

assessment is not required. It also has 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 that are submitted timely (preferably a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a 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 these regulations is Kevin B. Connolly, Office of Assistant Chief Counsel (General Litigation) CC:EL:GL, IRS. 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 continues to read in part as follows:

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

Par. 2. Section 301.6335-1 is amended as follows:

1. Paragraph (c)(3) is revised.
2. Paragraphs (c)(4) through (c)(9) are redesignated as paragraphs (c)(5) through (c)(10).
3. New paragraph (c)(4) is added.

The additions and revision read as follows:

#### **§ 301.6335-1 Sale of seized property.**

\* \* \* \* \*

(c) \* \* \*

(3) *Determinations relating to minimum price*—(i) *Minimum price.* Before the sale of property seized by levy, the district director shall determine a minimum price, taking into account the expenses of levy and sale, for which the property shall be sold. The internal revenue officer conducting the sale may either announce the minimum price before the sale begins, or defer announcement of the minimum price until after the receipt of the highest bid, in which case, if the highest bid is greater than the minimum price, no announcement of the minimum price shall be made.

(ii) *Purchase by the United States.* Before the sale of property seized by levy, the district director shall determine whether the purchase of property by the United States at the minimum price would be in the best interest of the United States. In determining whether the purchase of property would be in the best interest of the United States, the district director may consider all relevant facts and circumstances including for example—

- (a) Marketability of the property;
- (b) Cost of maintaining the property;
- (c) Cost of repairing or restoring the property;
- (d) Cost of transporting the property;
- (e) Cost of safeguarding the property;
- (f) Cost of potential toxic waste cleanup; and
- (g) Other factors pertinent to the type of property.

(iii) *Effective date.* This paragraph (c)(3) applies to determinations relating to minimum price made on or after [date final regulations are published in the Federal Register].

(4) *Disposition of property at sale*—(i) *Sale to highest bidder at or above minimum price.* If one or more persons offer to buy the property for at least the amount of the minimum price, the property shall be sold to the highest bidder.

(ii) *Property deemed sold to United States at minimum price.* If no one offers at least the amount of the minimum price for the property and the Secretary has determined that it would be in the best interest of the United States to purchase the property for the minimum price, the property shall be declared to be sold to the United States for the minimum price.

(iii) *Release to owner.* If the property is not declared to be sold under paragraph (c)(4)(i) or (ii) of this section, the property shall be released to the owner of the property and the expense of the levy and sale shall be added to the amount of tax for the collection of which the United States made the levy.

Any property released under this paragraph (c)(4)(iii) shall remain subject to any lien imposed by subchapter C of chapter 64 of subtitle F of the Internal Revenue Code.

(iv) *Effective date.* This paragraph (c)(4) applies to dispositions of property at sale made on or after [date final regulations are published in the Federal Register].

\* \* \* \* \*

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

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#### **Bureau of Alcohol, Tobacco and Firearms**

#### **27 CFR Parts 0 and 70**

[Notice No. 824]

RIN 1512-AB54

#### **Recodification of the Statement of Procedural Rules in Part 70 (96R-007P)**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** As part of a regulatory reform initiative, the Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to revise the statement of procedural rules in subpart E of 27 CFR Part 70, and recodify this statement as a new part 0 of 27 CFR. ATF solicits comments on its proposals and suggestions for further improvements in the statement of procedural rules.

**DATES:** Written comments must be received by August 12, 1996.

**ADDRESSES:** Send written comments to: Chief, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221, Attn: Notice No. 824. Copies of written comments received in response to this notice of proposed rulemaking will be available for public inspection during normal business hours at: ATF Reference Library, Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC 20226.

**FOR FURTHER INFORMATION CONTACT:** Marjorie D. Ruhf, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8230).

**SUPPLEMENTARY INFORMATION:****Background**

On February 21, 1995, President Clinton announced a regulatory reform initiative. As part of this initiative, each Federal agency was instructed to conduct a page by page review of all agency regulations to identify those which are obsolete or burdensome and those whose goals could be better achieved through the private sector, self-regulation or state and local governments. In cases where the agency's review disclosed regulations which should be revised or eliminated, the agency would propose administrative changes to its regulations. In addition, on April 13, 1995, the Bureau published Notice 809 (60 FR 18783) requesting comments from the public regarding which ATF regulations could be improved or eliminated.

No specific comments were received in response to that notice concerning the content or arrangement of the statement of procedural rules in subpart E of 27 CFR Part 70. The Bureau, in its own review, determined that the statement of procedural rules should be removed from its present location and placed in a location which reflects its unique function as a summary statement of the regulations and the formal and informal procedures applicable to the activities conducted under the laws administered and enforced by ATF. In addition, the statement of procedural rules will soon need substantial revision to reflect ongoing projects consolidating, eliminating and revising other parts of the regulations. Finally, ATF wishes to improve the usefulness of the statement of procedural rules to the public and regulated industries as a guide to agency operations.

**Proposed Changes**

When the pending regulatory reform projects are complete, ATF plans to revise the statement of procedural rules in order to provide current descriptions and citations. At the same time, ATF proposes to move the statement of procedural rules from its current location as sections 70.411 to 70.462 of subpart E of 27 CFR Part 70 to a new location as 27 CFR Part 0 at the beginning of 27 CFR for ease of use. We also plan to restructure the statement. We believe the statement will be more helpful and easier to use as a reference tool if it is divided into more sections, to allow for better indexing, and arranged by commodity, so that all provisions relating to a particular subject will be together. For example, instead of having information pertaining

to wine labels mixed in with discussions of nonindustrial use of distilled spirits and establishment of breweries, we will adopt an arrangement which will place descriptions of all ATF procedural rules which affect wine labeling together in one location.

**Public Participation**

ATF requests comments from all interested persons on the proposals presented in this notice. We particularly request suggestions for any additional information which should be placed in the statement of procedural rules to make it more useful, and any suggestions for arrangement or indexing of the information already contained in the statement.

After consideration of all comments and suggestions, ATF may issue a Treasury decision. The proposals discussed in this notice may be modified due to comments and suggestions received.

Comments received on or before the closing date will be carefully considered. Comments received after the closing date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date. ATF will not recognize any material or comments as confidential. All comments submitted in response to this notice will be available for public inspection. Any material that the commenter considers confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

**Executive Order 12866**

It has been determined that this document is not a significant regulatory action as defined in E.O. 12866; therefore, a regulatory assessment is not required.

**Regulatory Flexibility Act**

It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The changes proposed are for the purpose of clarifying the existing regulations and making them easier to use. No substantive changes are proposed. Pursuant to section 7805(f) of the Internal Revenue Code, this proposed regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Paperwork Reduction Act**

Although the information collections described in sections 70.411 through 70.414, 70.431 and 70.433 of subpart E of Part 70 merely summarize and reference the parts of Title 27 CFR where the information collections are imposed, these sections were reviewed and approved by the Office of Management and Budget under control numbers 1512-0141 and 1512-0472. These control numbers were in effect on October 1, 1995, the effective date of the Paperwork Reduction Act of 1995. Any comments on these collections of information may be sent to the Office of Management and Budget, Attention: Desk officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Chief, Document Services Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226. No additional requirement to collect information is proposed in this document.

Drafting Information: The principal author of this document is Marjorie D. Ruhf of the Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

**List of Subjects in 27 CFR Part 70**

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Bankruptcy, Claims, Disaster assistance, Excise taxes, Firearms and ammunition, Government employees, Law enforcement, Law enforcement officers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

Authority: This notice of proposed rulemaking is issued under the authority in 18 U.S.C. 847 and 926; 26 U.S.C. 7805; 27 U.S.C. 201-219a.

Signed: May 21, 1996.

John W. Magaw,

*Director.*

Approved: May 24, 1996.

John P. Simpson,

*Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).*

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