisions. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Comments must be received by May 19, 1997. Outlines of topics to be discussed at the public hearing scheduled for June 3, 1997, at 10 a.m. must be received by May 13, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-209830-96), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-209830-96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at <http://www.irs.ustreas.gov/prod/taxregs/comments.html>. The public hearing will be held in the Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111

Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Susan B. Hurwitz, (202) 622-3090; concerning submissions and the hearing, Evangelista Lee, (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Estate Tax Regulations (26 CFR part 20) relating to sections 2044 and 2056. The temporary regulations conform the estate tax marital deduction regulations to recent court decisions in *Estate of Clayton v. Commissioner*, 976 F.2d 1486 (5th Cir. 1992), *rev'g* 97 T.C. 327 (1991); *Estate of Robertson v. Commissioner*, 15 F.3d 779 (8th Cir. 1994), *rev'g* 98 T.C. 678 (1992); *Estate of Spencer v. Commissioner*, 43 F.3d 226 (6th Cir. 1995), *rev'g* T.C. Memo. 1992-579; and *Estate of Clack v. Commissioner*, 106 T.C. 131 (1996).

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely (in the manner described in **ADDRESSES**) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 3, 1997, at 10 a.m. in the Commissioner's Conference Room, room

3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons that wish to present oral comments at the hearing must submit comments by May 19, 1997 and submit an outline of the topics to be discussed and the time to be devoted to each topic by May 13, 1997.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed.

Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of the proposed regulations is Susan B. Hurwitz, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 20 is proposed to be amended as follows:

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Paragraph 1. The authority citation for part 20 continues to read in part as follows:

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

Par. 2. In § 20.2044-1, paragraph (e) *Example 8* is added to read as follows:

§ 20.2044-1 Certain property for which marital deduction was previously allowed.

[The text of paragraph (e) *Example 8* as proposed is the same as the text of § 20.2044-1T(e) *Example 8* published elsewhere in this issue of the **Federal Register**.]

Par. 3. Section 20.2056(b)-7 is amended to read as follows:

§ 20.2056(b)-7 Election with respect to life estate for surviving spouse.

[The text of paragraphs (d)(3), and (h) *Example 6* is the same as the text of § 20.2056(b)-7T(d)(3) (ii), and (h) *Example 6* published elsewhere in this issue of the **Federal Register**.]