

who is not a 5-percent owner and who attains age 70½ after 1998, benefits may not commence before the employee retires but must commence no later than the April 1 following the later of the calendar year in which the employee retires or the calendar year in which the employee attains age 70½. This amendment satisfies this Q&A-10 and does not violate section 411(d)(6).

*Example 2.* Plan B, a money purchase pension plan, provides each participant with a choice of a QJSA or a single sum distribution commencing at any time after the later of age 65 or retirement. In addition, in accordance with section 401(a)(9) as in effect prior to January 1, 1997, Plan B provides that benefits will commence in the form of a QJSA on April 1 following the calendar year in which the employee attains age 70½, except that, with spousal consent, a participant may elect to receive annual installment payments equal to the minimum amount necessary to satisfy section 401(a)(9) (calculated in accordance with a method specified in the plan) until retirement, at which time a participant may choose between a QJSA and a single sum distribution (with spousal consent). On June 30, 1998, Plan B is amended to provide that, for an employee who is not a 5-percent owner and who attains age 70½ after 1998, benefits may not commence prior to retirement but benefits must commence no later than April 1 after the later of the calendar year in which the employee retires or the calendar year in which the employee attains age 70½. The amendment further provides that the option described above to receive annual installment payments prior to retirement will not be available under the plan to an employee who is not a 5-percent owner and who attains age 70½ after 1998. This amendment satisfies this Q&A-10 and does not violate section 411(d)(6).

*Example 3.* Plan C, a profit-sharing plan, contains two distribution provisions. Under the first provision, in any year after an employee attains age 59½, the employee may elect a distribution of any specified amount not exceeding the balance of the employee's account. In addition, the plan provides a section 401(a)(9) override provision under which, if, during any year following the year that the employee attains age 70½, the employee does not elect an amount at least equal to the minimum amount necessary to satisfy section 401(a)(9) (calculated in accordance with a method specified in the plan), Plan C will distribute the difference by December 31 of that year (or for the year the employee attains age 70½, by April 1 of the following year). On December 31, 1996, Plan C is amended to provide that, for an employee other than an employee who is a 5-percent owner in the year that the employee attains age 70½, in applying the section 401(a)(9) override provision, the later of the year of retirement, or year of attainment of age 70½, is substituted for the year that the employee attains age 70½. After the amendment, Plan C still permits each employee to elect to receive the same amount as was available before the amendment. Because this amendment does not eliminate an optional form of benefit, the amendment does not violate section 411(d)(6).

Accordingly, the amendment is not required to satisfy the conditions of paragraph (b) of this A-10.

(e) This Q&A-10 applies to amendments adopted and effective after the publication of final regulations in the **Federal Register**.

**Michael P. Dolan,**

*Acting Commissioner of Internal Revenue.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-104893-97]

RIN 1545-AV10

#### Guidance Regarding Claims for Income Tax Convention Benefits

**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 regarding rules for determining whether U.S. source payments made to entities, including entities that are fiscally transparent in the United States and/or the applicable treaty jurisdiction, are eligible for treaty-reduced tax rates. 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 and outlines of topics to be discussed at the public hearing scheduled for September 24, 1997, at 10 a.m. must be received by September 3, 1997.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (REG-104893-97), 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-104893-97), 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/tax\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax_regs/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, Elizabeth Karzon, (202) 622-3860; concerning submissions and the hearing, Evangelista Lee, (202) 622-7190 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 894. The temporary regulations contain rules relating to eligibility for benefits under income tax conventions for payments to flow-through entities or arrangements.

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 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 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 to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for September 24, 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 Internal Revenue Building lobby more

than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit comments and an outline of the topics to be discussed and the time to be devoted to each topic by September 3, 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.

#### Proposed Effective Date

This amendment applies to payments received by an entity on or after January 1, 1998.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

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

#### PART 1—INCOME TAXES

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

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

**Par. 2.** In § 1.894-1, paragraph (d) is added to read as follows:

#### § 1.894-1 Income affected by treaty.

\* \* \* \* \*

[The text of proposed paragraph (d) is the same as the text of § 1.894-1T(d) published elsewhere in this issue of the **Federal Register**.]

**Michael P. Dolan,**

*Acting Commissioner of Internal Revenue.*

[FR Doc. 97-17468 Filed 6-30-97; 12:19 pm]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[TN 104-1-9706(a); TN 148-1-9705(a); FRL-5849-3]

#### Approval of Revisions to the Tennessee State Implementation Plan Regarding Visibility

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On February 9, 1993, and December 19, 1994, the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted to EPA revisions to the Tennessee State Implementation Plan (SIP) for the purpose of visibility protection. The intended effect of these revisions is to meet the requirements of the Clean Air Act (CAA) for the purpose of assuring visibility protection in mandatory Class I Federal areas. In the final rules section of this **Federal Register**, the EPA is approving the submitted chapter in its entirety as a direct-final rule without prior proposal because the EPA views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** To be considered, comments must be received by August 1, 1997.

**ADDRESSES:** Written comments on this action should be addressed to William Denman at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference files TN104-01-9706 and TN148-01-9705. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. William Denman 404/562-9030

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C

Annex, 401 Church Street, Nashville, Tennessee 37243-1531

**FOR FURTHER INFORMATION CONTACT:** William Denman at 404/562-9030.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: June 17, 1997.

**A. Stanley Meiburg,**

*Acting Regional Administrator.*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[MO-025-1025; FRL-5852-2]

#### Approval and Promulgation of Implementation Plans; State of Missouri

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve two regulations which are components of Missouri's State Implementation Plan (SIP) to meet the 15% Rate-of-Progress Plan (15% Plan, or ROPP) requirements of section 182(b)(1)(A) of the Clean Air Act (CAA), as amended (the Act). Specifically, the EPA is proposing to approve Missouri rules 10 CSR 10-5.443, "Control of Gasoline Reid Vapor Pressure," and 10 CSR 10-5.490, "Municipal Solid Waste Landfills" (MSWL). The implementation of these rules will achieve reductions in the emissions of volatile organic compounds (VOC) of approximately 7.76 tons per day (TPD), or approximately 14 percent of the reductions required with the St. Louis ozone nonattainment area. Final action on these regulations will incorporate them into the Federally approved SIP.

**DATES:** Comments on this proposed action must be received in writing by August 1, 1997.

**ADDRESSES:** Comments may be mailed to Royan W. Teter, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Royan W. Teter at (913) 551-7609.