

level: the taxable income limitation of section 613(a); the depletable quantity limitations of section 613A(c); or the limitations of sections 613A(d)(2), (3), and (4) (exclusion of retailers and refiners).

(6) *Examples.* The following examples illustrate the provisions of this paragraph (g):

*Example 1. Transfer of natural resource recapture property to an S corporation in a section 351 transaction.* As of January 1, 1996, A owns all the stock (20 shares) in X, an S corporation. X holds property that is not natural resource recapture property that has a fair market value of \$2,000 and an adjusted basis of \$2,000. On January 1, 1996, B transfers natural resource recapture property, Property P, to X in exchange for 80 shares of X stock in a transaction that qualifies under section 351. Property P has a fair market value of \$8,000 and an adjusted basis of \$5,000. Pursuant to section 351, B does not recognize gain on the transaction. Immediately prior to the transaction, B's section 1254 costs with respect to Property P equaled \$6,000. Under § 1.1254-2(c)(1), B does not recognize any gain under section 1254 on the section 351 transaction and, under § 1.1254-3(b)(1), X's section 1254 costs with respect to Property P immediately after the contribution equal \$6,000. Under paragraph (g)(2) of this section, each shareholder is allocated a *pro rata* share of X's section 1254 costs. The *pro rata* share of X's section 1254 costs that is allocated to A equals \$1,200 (20 percent interest in X multiplied by X's \$6,000 of section 1254 costs). The *pro rata* share of X's section 1254 costs that is allocated to B equals \$4,800 (80 percent interest in X multiplied by X's \$6,000 of section 1254 costs).

*Example 2. Contribution of money in exchange for stock of an S corporation holding natural resource recapture property.* As of January 1, 1996, A and B each own 50 percent of the stock (50 shares each) in X, an S corporation. X holds natural resource recapture property, Property P, which has a fair market value of \$20,000 and an adjusted basis of \$14,000. A's and B's section 1254 costs with respect to Property P are \$4,000 and \$1,500, respectively. On January 1, 1996, C contributes \$20,000 to X in exchange for 100 shares of X's stock. Under paragraph (g)(1)(i) of this section, X must allocate to C a *pro rata* share of its shareholders' section 1254 costs. Using the assumptions set forth in paragraph (g)(5)(i)(B) of this section, X determines that A's section 1254 costs with respect to natural resource recapture property held by X equal \$4,500. Using written data provided by B, X determines that B's section 1254 costs with respect to Property P equal \$1,500. Thus, the aggregate of X's shareholders' section 1254 costs equals \$6,000. C's *pro rata* share of the \$6,000 of section 1254 costs equals \$3,000 (C's 50 percent interest in X multiplied by \$6,000). Under paragraph (g)(1)(ii) of this section, A's section 1254 costs are reduced by \$2,000 (A's actual section 1254 costs (\$4,000) multiplied by 50 percent). B's section 1254 costs are reduced by \$750 (B's actual section 1254 costs (\$1,500) multiplied by 50 percent).

*Example 3. Merger involving an S corporation that holds natural resource recapture property.* X, an S corporation with one shareholder, A, holds as its sole asset natural resource recapture property that has a fair market value of \$120,000 and an adjusted basis of \$40,000. A has section 1254 costs with respect to the property of \$60,000. For valid business reasons, X merges into Y, an S corporation with one shareholder, B, in a reorganization described in section 368(a)(1)(A). Y holds property that is not natural resource recapture property that has a fair market value of \$120,000 and basis of \$120,000. Under paragraph (c) of this section, A does not recognize ordinary income under section 1254 upon the exchange of stock in the merger because A did not otherwise recognize gain on the merger. Under paragraph (g)(2) of this section, Y must allocate to A and B a *pro rata* share of its \$60,000 of section 1254 costs. Thus, A and B are each allocated \$30,000 of section 1254 costs (50 percent interest in X, each, multiplied by \$60,000).

(h) *Effective date.* This section applies to dispositions of natural resource recapture property by an S corporation (and a former S corporation) and dispositions of S corporation stock occurring after publication of these regulations as final regulations in the Federal Register.

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

[FR Doc. 95-30832 Filed 12-20-95; 8:45 am]  
BILLING CODE 4830-01-U

## 26 CFR Part 31

[IA-33-95]

RIN 1545-AT77

### Effective Date of Temporary Backup Withholding Regulations

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

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

**SUMMARY:** In the Rules and Regulations section of this issue of the Federal Register, the IRS is issuing temporary regulations relating to the effective date of the Temporary Employment Tax Regulations under the Interest and Dividend Tax Compliance Act of 1983, relating to backup withholding, statement mailing requirements, and due diligence. The text of those temporary regulations also serves as the text of these proposed regulations.

**DATES:** Written comments and requests for a public hearing must be received by March 20, 1996.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (IA-33-95), room 5228, Internal Revenue Service, POB

7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (IA-33-95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Renay France, (202) 622-4910; concerning submissions, Michael Slaughter, (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 Temporary Employment Tax Regulations under the Interest and Dividend Tax Compliance Act of 1983 (26 CFR part 35a). The temporary regulations contain rules relating to the effective date of §§ 35a.9999-1, 35a.9999-2, 35a.9999-3, 35a.9999-3A, 35a.9999-4T, and 35a.9999-5.

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 business.

#### Comments and Requests for a 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 may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and

place for the hearing will be published in the Federal Register.

#### Drafting Information

The principal author of the regulations is Renay France, Office of Assistant Chief Counsel (Income Tax and Accounting), IRS. However, other personnel from IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

### **PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE**

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

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

Par. 2. Section 31.9999-0 is added to read as follows:

#### **§ 31.9999-0 Effective date.**

[The text of this proposed section is the same as the text of § 35a.9999-0T published elsewhere in this issue of the Federal Register].

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

[FR Doc. 95-30734 Filed 12-20-95; 8:45 am]

BILLING CODE 4830-01-U

## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 936**

[SPATS No. OK-015-FOR]

### **Oklahoma Abandoned Mine Land Reclamation Plan**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Oklahoma abandoned mine land reclamation plan (hereinafter referred to as the "Oklahoma plan") under the Surface

Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to abandoned mine land reclamation (AMLR) goals and objectives, project ranking and selection, coordination between reclamation agencies, reclamation on private land, eligible lands and waters, public participation, agency administrative and management structure, reclamation set-aside trust funds, contractor eligibility requirements, and acid mine drainage projects. The amendment is intended to bring the Oklahoma AMLR Program into compliance with Federal AMLR regulations. It will allow the Oklahoma Conservation Commission to participate in AMLR activities authorized by the Omnibus Budget Reconciliation Act of 1990 and the Energy Policy Act of 1992.

**DATES:** Written comments must be received by 4:00 p.m., c.s.t., January 22, 1996. If requested, a public hearing on the proposed amendment will be held on January 16, 1996. Requests to speak at the hearing must be received by 4:00 p.m., c.s.t., on January 5, 1996.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Jack R. Carson, Acting Director, Tulsa Field Office at the address listed below.

Copies of the Oklahoma plan, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6547, Telephone: (918) 581-6430.

Oklahoma Conservation Commission, 2800 N. Lincoln Blvd., Suite 160, Oklahoma City, Oklahoma 73105-4210, Telephone: (405) 521-2384.

**FOR FURTHER INFORMATION CONTACT:** Jack R. Carson, Acting Director, Tulsa Field Office, Telephone: (918) 581-6430.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background on the Oklahoma Plan**

On January 21, 1982, the Secretary of the Interior approved the Oklahoma plan. Background information on the Oklahoma plan, including the Secretary's findings, the disposition of comments, and the approval of the plan

can be found in the January 21, 1982, Federal Register (47 FR 2989).

#### **II. Description of the Proposed Amendment**

By letter dated November 13, 1995 (Administrative Record No. OAML-63), Oklahoma submitted a proposed amendment to its AMLR plan pursuant to SMCRA. Oklahoma submitted the proposed amendment in response to a September 26, 1994, letter from OSM (Administrative Record No. OAML-65), in accordance with 30 CFR 884.15(d), concerning revisions to the AMLR regulations at 30 CFR Chapter VII, Subchapter R (59 FR 28136, May 31, 1994).

Oklahoma proposes to amend its administrative rules at OAC 155:15, Oklahoma Abandoned Mine Land Program. Oklahoma proposes to amend its Reclamation Plan at sections 884.13(c)1, Goals and Objectives; 884.13(c)2, Project Ranking and Selection; 884.13(c)3, Interagency Coordination; 884.13(c)5, Eligible Lands and Waters; 884.13(c)7, Public Participation; and 884.13(d)1, Administrative and Management Structure.

##### *(1) OAC 155:15, Oklahoma Abandoned Mine Land Reclamation Program Rules*

Subsection 1-2, is revised to clarify definitions used later in the rules. Subsection 1-3, subpart (4) is added to require that contracts for AML projects only be awarded to successful bidders who are determined eligible to receive funds by using OSM's Applicant Violator System. Subsection 1-3 is revised to ensure that certain coal mine sites damaged and abandoned after August 3, 1977, are eligible for reclamation funding if the mining (1) took place during the interim program or (2) ended on or before November 5, 1990, and the surety for the mining company became insolvent during that period. Changes to Subsection 1-6 revise the objectives of reclamation project funding and the priority of those objectives. Objectives (4), Research and Demonstration, and (7), Construction of Public Facilities, are eliminated. The priority of order of the other objectives remains unchanged. Subsection 1-14 is added to allow for the construction, repair or enhancement of facilities related to water supplies where such supplies have been adversely affected by coal mining practices. Subsection 1-15 adds requirements for the establishment of special trust accounts that will provide for coal reclamation after September 30, 1995. Once established, Oklahoma may then set aside 10% of its annual grant funding