

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.148-5 is amended by adding paragraphs (d)(6)(iv) through (d)(6)(viii) and (e)(2)(iv) to read as follows:

§ 1.148-5 Yield and valuation of investments.

* * * * *

(d) * * *

(6) * * *

(iv) *Rebuttable presumption for establishing that a solicitation for a guaranteed investment contract is bona fide.* For purposes of paragraph (d)(6)(iii)(A) of this section, a solicitation for a guaranteed investment contract is rebuttably presumed to be bona fide if the other requirements of paragraph (d)(6)(iii) of this section and the following requirements are satisfied:

(A) If the issuer uses an agent to conduct the bidding process, the agent does not bid to provide the investment;

(B) All bidders have equal opportunity to bid so that, for example, no bidder is given the opportunity to review other bids (a last look) before bidding; and

(C) All bidders are reasonably competitive providers of investments of the type purchased.

(v) *Rebuttable presumption for establishing fair market value for United States Treasury obligations purchased other than directly from the United States Treasury.* The purchase price of United States Treasury obligations that are purchased other than directly from the United States Treasury is rebuttably presumed to be the fair market value on the purchase date if all of the following requirements are satisfied:

(A) The issuer conducts in good faith a solicitation for the purchase of Treasury obligations that meets the requirements of paragraphs (d)(6)(iv)(A) through (C) of this section, and the issuer receives at least three bona fide bids from providers that have no material financial interest in the issue. For this purpose, underwriters and financial advisors for an issue are considered to have a material financial interest in the issue.

(B) The issuer purchases the highest-yielding Treasury obligations for which a qualifying bid is made.

(C) The yield on the Treasury obligations purchased is not significantly less than the yield then available from the provider on reasonably comparable Treasury obligations offered to other persons for purchase on terms comparable to those offered to the issuer from a source of funds other than gross proceeds of tax-exempt bonds. If closely comparable forward prices are not offered to other persons for purchase from a source other than gross proceeds of tax-exempt bonds, a reasonable basis for this comparison may be by reference to implied forward prices for Treasury obligations based on standard financial formulas. In general, a certificate provided by an agent conducting the bidding process detailing this comparison establishes that this comparability standard is met.

(D) In no event is the yield on any Treasury obligation purchased less than the highest yield then available on a United States Treasury security—State and Local Government Series from the United States Department of the Treasury, Bureau of Public Debt, with the same maturity.

(E) The terms of the agreement to purchase the Treasury obligations are reasonable.

(F) The issuer retains the items enumerated in paragraphs (d)(vi) and (vii) of this section with the bond documents.

(vi) *Copies.* The items described in this paragraph (d)(vi) are a copy of each of the following—

(A) The purchase agreement or confirmation and a statement detailing any oral and other terms of the agreement;

(B) The receipt or other record of the amount actually paid by the issuer for the Treasury obligations, including a statement setting out the amount of any brokerage commission, broker fee, or bidding fee paid to or by the seller of the Treasury obligations; and

(C) Each bid that is received with respect to the solicitation of the Treasury obligations (clearly stamped to show date and time when the bid was received) and a description of the bidding procedure used.

(vii) *Statement.* The item described in this paragraph (d)(vii) is a statement from the issuer, dated as of the issue date of the bonds, certifying, under penalties of perjury, that—

(A) If the issuer used an agent to conduct the bidding process, the agent did not bid to provide the investment;

(B) All bidders had equal opportunity to bid so that, for example, no bidder

had an opportunity to review other bids before bidding;

(C) All bidders are reasonably competitive sellers of Treasury obligations; and

(D) The issuer received at least three bona fide bids from providers that have no material financial interest in the issue.

(viii) For purposes of paragraphs (d)(6) (v) through (vii) of this section, the term *issuer* means only the entity that actually issues the bonds and not a conduit borrower of the issuer.

(e) * * *

(2) * * *

(iv) *Special rule for United States Treasury obligations purchased other than directly from the United States Treasury.* For Treasury obligations purchased other than directly from the United States Treasury, a fee paid to a bidding agent is a qualified administrative cost only if the following requirements are satisfied:

(A) The fee must be reasonable. In general, a fee must be separately stated in order for the issuer to have a basis for determining that a fee is reasonable. The fee is presumed to be reasonable if it does not exceed .02 percent of the amount invested in Treasury obligations.

(B) The fee must be comparable to a fee that would be charged for a reasonably comparable investment of Treasury obligations if acquired with a source of funds other than gross proceeds of tax-exempt bonds. This comparability standard must be applied even if no identical investments are customarily acquired with a source of funds other than gross proceeds of tax-exempt bonds. In general, reference must be made to the bidding fees paid by investors that are not issuers of tax-exempt bonds in those transactions that are most closely comparable to the purchase of investments by the issuer of tax-exempt bonds. For example, reference to the bidding fees generally paid for the purchase of forward contracts for Treasury obligations is ordinarily a reasonable method of determining whether bidding fees are reasonable.

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Margaret Milner Richardson,
Commissioner of Internal Revenue.

[FR Doc. 96-16378 Filed 6-26-96; 8:45 am]

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26 CFR Part 301

[IA-29-96]

RIN 1545-AU42

Extensions of Time To Make Elections

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 extensions of time for making certain elections under the Internal Revenue Code (Code). The regulations provide the standards that the Commissioner will use to grant taxpayers extensions of time for making these elections. 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: Written comments must be received by September 25, 1996. Outlines of oral comments to be presented at the public hearing scheduled for Wednesday, October 30, 1996, at 10 a.m. must be received by October 9, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (IA-29-96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (IA-29-96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. The public hearing will be held in the IRS Classroom (room 2617), Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Robert A. Testoff of the Office of Assistant Chief Counsel (Income Tax & Accounting) at (202) 622-4960; concerning submissions and the hearing, Christina Vasquez of the Regulations Unit, (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:**Paperwork Reduction Act**

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Comments on the collection of information should be sent 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, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224. Comments on the collection of information should be received by August 26, 1996.

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 collection of information is in §§ 301.9100-2T and 301.9100-3T. This information is required for a taxpayer to obtain an extension of time to make an election. This information will be used by the IRS to determine whether to grant an extension of time to make an election. The likely respondents are businesses or other for-profit institutions, small businesses or organizations, nonprofit institutions, individuals or households, and farms.

Books or records relating to the 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.

Estimated total annual reporting burden: 5,000 hours.

Estimated annual burden per respondent: 10 hours.

Estimated number of respondents: 500.

Estimated annual frequency of responses: Occasional.

Background

Temporary regulations in the Rules and Regulations section of this issue of the Federal Register amend 26 CFR part 301. The temporary regulations contain rules relating to extensions of time for making certain elections.

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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, 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 businesses.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday, October 30, 1996, at 10 a.m. in the IRS Classroom (room 2617), 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 § 601.601(a)(3) apply to the hearing.

Persons that have submitted written comments by September 25, 1996 and want to present oral comments at the hearing must submit, by October 9, 1996, an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies). 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 temporary regulations is Robert A. Testoff of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by removing the entries for §§ 301.9100-1T through

301.9100-3T and adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 301.9100-1 also issued under 26 U.S.C. 6081;
Section 301.9100-2 also issued under 26 U.S.C. 6081;
Section 301.9100-3 also issued under 26 U.S.C. 6081; * * *

Par. 2. Sections 301.9100-1 and 301.9100-1T through 301.9100-3T are removed.

Par. 3. Sections 301.9100-1 through 301.9100-3 are added to read as follows:

§ 301.9100-1 Extensions of time to make elections.

§ 301.9100-2 Automatic extensions.

§ 301.9100-3 Other extensions.

[The text of these above proposed sections are the same as the text of §§ 301.9100-1T through 301.9100-3T published elsewhere in this issue of the Federal Register.]

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96-16377 Filed 6-26-96; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 619

Program for Qualifying DOD, Motor Common Carriers of Perishable Subsistence and Bulk Fuel

AGENCY: Military Traffic Management Command, DOD.

ACTION: Proposed rule.

SUMMARY: This action revises the qualifications standards to the basic agreement between the Military Traffic Management Command and Motor Common Carriers for Approval to Transport General Commodities for and on behalf of U.S. Department of Defense. This action also updates the basic agreement between the Military Traffic Management Command and Motor Common Carriers for Governing the Transportation of Hazardous Material other than Class A and B Explosives for and on Behalf of the U.S. Department of Defense. The proposal to amend those qualifications, where appropriate, are submitted to be consistent with the program qualifications for DOD Motor Common Carriers of Perishable Subsistence and Bulk Fuel.

DATES: Comments must be received by July 29, 1996.

ADDRESSES: Headquarters, Military Traffic Management Command, ATTN:

MTOP-Q, 5611 Columbia Pike, Falls Church, Virginia 22041-5050.

FOR FURTHER INFORMATION CONTACT:

Mr. Rick Wirtz at (703) 681-6393; Headquarters, Military Traffic Management Command, ATTN: MTOP-QQ, 5611 Columbia Pike, Falls Church, Virginia 22041-5050.

SUPPLEMENTARY INFORMATION: Basic information on the Carrier Qualification Program was previously published in the Federal Register, 53 FR 17970, 54 FR 17070, 54 FR 27667, 55 FR 7361, 55 FR 52976, 56 FR 45895, and 57 FR 11376.

Executive Order 12219

This proposed rule was reviewed under Executive Order 12219 and the Secretary of the Army has classified this action as non major. The effect of the rule on the economy will be less than \$100 million.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities. The objective of the program is to ensure that DOD obtains safe, dependable and reliable transportation services. The requirements are not designed to preclude participation by small business. Rather, they are part of a mechanism designed to ensure that the traffic offered to small businesses does not exceed their capabilities. The program's reporting and record keeping requirements are essentially administrative in nature and do not demand significant expenditures of resources such as personnel, computer equipment, or software. No professional or technical training is necessary to comply with these requirements. Alternatives to facilitate entry of small businesses have been identified and implemented.

Paperwork Reduction Act

This rule has been approved by the Office of Management and Budget as required under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 619

Common carriers, Freight, Motor vehicle, Safety, Shipping, and Trucks.

Accordingly, Title 32, Part 619, of the Code of Federal Regulations is amended by the following changes:

PART 619 [AMENDED]

1. The authority citation for part 619 continues to read as follows:

Authority: 49 U.S.C. 1801-1813, 2503, 2505, and 2509.

2. In § 619.4, the Insurance—Public liability and cargo text is amended by revising paragraphs (b), introductory text, (b) (3) and (4) as follows:

§ 619.4 Insurance—public liability and cargo.

* * * * *

(b) Cargo. Motor common carriers, surface freight forwarders, shipper agents and air freight forwarders must have their insurance company provide a certificate of insurance form. The deductible portion will be shown on the certificate. The insurance underwriter must have a policyholder's rating in the Best's Insurance Guide, listed in the Fiscal Service Treasury Department Circular 570, Listing of Surety Companies or specifically approved by HQMTMC. DOD's minimum cargo insurance requirements are listed below.

* * * * *

(3) Perishables carriers—\$10,000 per shipment.

(4) Bulk Fuel carriers—\$10,000 per shipment.

* * * * *

3. Appendix A to Part 619 is revised to read as follows:

Appendix A to Part 619—Basic Agreement Between the Military Traffic Management Command and Motor Common Carriers for Approval To Transport General Commodities for and on Behalf of U.S. Department of Defense.

1. The undersigned, who is duly authorized and empowered to act on behalf of _____ (Name of Company, Typed or Legibly Printed), hereinafter called the carrier, as a prerequisite for approval to transport general commodities for the account of the Department of Defense (DOD) and the Military Traffic Management Command (MTMC), hereinafter called the Government, agree to comply with all additional requirements, terms and conditions as set forth in this Agreement. This Agreement governs the transportation of all DOD general commodity freight administered by the Carrier Qualification Division, MTMC (except used household goods). Noncompliance by the carrier with any provision of this Agreement may result in MTMC taking action against the carrier under the Carrier Performance Program, governed by MTMC Regulation 15-1, and revoking approval to participate in this traffic. If the carrier's approval is revoked, the carrier may be disqualified from further participation in any DOD Freight Traffic.

2. Approval and Revocation. a. Carrier understands that its initial approval and