Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–115457–08]

RIN 1545–BH88

Extension of Time for Filing Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing final and temporary regulations relating to the simplification of procedures for automatic extensions of time to file certain returns. These simplified procedures are aimed at reducing overall taxpayer burden. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by September 29, 2008.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–115457–08), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–115457–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–115457–08).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Matthew P. Howard, (202) 622–4910; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo Taylor (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Partnerships, Trusts, and Estates

Final and temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1 relating to section 6081. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments. The temporary regulations allow certain pass-through entities (most partnerships, estates, and certain trusts) to obtain an automatic five-month extension of time to file certain returns if an application is submitted on Form 7004, ''Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns.''

In a previous notice of proposed rulemaking by cross-reference to temporary regulations, it was proposed that pass-through entities be allowed to obtain an automatic six-month extension of time to file. In response to comments received regarding the automatic six-month extension of time to file, and in an attempt to alleviate overall taxpayer burden, the Treasury Department and IRS have determined that the automatic extension period for certain pass-through entities should be five months. As a result, a majority of taxpayers with ownership interests in these pass-through entities will receive, in a timely manner, information returns from the entities that they need in order to complete their own income tax returns before those returns are due. For example, an individual income taxpayer with a six-month extension of time to October 15th to file the Form 1040, ''U.S. Individual Income Tax Return'' will now receive a Schedule K–1, ''Partner's Share of Income, Credits, Deductions, etc.'' from a partnership in which the taxpayer holds an interest shortly after the partnership files its Form 1065, ''U.S. Return of Partnership Income'' on its extended due date of September 15th.

Although the Treasury Department and IRS are attempting to alleviate overall taxpayer burden, because the automatic extension period for certain pass-through entities will now be five months, comments are requested on whether a five-month extension of time to file for these pass-through entities might increase overall taxpayer burden. Please follow the instructions in the ''Comments and Requests for a Public Hearing'' portion of this preamble.

Pension Excise Taxes

This notice of proposed rulemaking also proposes to amend 26 CFR part 54. This amendment would allow filers of Form 8928, ''Return of Certain Excise Taxes Under Chapter 43 of the Internal Revenue Code,'' to obtain an automatic six-month extension of time to file the return after the date prescribed for filing the return.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 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. Although these regulations reference forms that are approved under the Paperwork Reduction Act (44 U.S.C. chapter 35), the regulations themselves do not impose a collection of information on small entities. Therefore the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) and electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Matthew P. Howard of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 54

Pension excise taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 54, are proposed to be amended to read 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 1.6081–2 is added to read as follows:

§ 1.6081–2 Automatic extension of time to file certain returns filed by partnerships.

[The text of proposed § 1.6081–2 is the same as the text of § 1.6081–2T(a) through (i) published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.6081–6 is added to read as follows:

§ 1.6081–6 Automatic extension of time to file estate or trust income tax return.

[The text of proposed § 1.6081–6 is the same as the text of § 1.6081–6T(a) through (h) published elsewhere in this issue of the **Federal Register**].

PART 54—PENSION EXCISE TAXES

Par. 4. The authority citation for part 54 is amended by adding an entry in numerical order to read in part as follows:

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

Section 54.6081–1 also issued under authority of 26 U.S.C. 6081(a).

Par. 5. Section 54.6081–1 is added to read as follows:

§ 54.6081–1 Automatic extension of time for filing returns for certain excise taxes under Chapter 43.

(a) *In general.* An employer, other person or health plan that is required to file a return on Form 8928, ''Return of Certain Excise Taxes Under Chapter 43 of the Internal Revenue Code,'' will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the employer, other person or health plan files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), an employer, other person or health plan must—

(1) Submit a complete application on Form 7004, ''Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns,'' or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the estate or trust a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the estate or trust's last known address. For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter.

(e) *Penalties.* See section 6651 for failure to file a pension excise tax return or failure to pay the amount shown as tax on the return.

(f) *Effective/applicability date.* This section is applicable for applications for an automatic extension of time to file a return due under chapter 43, filed on or after the date final regulations are published in the **Federal Register**.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4001, 4022, and 4044

RIN 1212–AA98

Bankruptcy Filing Date Treated as Plan Termination Date for Certain Purposes; Guaranteed Benefits; Allocation of Plan Assets; Pension Protection Act of 2006

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This is a proposed rule to implement section 404 of the Pension Protection Act of 2006. Section 404 amended Title IV of ERISA to provide that when an underfunded, PBGC-covered, single-employer pension plan terminates while its contributing sponsor is in bankruptcy, sections 4022 and 4044(a)(3) of ERISA are to be applied by treating the date the sponsor's bankruptcy petition was filed as the termination date of the plan. Section 4022 determines which benefits are guaranteed by PBGC, and section 4044(a)(3) determines which benefits are entitled to priority in ''priority category 3'' in the statutory hierarchy for allocating the assets of a terminated plan. Thus, under the 2006 amendments, when a plan terminates while the sponsor is in bankruptcy, the amount of benefits guaranteed by PBGC and the amount of benefits in priority category 3 are fixed at the date of the bankruptcy filing rather than at the plan termination date. This will, in most cases, reduce the amount of guaranteed benefits and the amount of benefits in priority category 3.

DATES: Comments must be submitted on or before September 2, 2008.

ADDRESSES: Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the Web site instructions for submitting comments.

E-mail: reg.comments@pbgc.gov.

Fax: 202–326–4224.

Mail or Hand Delivery: Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

All submissions must include the Regulation Identifier Number for this rulemaking (RIN 1212–AA98). Comments received, including personal information provided, will be posted to *http://www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of