R–4813A Carson Sink, NV [New]

Boundaries. Beginning at lat. 39°51′00″ N., Long. 118°38′04″ W.; to lat. 40°01′00″ N., long. 118°15′04″ W.; to lat. 40°01′00″ N., long. 118°01′03″ W.; to lat. 39°58′00″ N., long. 118°01′03″ W.; to lat. 39°38′00″ N., long. 118°17′03″ W.; thence via the arc of a 15 NM radius circle centered at lat. 39°52′36″ N., long. 118°20′31″ W.; to lat. 39°45′50″ N., long. 118°38′04″ W.; thence to point of beginning.

Designated altitudes. Surface to but not including FL 180.

Times of use. 0715–2330 local time, daily.

Controlling agency. FAA Oakland, ARTCC.

Using agency. USN Naval Strike and Warfare Center Fallon, NV.

R–4813B Carson Sink, NV [New]

Boundaries. Beginning at lat. 39°51′00″ N., Long. 118°38′04″ W.; to lat. 40°01′00″ N., long. 118°15′04″ W.; to lat. 40°01′00″ N., long. 118°01′03″ W.; to lat. 39°58′00″ N., long. 118°01′03″ W.; to lat. 39°38′00″ N., long. 118°17′03″ W.; thence via the arc of a 15 NM radius circle centered at lat. 39°52′36″ N., long. 118°20′31″ W.; to lat. 39°45′50″ N., long. 118°38′04″ W.; thence to point of beginning.

Designated altitudes. FL 180 to and including FL 350.

Times of use. Intermittent by NOTAM 0715–2330 local time, daily.

Controlling agency. FAA Oakland, ARTCC.

Using agency. USN Naval Strike and Warfare Center Fallon, NV.

* * * * *

Issued in Washington, DC, on December 12, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–32177 Filed 12–15–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301, and 602

[REG–106542–98]

RIN 1545–AW24

Election To Treat Trust as Part of an Estate

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that relate to an election to have certain revocable trusts treated and taxed as part of an estate. This document provides the procedures and requirements for making the election, rules regarding the tax treatment of the trust and the estate while the election is in effect, and rules regarding the termination of the election. This document also provides clarification of the reporting rules for a trust, or portion of a trust, that is treated as owned by the grantor, or another person under the provisions of subpart E (section 671 and following) part I, subchapter J, chapter 1 of the Internal Revenue Code, for the taxable year ending with the death of the grantor or other person. In addition, this document provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by March 19, 2001. Requests to speak (with outlines of oral comments) at a public hearing scheduled for February 21, 2001, at 10 a.m., must be submitted by January 31, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–106542–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–106542–98), 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.gov/tax_regs/reglist.html (the IRS Internet site). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Faith Colson, (202) 622–3060; concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita VanDyke, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information in this notice of proposed rulemaking has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1578.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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.

Background

This document contains proposed regulations under section 645 relating to certain revocable trusts for which an election is made to be treated and taxed as part of an estate. This document also contains proposed amendments to the Income Tax Regulations under section 671 relating to reporting for a trust, or portion of a trust, for the taxable year ending with the death of the grantor or other person treated as the owner of the trust, or portion of the trust.

Explanation of Provisions

A. Overview of Section 645

Both estates and trusts can function to settle the affairs of a decedent and distribute assets to heirs. In the case of a revocable inter vivos trust, the grantor transfers property to a trust that the grantor may revoke during the grantor's lifetime. When the grantor dies, the power to revoke ceases, and the trustee performs the settlement functions typically performed by an estate executor. See H.R. Conf. Rep. No. 220, 105th Cong., 1st Sess. at 711 (1997).

Section 1305 of the TRA 1997 added section 646 to the Internal Revenue Code. Section 646 was redesignated section 645 by section 6013(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685) (1998). Section 645 provides that an election may be made to have certain revocable trusts treated and taxed as part of an estate.

Under section 645, if both the executor (if any) of an estate and the trustee of a qualified revocable trust (QRT) elect the treatment provided in section 645, the trust shall be treated and taxed for income tax purposes as part of the estate (and not as a separate trust) during the election period.

A QRT is any trust (or portion thereof) that on the date of death of the decedent was treated as owned by the decedent under section 676 by reason of a power held by the decedent (determined without regard to section 672(e)). In accordance with the legislative history

accompanying section 645, the proposed regulations provide that a trust that was treated as owned by the decedent under section 676 solely by reason of a power held by a nonadverse party is not a QRT. See H.R. Conf. Rep. No. 220, 105th Cong., 1st Sess. at 711 (1997). In addition, a trust that was treated as owned by the decedent under section 676 by reason of a power held by the decedent that was exercisable by the decedent only with the approval or consent of another person is not a QRT. Further, a QRT must be a domestic trust under section 7701(a)(30)(E). A section 645 election for a QRT must result in a domestic estate under section 7701(a)(30)(D). A section 645 election may be made with respect to more than one QRT.

B. The Election

The section 645 election may be made whether or not a personal representative is appointed for the decedent's estate. Under the proposed regulations, if a personal representative is appointed for the decedent's estate, the personal representative and the trustee of the QRT make the section 645 election by attaching a statement to the Form 1041, ''U.S. Income Tax Return for Estates and Trusts,'' filed for the first taxable year of the decedent's estate (related estate). If a personal representative is not appointed for the decedent's estate, the trustee makes a section 645 election for the QRT by attaching a statement to the Form 1041 filed for the first taxable year of the trust treating the trust as an estate.

Rev. Proc. 98–13 (1998–1 C.B. 370) sets forth procedures for making the section 645 election. These proposed regulations, when finalized, will replace Rev. Proc. 98–13. The proposed regulations, in some instances, contain different procedures than those provided in Rev. Proc. 98–13. Rev. Proc. 98–13, in most situations, requires a trust that will make a section 645 election to obtain a taxpayer identification number (TIN) and file a Form 1041 for the trust's short taxable year beginning with the decedent's death and ending December 31 of that year. In these situations, Rev. Proc. 98–13 provides that the section 645 election is made at the time the Form 1041 is filed for the trust. If a Form 1041 is not required to be filed for the trust, the election is considered made when the Form 1041 is filed for the estate. The proposed regulations, however, provide that if a section 645 election will be made for a trust, the trustee and the personal representative, if any, may choose not to obtain a TIN for the trust or file a Form 1041 for the trust's short taxable year. Under the proposed regulations, the section 645 election is considered made only upon the filing of a Form 1041, with the required election statement attached, for the first taxable year of the related estate, or, if there is no personal representative, the first taxable year of the trust filing as an estate.

C. General Form 1041 Filing Requirements and TINs for the Related Estate and Electing Trust During the Election Period

During the election period, the personal representative files one Form 1041 for the combined electing trust and related estate under the name and TIN of the related estate. Thus, the electing trust must furnish payors of the trust with the TIN of the related estate. Except as required under the separate share rule of section 663(c), for purposes of filing the Form 1041 and computing the tax, the items of income, deduction, and credit of the electing trust and the related estate are combined. The proposed regulations do not provide rules for apportioning the tax liability of the combined estate and electing trust. The personal representative and trustee must allocate the tax burden of the combined electing trust and related estate to the trust and the estate in a manner that reasonably reflects the tax obligations of each. If the tax burdens are not reasonably allocated, gifts may be deemed to have been made.

If there is no personal representative, the trustee of the electing trust must file a Form 1041 treating the trust as an estate under section 645 during the election period. The trustee of the trust must obtain a TIN to be used by the trust during the election period to file as an estate and must furnish this TIN to payors of the trust.

D. Tax Treatment of the Electing Trust and Related Estate During the Election Period

Under the proposed regulations, the personal representative treats the electing trust as part of the related estate for all purposes of subtitle A of the Internal Revenue Code.

The electing trust and related estate are treated as separate shares under section 663(c) for purposes of computing distributable net income (DNI) and applying the distribution provisions of sections 661 and 662. The proposed regulations provide rules for adjusting the DNI of the separate shares with respect to distributions made from one share to another share of the combined electing trust and related estate to which sections 661 and 662 would apply had the distribution been made to a beneficiary other than another share. Under the proposed regulations, the share making the distribution reduces its DNI by the amount of the distribution deduction that it would have been entitled to under section 661 had the distribution been made to a beneficiary other than another share of the combined related estate and electing trust, and, solely for purposes of calculating its DNI, the share receiving the distribution increases its gross income by this amount.

If there is no personal representative, the trustee of the electing trust treats the trust as an estate for all purposes of subtitle A of the Internal Revenue Code. Thus, the trustee of the electing trust may adopt a taxable year other than a calendar year.

E. Duration of the Election Period

The proposed regulations provide that the election period begins on the date of the decedent's death and terminates on the day before the applicable date. If a Form 706 is not required to be filed for the decedent's estate, the applicable date is the day which is two years after the date of the decedent's death.

If a Form 706 is required to be filed, the applicable date is the day that is 6 months after the date of final determination of liability for estate tax. The proposed regulations provide that the final determination of liability for estate tax is the earliest day on which any of the following has occurred: (A) The issuance of an estate tax closing letter, unless a claim for refund with respect to the estate tax is filed within six months after the issuance of the letter; (B) the final disposition of a claim for refund that resolves the liability for the estate tax, unless suit is instituted within six months of the disposition of the claim; (C) the execution of a settlement agreement that resolves the liability for estate tax; (D) the issuance of a decision, judgment, decree, or other order by a court of competent jurisdiction resolving the liability for estate tax unless a notice of appeal or petition for certiorari is filed within 90 days after the issuance of the decision, judgment, decree, or other order of a court; or (E) the expiration of the period of limitations for assessment of the estate tax provided in section 6501.

F. Tax Treatment of the Electing Trust and Related Estate Upon Termination of the Election Period

At the close of the last day of the election period, the combined related estate and electing trust, if there is a personal representative, or the electing trust, if there is no personal representative, is deemed to distribute all the assets and liabilities of the share

(or shares) comprising the electing trust to a new trust in a distribution to which sections 661 and 662 apply. Thus, the combined related estate and electing trust, or the electing trust, as appropriate, is entitled to a distribution deduction to the extent permitted under section 661 in the taxable year in which the election period terminates as a result of the deemed distribution. The new trust must include the deemed distribution in gross income to the extent required under section 662.

At the end of the election period, the new trust must obtain a new TIN. The related estate continues to report under the TIN assigned to the combined related estate and electing trust during the election period.

Following the termination of the election period, the taxable year of the new trust must be the calendar year. The related estate must continue to use the taxable year chosen by the combined related estate and electing trust during the election period.

G. Clarification of the Reporting Rules for Grantor Trusts Under § 1.671–4

In the process of drafting these proposed regulations regarding section 645, the IRS and the Treasury Department received many taxpayer questions concerning the section 645 election procedures and the proper application of the reporting rules under § 1.671–4 to a trust, or a portion of a trust, treated as owned by a grantor or another person for the taxable year ending with the death of the grantor or other person. Accordingly, these proposed regulations amend § 1.671–4 to clarify those reporting rules.

The proposed regulations clarify that a trust, or portion of a trust, reports under § 1.671–4 for the taxable year that ends with the death of the grantor or other person (decedent) treated as the owner of the trust. If the trust was filing a Form 1041 under § 1.671–4(a) during the life of the decedent, the proposed regulations also provide that the due date for the return for the trust or portion of the trust for the taxable year ending with the death of the decedent shall be the date specified under section 6072 as though the decedent had lived throughout the decedent's last taxable year.

The proposed regulations provide that a trust that was wholly owned by the decedent must obtain a new TIN upon the death of the decedent whether or not a TIN was obtained for the trust prior to the death of the decedent; however, if a section 645 election will be made for the trust, a new TIN need not be obtained for the trust. For administrative convenience, the proposed regulations clarify that with respect to a trust which was treated as owned by two or more grantors or other persons, following the death of one of the deemed owners, the trust, including the portion formerly owned by the decedent (if it remains part of the original trust following the death of the deemed owner), continues to report under the TIN used by the trust prior to the death of the decedent.

Proposed Effective Date

These regulations are proposed to apply on or after the date that final regulations are published in the **Federal Register**.

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 is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the understanding of the IRS and Treasury Department that the number of trusts and estates making the election is not substantial, and none are small entities within the meaning of the Regulatory Flexibility Act. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) 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 electronic or written comments (a signed original and eight (8) copies) that are submitted timely (in the manner described in the **ADDRESSES** caption) to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for February 21, 2001, beginning at 10 a.m., in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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 timely written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by January 31, 2001. 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 these regulations is Faith Colson, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

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

26 CFR Part 602

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301, and 602 are proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.645–1 also issued under 26 U.S.C. 645. * * *

Par. 2. Section 1.641(b)–3 is amended by adding a sentence to the end of paragraph (a) to read as follows:

§ 1.641(b)–3 Termination of estates and trusts.

(a) * * * Notwithstanding the above, if the estate has joined a valid election under section 645 to treat a qualified revocable trust, as defined under section 645(b)(1), as part of the estate, the estate shall not terminate under this paragraph prior to the termination of the section 645 election period. See section 645 and the regulations thereunder for rules regarding the termination of the section 645 election period.

* * * * *

Par. 3. In § 1.642(c)–1, the last sentence of paragraph (a)(1) is revised to read as follows:

§ 1.642(c)–1 Unlimited deduction for amounts paid for a charitable purpose.

(a) * * * (1) * * * In applying this paragraph without reference to paragraph (b) of this section, a deduction shall be allowed for an amount paid during the taxable year in respect of gross income received in a previous taxable year, but only if no deduction was allowed for any previous taxable year to the estate or trust, or in the case of a section 645 election, to a related estate, as defined under § 1.645–1(b), for the amount so paid.

* * * * *

Par. 4. Section 1.645–1 is added under a new undesignated center heading to read as follows:

Election by Certain Revocable Trusts To Be Treated as Part of Estate

§ 1.645–1 Election by certain revocable trusts to be treated as part of estate.

(a) *In general.* If an election is filed for a qualified revocable trust, as defined in paragraph (b)(1) of this section, in accordance with the rules set forth in paragraph (c) of this section, the qualified revocable trust is treated and taxed as part of its related estate, as defined in paragraph (b)(4) of this section (and not as a separate trust) during the election period, as defined in paragraph (b)(6) of this section. Rules regarding the use of taxpayer identification numbers (TINs) by an electing trust, as defined in paragraph (b)(2) of this section, are in paragraph (d) of this section. Rules regarding obtaining a TIN and filing requirements for a qualified revocable trust for which a section 645 election will or may be made are also in paragraph (d) of this section. Rules regarding the tax treatment of an electing trust and related estate and the general filing requirements for the combined entity during the election period are in paragraph (e)(2) of this section. Rules regarding the tax treatment of an electing trust and its filing requirements during the election period if no personal representative, as defined in paragraph (b)(5) of this section, is appointed for a related estate are in paragraph (e)(3) of this section. Rules for determining the duration of the section 645 election period are in paragraph (f) of this section. Rules regarding the tax effects of the termination of the election are in paragraph (h) of this section. Rules regarding the tax consequences of the appointment of a personal representative after a trustee has made a section 645 election believing that a personal representative would not be appointed for a related estate are in paragraph (g) of this section.

(b) *Definitions.* For purposes of this section:

(1) *Qualified revocable trust.* A *qualified revocable trust* (QRT) is any trust (or portion thereof) that on the date of death of the decedent was treated as owned by the decedent under section 676 by reason of a power held by the decedent (determined without regard to section 672(e)). A trust that was treated as owned by the decedent under section 676 by reason of a power that was exercisable by the decedent only with the approval or consent of another person is not a QRT. In addition, a trust that was treated as owned by the decedent under section 676 solely by reason of a power held by a nonadverse party is not a QRT. A QRT must be a domestic trust as defined in section 7701(a)(30)(E). A section 645 election for a QRT must result in a domestic estate as defined in section 7701(a)(30)(D).

(2) *Electing trust.* An *electing trust* is a QRT for which a valid section 645 election has been made. Once a section 645 election has been made for the trust, the trust shall be treated as an electing trust throughout the entire election period.

(3) *Decedent.* The *decedent* is the individual who was treated as the owner of the QRT under section 676 on the date of that individual's death.

(4) *Related estate.* A *related estate* is the estate of the decedent who was treated as the owner of the QRT on the date of the decedent's death. A related estate must be a domestic estate as defined in section 7701(a)(30)(D).

(5) *Personal representative.* A *personal representative* is an executor or administrator that has obtained letters of appointment to administer the decedent's estate through formal or informal appointment procedures.

(6) *Election period.* The *election period* is the period of time during which an electing trust is treated and taxed as part of its related estate. The rules for determining the duration of the election period are in paragraph (f) of this section.

(7) *Payor.* A *payor* is any person who is required by any provision of the Internal Revenue Code and the regulations thereunder to make any type of information return with respect to an electing trust or the related estate for the taxable year. A payor includes a person who makes payments to an electing trust or related estate and a person who collects (or otherwise acts as a middleman with respect to) payments on behalf of an electing trust or related estate.

(c) *The election*—(1) *Filing the election if there is a personal representative*—(i) *Time and manner for filing the election.* If there is a personal representative of the related estate, the trustee of the QRT and the personal representative of the related estate make an election under section 645 and this section to treat a QRT as part of its related estate in a written statement described in paragraph (c)(1)(ii) of this section. The statement must be attached to the Form 1041, ''U.S. Income Tax Return for Estates and Trusts,'' filed for the first taxable year of the related estate. See paragraph (e)(2) for rules regarding the filing of this return. For the election to be valid, the Form 1041 and the attached statement must be filed not later than the time prescribed under section 6072 (including extensions) for filing the return for such taxable year.

(ii) *Written statement.* The written statement must—

(A) Identify the election as an election under section 645;

(B) Contain the name, address, date of death, and TIN of the decedent;

(C) Contain the name and address of the QRT and, if a TIN has been obtained after the death of the decedent, the TIN of the QRT;

(D) Contain the name, address and TIN of the related estate;

(E) Provide a representation that the trust for which the election is being made meets the definition of a QRT under section 645 and paragraph (b)(1) of this section;

(F) Contain a statement from the personal representative, signed and dated under penalties of perjury, stating that the personal representative elects to treat the QRT as part of the related estate under section 645 and that the personal representative understands that the personal representative is required to make a timely return of income for the combined related estate and QRT on Form 1041 and to pay timely any tax due thereon; and

(G) Contain a statement from the trustee of the QRT, signed and dated

under penalties of perjury, stating that the trustee elects to treat the trust as part of the related estate under section 645 and agrees to cooperate with the personal representative to insure that a return of income is timely made for the combined related estate and QRT, and that any tax due thereon is timely paid.

(2) *Filing the election if there is no personal representative*—(i) *Time and manner for filing the election.* If there is no personal representative for a related estate, an election to treat a QRT as an estate is made by the trustee, in a written statement described in paragraph (c)(2)(ii) of this section. The statement must be attached to the Form 1041 filed for the first taxable year of the QRT taking into account the trustee's election to treat the trust as an estate under section 645. See paragraph (e)(3) for other rules regarding the filing of this return. For the election to be valid, the Form 1041 of the QRT and the attached statement must be filed not later than the time prescribed under section 6072 (including extensions) for filing the return for such taxable year.

(ii) *Written statement.* The written statement must—

(A) Identify the election as an election under section 645;

(B) Contain the name, address, date of death, and TIN of the decedent;

(C) Contain the name and address of the QRT and, if a TIN has been obtained after the death of the decedent, the TIN of the QRT;

(D) Provide a representation that the trust for which the election is being made meets the definition of a QRT under section 645 and paragraph (b)(1) of this section;

(E) Provide a representation that there is no personal representative and to the trustee's knowledge and belief, one will not be appointed;

(F) Contain the TIN obtained by the trust to file as an estate under § 301.6109–1(a)(4)(ii)(B) of this chapter; and

(G) Contain a statement from the trustee of the QRT, signed and dated under penalties of perjury, stating that the trustee elects to treat the trust as an estate under section 645 and that the trustee understands that the trustee is required to make a timely return of income for the trust on Form 1041 taking into account the section 645 election and to pay timely any tax due thereon.

(d) *TIN for an electing trust and QRT*—(1) *Obtaining a TIN*—(i) *For an electing trust*—(A) *If there is a personal representative.* If there is a personal representative, a TIN must be obtained for the related estate but the electing trust is not required to obtain a TIN in its own name. See § 301.6109-1(a)(4)(ii)(A)(1) of this chapter for rules for completing the Form SS–4, ''Application for Employment Identification Number,'' filed for the related estate.

(B) *If there is no personal representative.* If there is no personal representative, the trustee must obtain a TIN to file as an estate. See § 301.6109–1(a)(4)(ii)(B) of this chapter for rules regarding obtaining a TIN for an electing trust to file as an estate during the election period. The trustee is not required to obtain a TIN for the electing trust to file as a trust.

(ii) *Obtaining a TIN and filing a Form 1041 for a QRT*—(A) *Option not to obtain a TIN or file a Form 1041 for a QRT for which a section 645 election will be made.* If a section 645 election will be made for a QRT, the personal representative of the related estate, if any, and the trustee of the QRT may treat the QRT as an electing trust from the decedent's date of death until the due date for the section 645 election. Accordingly, the trustee of the QRT is not required to obtain a TIN for the QRT following the death of the decedent as required under § 301.6109–1(a)(3)(i) of this chapter or file a Form 1041 for the QRT for the short taxable year beginning with the decedent's date of death and ending with December 31 of that year. However, if a QRT is treated as an electing trust under this paragraph from the decedent's date of death until the due date for the section 645 election and a valid section 645 election is not made for the QRT, the QRT will be subject to penalties and interest for failing to obtain a TIN and file a Form 1041 and pay the tax due thereon.

(B) *Requirement to obtain a TIN and file a Form 1041 for QRT if paragraph (d)(1)(ii)(A) of this section does not apply*—(*1*) *Requirement to obtain TIN and file Form 1041.* If the trustee of the QRT and the personal representative of the related estate, if any, do not treat the QRT as an electing trust as provided under paragraph (d)(1)(ii)(A) of this section, or if the trustee of the electing trust and the personal representative, if any, are uncertain whether a section 645 election will be made for a QRT, the trustee of the QRT must obtain a TIN in the name of the QRT as required under § 301.6109–1(a)(3)(i) of this chapter and must file a Form 1041 for the short taxable year beginning with the decedent's death and ending December 31 of that year (unless, the QRT is not required to file a Form 1041 under section 6012 for this period).

(*2*) *Requirement to amend return if section 645 election is made.* If a valid section 645 election is made for a QRT after a Form 1041 is filed for the QRT pursuant to paragraph (d)(1)(ii)(B)(*1*) of this section, the trustee must amend the Form 1041. The trustee must indicate on the Form 1041 that the return is a final return and must attach a copy of the statement described in paragraph (c) of this section to the amended Form 1041 filed pursuant to this paragraph. In addition, the trustee must provide the following statement at the top of the return: ''FILED PURSUANT TO § 1.645–1.'' The QRT's items of income, deduction, and credit must be excluded from the amended Form 1041 filed under this paragraph and must be included on the Form 1041 filed for the first taxable year of the related estate under paragraph (e)(2)(ii)(A) of this section, if there is a personal representative, or for the first taxable year of the electing trust under (e)(3)(ii) of this section, if there is no personal representative. The section 645 election is not considered made upon the filing, under this paragraph, of an amended Form 1041 for the QRT with the attached statement. To be valid, a section 645 election must be filed in the time and manner specified in paragraph (c) of this section.

(2) *Furnishing TIN to payors*—(i) *If there is a personal representative for a related estate.* If there is a personal representative, all payors of an electing trust shall be furnished a Form W–9, ''Request for Taxpayer Identification Number and Certification,'' or an acceptable substitute Form W–9 with the name of the related estate as the primary name on the form, the name of the electing trust as the secondary name on the form, the TIN of the related estate, and the address of the trustee. The form must be signed under penalties of perjury by the personal representative. See section 3406 and the regulations thereunder for the information to include on, and the manner of executing, the Form W–9, depending on the type of reportable payments made by the payor to the trust.

(ii) *If there is no personal representative.* If there is no personal representative, the trustee of the electing trust shall furnish a Form W–9 or an acceptable substitute Form W–9 with the name required by, and the TIN obtained under, § 301.6109–1(a)(4)(ii)(B) of this chapter. See section 3406 and the regulations thereunder for the information to include on, and the manner of executing, the Form W–9, depending on the type of reportable payments made by the payor to the trust.

(e) *Tax treatment and general filing requirements of electing trust and*

related estate during the election period—(1) *Effect of election.* The section 645 election once made is irrevocable.

(2) *If there is a personal representative*—(i) *Tax treatment of the combined electing trust and related estate.* If there is a personal representative, during the election period the personal representative treats the electing trust as part of the related estate for all purposes of subtitle A of the Internal Revenue Code. For example, the electing trust is treated as part of the related estate for purposes of the subchapter S shareholder requirements of section 1361(b)(1) and the special offset for rental real estate activities in section 469(i)(4).

(ii) *Filing requirements*—(A) *Filing the Form 1041 for the combined electing trust and related estate during the election period.* If there is a personal representative, one income tax return is filed under the name and TIN of the related estate for the electing trust and the related estate. See § 301.6109–1(a)(4)(ii)(A)(1) of this chapter. Except as required under the separate share rule of section 663(c), for purposes of filing the Form 1041 under this paragraph and computing the tax, the items of income, deduction, and credit of the electing trust and related estate are combined. One personal exemption in the amount of $600 is permitted under section 642(b) and the tax is computed under section 1(e), taking into account section 1(h), for the combined taxable income.

(B) *Filing a Form 1041 for the electing trust is not required.* The trustee of the electing trust does not file a Form 1041 for the electing trust during the election period. In certain situations, the trustee of a QRT may be required to file a Form 1041 for the QRT's short taxable year beginning with the decedent's date of death and ending December 31 of that year. See paragraph (d)(1)(ii) of this section.

(iii) *Application of the separate share rules*—(A) *Distributions to beneficiaries (other than to a share (or shares) of the combined electing trust and related estate).* Under the separate share rules of section 663(c), the electing trust and related estate are treated as separate shares for purposes of computing distributable net income (DNI) and applying the distribution provisions of sections 661 and 662. Further, the electing trust share or the related estate share may each contain two or more shares. Thus, if during the taxable year, a distribution is made by the electing trust or the related estate, the DNI of the share making the distribution must be determined and the distribution provisions of sections 661 and 662 must be applied using the separately determined DNI applicable to the distributing share.

(B) *Adjustments to the DNI of the separate shares for distributions between shares to which sections 661 and 662 would apply.* A distribution from one share to another share to which sections 661 and 662 would apply if made to a beneficiary other than another share of the combined related estate and electing trust affects the computation of the DNI of the share making the distribution and the share receiving the distribution. The share making the distribution reduces its DNI by the amount of the distribution deduction that it would be entitled to under section 661, had the distribution been made to another beneficiary, and, solely for purposes of calculating DNI, the share receiving the distribution increases its gross income by the same amount. The distribution has the same character in the hands of the recipient share as in the hands of the distributing share. The following example illustrates the provisions of this paragraph (e)(2)(iii)(B):

Example. (i) A's will provides that after the payment of debts, expenses, and taxes, the residue of A's estate is to be distributed to Trust, an electing trust. The sole beneficiary of Trust is C. The estate share has $15,000 of gross income, $5,000 of deductions, and $10,000 of taxable income and DNI for the taxable year based on the assets held in A's estate. During the taxable year, A's estate distributes $15,000 to Trust. The distribution reduces the DNI of the estate share by $10,000, the amount of the distribution deduction A's estate would be entitled to if A's estate made the distribution to a beneficiary other than Trust.

(ii) For the same taxable year, the trust share has $25,000 of gross income and $5,000 of deductions. None of the modifications provided for under section 643(a) apply. In calculating the DNI for the trust share, the gross income of the trust share is increased by $10,000, the amount of the reduction in the DNI of the estate share as a result of the distribution to Trust. Thus, solely for purposes of calculating DNI, the trust share has gross income of $35,000, and taxable income of $30,000. Therefore, the trust share has $30,000 of DNI for the taxable year.

(iii) During the same taxable year, Trust distributes $35,000 to C. The distribution deduction reported on the Form 1041 filed for A's estate and Trust is $30,000. As a result of the distribution by Trust to C, C must include $30,000 in gross income for the taxable year. The gross income reported on the Form 1041 filed for A's estate and Trust is $40,000.

(iv) *Application of the governing instrument requirement of section 642(c).* A deduction is allowed in computing the taxable income of the combined related estate and electing trust to the extent permitted under section 642(c) for—

(A) Any amount of the gross income of the related estate that is paid or set aside during the taxable year pursuant to the terms of the governing instrument of the related estate for a purpose specified in section 170(c); and

(B) Any amount of gross income of the electing trust that is paid or set aside during the taxable year pursuant to the terms of the governing instrument of the electing trust for a purpose specified in section 170(c).

(3) *If there is no personal representative*—(i) *Tax treatment of the electing trust.* If there is no personal representative, during the election period the trustee treats the electing trust as an estate for all purposes of subtitle A of the Internal Revenue Code. Thus, for example, an electing trust is treated as an estate for purposes of the set-aside deduction under section 642(c)(2), the subchapter S shareholder requirements of section 1361(b)(1), and the special offset for rental real estate activities under section 469(i)(4). The trustee may also adopt a taxable year other than a calendar year.

(ii) *Filing the Form 1041 for the electing trust.* If there is no personal representative, during the election period the trustee of the electing trust must file Form 1041 treating the trust as an estate. See § 301.6109–1(a)(4)(ii)(B) of this chapter for rules regarding the name and TIN to be used in filing a Form 1041 under this paragraph (e)(3)(iii). Any return filed by a trustee of an electing trust, in accordance with this paragraph, shall be treated under section 6012 as a return filed for the electing trust and not as a return filed for any subsequently discovered related estate. Accordingly, the period of limitations provided in section 6501 for assessments with respect to a subsequently discovered related estate does not start until a return is filed with respect to the related estate.

(f) *Duration of election period*—(1) *In general.* The election period begins on the date of the decedent's death and terminates on the day before the applicable date. The election does not apply to successor trusts.

(2) *Definition of applicable date*—(i) *Applicable date if no Form 706 (United States Estate (and Generation Skipping Transfer) Tax Return) is required to be filed.* If a Form 706 is not required to be filed for the decedent's estate, the applicable date is the day which is 2 years after the date of the decedent's death.

(ii) *Applicable date if a Form 706 is required to be filed.* If a Form 706 is required to be filed for the decedent's

estate, the applicable date is the day that is 6 months after the date of final determination of liability for estate tax. Solely for purposes of determining the applicable date under section 645, the date of final determination of liability is the earliest day on which any of the following has occurred—

(A) The issuance by the Internal Revenue Service of an estate tax closing letter, unless a claim for refund with respect to the estate tax is filed within six months after the issuance of the letter;

(B) The final disposition of a claim for refund, as defined in paragraph (f)(2)(iii) of this section, that resolves the liability for the estate tax, unless suit is instituted within six months after a final disposition of the claim;

(C) The execution of a settlement agreement with the Internal Revenue Service that determines the liability for the estate tax;

(D) The issuance of a decision, judgment, decree, or other order by a court of competent jurisdiction resolving the liability for the estate tax unless a notice of appeal or a petition for certiorari is filed within 90 days after the issuance of a decision, judgment, decree, or other order of a court; or

(E) The expiration of the period of limitations for assessment of the estate tax provided in section 6501.

(iii) *Definition of final disposition of claim for refund.* For purposes of paragraph (f)(2)(ii)(B) of this section, a claim for refund shall be deemed finally disposed of by the Secretary when all items have been either allowed or disallowed. If a waiver of notification with respect to disallowance is filed with respect to a claim for refund prior to disallowance of the claim, the claim for refund will be treated as disallowed on the date the waiver is filed.

(iv) *Examples.* The application of this paragraph (f)(2) is illustrated by the following examples:

Example 1. A died on October 20, 1999. The personal representative of A's estate and the trustee of Trust, an electing trust, made a section 645 election. A Form 706 is not required to be filed for A's estate. The applicable date is October 20, 2001, the day that is two years after A's date of death. The last day of the election period is October 19, 2001. Beginning October 20, 2001, Trust will no longer be treated and taxed as part of A's estate.

Example 2. Assume the same facts as *Example 1,* except that a Form 706 is required to be filed for A's estate. The Internal Revenue Service issues an estate tax closing letter accepting the Form 706 as filed on March 15, 2001. The estate does not file a claim for refund by September 15, 2001, the day that is six months after the date of issuance of the estate tax closing letter. The final determination of liability is March 15, 2001 and the applicable date is September 15, 2001. The last day of the election period is September 14, 2001. Beginning September 15, 2001, Trust will no longer be treated and taxed as part of A's estate.

Example 3. Assume the same facts as *Example 1,* except that a Form 706 is required to be filed for A's estate. The Form 706 is audited and a notice of deficiency authorized under section 6212 is mailed to the personal representative of A's estate as a result of the audit. The personal representative files a petition in Tax Court. The Tax Court issues a decision resolving the liability for estate tax on December 14, 2003 and neither party appeals. The final determination of liability is December 14, 2003. The applicable date is June 14, 2004, the day that is six months after the date of final determination of liability. The last day of the election period is June 13, 2004. Beginning June 14, 2004, Trust will no longer be treated and taxed as part of A's estate.

(g) *Personal Representative appointed after the section 645 election is made*—(1) *Effect on the election.* If a personal representative for the related estate is not appointed until after the trustee has made a valid section 645 election, the personal representative is deemed to agree to the election and to accept the associated responsibilities unless, within 60 days of appointment, the personal representative notifies the trustee in writing of the personal representative's refusal to agree to the election. If the personal representative refuses to agree to the election, the election period terminates the day before the effective date of the personal representative's appointment. If the personal representative and the trustee are the same person, the personal representative cannot refuse to agree to the election.

(2) *Continuation of election period.* If the personal representative does not refuse to agree to the section 645 election, the personal representative of the related estate and the trustee of the electing trust must file amended Forms 1041 reflecting the items of income, deduction, and credit of the related estate and the electing trust for all taxable years ending after the death of the decedent. If the period of limitations for making assessments has expired with respect to the electing trust for any of the Forms 1041 filed by the trustee, the personal representative must obtain a TIN for the related estate and file Forms 1041 for any items of income, deduction, and credit of the related estate that cannot be properly included on amended forms for the electing trust.

(3) *Termination of the election period.* If the election period terminates as a result of the personal representative's refusing to agree to the election, the personal representative must obtain a new TIN for the related estate. The personal representative must file returns under the new TIN for all taxable years of the related estate ending after the death of the decedent. The trustee of the electing trust is not required to amend any returns filed for the electing trust during the election period. Following termination of the election period, the trustee of the electing trust must obtain a new TIN as required under § 301.6109–1(a)(4)(iii) of this chapter.

(h) *Treatment of an electing trust and related estate following termination of the election*—(1) *The share (or shares) comprising the electing trust is deemed to be distributed by its related estate upon termination of the election period.* On the close of the last day of the election period, the combined related estate and electing trust, if there is a personal representative, or, the electing trust, if there is no personal representative, is deemed to distribute the share (or shares, as determined under section 663(c)) comprising the electing trust to a new trust in a distribution to which sections 661 and 662 apply. Thus, the combined related estate and electing trust, if there is a personal representative, or the electing trust, if there is no personal representative, is entitled to a distribution deduction to the extent permitted under section 661 in the taxable year in which the election period terminates as a result of the deemed distribution. The new trust shall include such distribution in gross income to the extent required under section 662.

(2) *Filing of the Form 1041 upon the termination of the section 645 election*—(i) *If there is a personal representative*—If there is a personal representative, the Form 1041 filed under the name and TIN of the related estate for the taxable year in which the election terminates includes—

(A) The items of income, deduction, and credit of the electing trust attributable to the period beginning with the first day of the related estate and electing trust's taxable year and ending with the last day of the election period;

(B) The items of income, deduction, and credit, if any, of the related estate for the taxable year; and

(C) A deduction for the deemed distribution of the share (or shares) comprising the electing trust to the new trust as provided for under paragraph (h)(1) of this section.

(ii) *If there is no personal representative.* If there is no personal representative, the taxable year of the electing trust closes on the last day of the election period. A Form 1041 is filed in the manner prescribed under

paragraph (e)(3)(ii) of this section reporting the items of income, deduction, and credit of the electing trust for the short period ending with the last day of the election period. The Form 1041 filed under this paragraph includes a distribution deduction for the deemed distribution provided for under paragraph (h)(1) of this section. The Form 1041 must indicate that it is a final return.

(3) *Use of TINs following termination of the election.* Upon termination of the section 645 election, a former electing trust must obtain a new TIN, as required under § 301.6109–1(a)(4)(iii) of this chapter. If the related estate continues after the termination of the election period, the related estate must continue to use the TIN assigned to the estate during the election period.

(4) *Taxable year of estate and trust upon termination of the election*—(i) *Estate.* Upon termination of the election, if the estate will continue, the taxable year of the estate is the same taxable year used during the election period.

(ii) *Trust.* Upon termination of the election, the taxable year of the new trust is the calendar year. See section 644.

(i) *Reserved.*

(j) *Effective date.* This section applies on or after the date final regulations are published in the **Federal Register**.

Par. 5. Section 1.671–4 is amended as follows:

1. The text of paragraph (d) is redesignated paragraph (d)(1) and a paragraph heading is added for newly designated paragraph (d)(1).

2. Paragraph (d)(2) is added

3. Paragraphs (h) and (i) are redesignated as paragraphs (i) and (j).

4. New paragraph (h) is added.

The additions and revisions read as follows:

§ 1.671–4 Method of Reporting.

* * * * *

(d) *Due date and other requirements with respect to statement required to be furnished by trustee*—(1) *In general.*

* * *

(2) *Statement for the taxable year ending with the death of the grantor or other person treated as the owner of the trust.* If a trust ceases to be treated as owned by the grantor, or other person, by reason of the death of that grantor or other person (decedent), the due date for the statement required to be furnished for the taxable year ending with the death of the decedent shall be the date specified by section 6034A(a) as though the decedent had lived throughout the decedent's last taxable year. See paragraph (h) of this section for special reporting rules for a trust or portion of the trust that ceases to be treated as owned by the grantor or other person by reason of the death of the grantor or other person.

* * * * *

(h) *Reporting rules for a trust, or portion of a trust, that ceases to be treated as owned by a grantor or other person by reason of the death of the grantor or other person*—(1) *Definition of decedent.* For purposes of this paragraph (h), the *decedent* is the grantor or other person treated as the owner of the trust, or portion of the trust, under subpart E, part I, subchapter J, chapter 1 of the Internal Revenue Code on the date of death of that person.

(2) *In general.* The provisions of § 1.671–4 apply to a trust, or portion of a trust, treated as owned by a decedent for the taxable year that ends with the decedent's death. Following the death of the decedent, the trust or portion of a trust that ceases to be treated as owned by the decedent, by reason of the death of the decedent, may no longer report under § 1.671–4. A trust, all of which was treated as owned by the decedent, must obtain a new TIN upon the death of the decedent, if the trust will continue after the death of the decedent. See § 301.6109–1(a)(3)(i) of this chapter for rules regarding obtaining a TIN upon the death of the decedent. An electing trust as defined in § 1.645–1(b)(2) is not required to obtain a TIN following the death of the decedent. A qualified revocable trust, as defined in section 645(b) and § 1.645–1(b)(1), for which a section 645 election will be made, need not obtain a TIN. See § 301.6109–1(a)(4) of this chapter and § 1.645–1(d)(1)(ii)(A).

(3) *Special rules*—(i) *Trusts reporting pursuant to paragraph (a) of this section for the taxable year ending with the decedent's death.* The due date for filing of a return pursuant to paragraph (a) of this section for the taxable year ending with the decedent's death shall be the due date provided for under § 1.6072–1(a)(2). The return filed under this paragraph for a trust all of which was treated as owned by the decedent must indicate that it is a final return.

(ii) *Trust reporting pursuant to paragraph (b)(2)(B) of this section for the taxable year of the decedent's death.* A trust that reports pursuant to paragraph (b)(2)(B) of this section for the taxable year ending with the decedent's death must indicate on each Form 1096 (Annual Summary and Transmittal of the U.S. Information Returns) that it files (or appropriately on magnetic media) for the taxable year ending with the death of the decedent that it is the final return of the trust.

(iii) *Trust reporting under paragraph (b)(3) of this section.* If a trust has been filing under paragraph (b)(3) of this section, the trustee may not report under that paragraph if any portion of the trust has a short taxable year by reason of the death of the decedent and the portion treated as owned by the decedent does not terminate on the death of the decedent.

* * * * *

(4) *Effective date.* This paragraph (h) applies on or after the date final regulations are published in the **Federal Register**.

Par. 6. Section 1.6072–1 is amended as follows:

1. The text of paragraph (a) is redesignated as paragraph (a)(1) and a paragraph heading is added for newly designated paragraph (a)(1).

2. Paragraph (a)(2) is added.

The additions are as follows:

§ 1.6072–1 Time for filing returns of individuals, estates, and trusts.

(a) *In general*—(1) *Returns of income for individuals, estates and trusts.** * *

(2) *Return of trust, or portion of a trust, treated as owned by a decedent*—(i) *In general.* In the case of a return of a trust, or portion of a trust, that was treated as owned by a decedent under subpart E (section 671 and following), part I, subchapter J, chapter 1 of the Internal Revenue Code as of the decedent's date of death that is filed in accordance with § 1.671–4(a) for the fractional part of the year ending with the date of death of the decedent, the due date of such return shall be the fifteenth day of the fourth month following the close of the 12-month period which began with the first day of such fractional part of the year.

(ii) *Effective date.* This paragraph (a)(2) applies on or after the date final regulations are published in the **Federal Register**.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 7. The authority citation for part 301 continues to read in part as follows:

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

Par. 8. Section 301.6109–1 is amended as follows:

1. Paragraph (a)(2)(iii) is removed.

2. Paragraphs (a)(3) through (a)(6) are added.

The additions are as follows:

§ 301.6109–1 Identifying numbers.

(a) * * *

(3) *Obtaining a taxpayer identification number for a trust, or portion of a trust, following the death of the individual*

treated as the owner—(i) *In general*—(A) *A trust all of which was treated as owned by a decedent.* In general, a trust all of which is treated as owned by a decedent under subpart E (section 671 and following), part 1, subchapter J, chapter 1 of the Internal Revenue Code as of the decedent's date of death must obtain a new taxpayer identification number following the death of the decedent if the trust will continue after the death of the decedent. See, however, § 301.6109–1(a)(4) for rules regarding obtaining a taxpayer identification number for a qualified revocable trust, as defined in section 645(b)(1), for which a section 645 election has been or will be made.

(B) *Taxpayer identification numbers of trust with multiple owners.* With respect to a portion of a trust treated as owned under subpart E (section 671 and following), part 1, subchapter J, chapter 1 of the Internal Revenue Code by a decedent as of the date of the decedent's death, if, following the death of the decedent, the portion treated as owned by the decedent remains part of the original trust and the other portion (or portions) of the trust continue to report under the taxpayer identification number assigned to the trust prior to the decedent's death, the portion of the trust treated as owned by the decedent prior to the decedent's death continues to report under the taxpayer identification number used for reporting by the other portion (or portions) of the trust.

(ii) *Furnishing correct taxpayer identification number to payors following the death of the decedent.* If the trust continues after the death of the decedent and is required to obtain a new taxpayer identification number under paragraph (a)(3)(i)(A) of this section, the trustee must furnish payors with a new Form W–9, or an acceptable substitute Form W–9, containing the new taxpayer identification number required under paragraph (a)(3)(i)(A) of this section, the name of the trust, and the address of the trustee.

(4) *Taxpayer identification numbers if a section 645 election has been, or will be, made*—(i) *Definitions.* For purposes of this paragraph (a)(4), the terms *qualified revocable trust* (QRT), *electing trust, related estate, election period,* and *personal representative* shall have the meanings provided in § 1.645–1(b) of this chapter.

(ii) *Taxpayer identification number to be used during the election period*—(A) *If there is a personal representative*—(*1*) *In general.* If there is a personal representative for a related estate, a taxpayer identification number does not need to be obtained for an electing trust. The personal representative of the related estate must obtain a taxpayer identification number in the name of the estate. A trustee of a QRT for which a section 645 election will be made and the personal representative of the related estate, if any, may choose to treat the QRT as an electing trust and not obtain a taxpayer identification number for the trust. See § 1.645–1(d)(1)(ii)(A) of this chapter. If the personal representative knows that a section 645 election has been made for an electing trust or will be made for a QRT at the time the personal representative files the Form SS–4, ''Application for Employer Identification Number,'' for the related estate, the personal representative may enter the name of the trust as a secondary name on the form. All returns filed for the combined related estate and electing trust during the election period must be filed using the name of the related estate as the primary name on the return.

(*2*) *Obligations of persons who make payments to electing trusts.* Any payor that is required to file an information return with respect to payments of income or proceeds to an electing trust must show the name of the related estate, as the primary name on the return, the name of the electing trust as the secondary name on the return, and the taxpayer identification number of the related estate on the return. Nevertheless, the statement to recipients must be furnished by the payor to the trustee of the trust, rather than the personal representative of the related estate. Under these circumstances, the payor satisfies all information reporting sections that require the payor to show the name and taxpayer identification number of the payee on the information return and to furnish the statement to recipients to the person whose taxpayer identification number is required to be shown on the form.

(B) *If there is no personal representative.* If there is no personal representative for a related estate, the trustee of an electing trust must obtain a taxpayer identification number as an estate. The name entered on the Form SS–4 filed by the trustee must be the name of the trust followed by ''filing as an estate under section 645.'' Any returns filed by the electing trust in accordance with section 645 during the election period must be filed under the name required to be entered on the Form SS–4 under this paragraph and under the taxpayer identification number obtained pursuant to this paragraph. A trustee of a QRT for which a section 645 election will be made may choose to treat the QRT as an electing trust and obtain a taxpayer identification number as an estate under this paragraph and not as a trust. See § 1.645–1(d)(1)(ii)(A) of this chapter.

(iii) *Taxpayer identification number to be used by a trust upon termination of the election period.* Upon the termination of the election period, the trustee must obtain a taxpayer identification number in the name of the new trust. If there is no personal representative and the trustee obtained a taxpayer identification number under paragraph (a)(4)(ii)(B) of this section for the trust to file as an estate under section 645, the trustee must obtain a new taxpayer identification number for the new trust. See § 1.645–1(h) of this chapter for rules regarding the treatment of an electing trust upon termination of the election period. The trustee must furnish to all payors of the trust a completed Form W–9 or acceptable substitute Form W–9 signed under penalties of perjury by the trustee providing each payor with the name of the new trust, the TIN required to be used under this paragraph (a)(4)(iii), and the address of the trustee.

(5) *Persons treated as payors.* For purposes of paragraphs (a)(2), (3), and (4) of this section, a *payor* is a person described in §§ 1.671–4(b)(4) and 1.645–1(b)(7) of this chapter.

(6) *Effective date.* Paragraphs (a)(3), (4), and (5) of this section apply on or after the date final regulations are published in the **Federal Register**.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 9. The authority citation for part 602 continues to read as follows:

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

Par. 10. In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * * * *	
1.645–1	1545–1578
* * * * * * *	

David A. Mader,
Acting Deputy Commissioner of Internal Revenue.

[FR Doc. 00–31648 Filed 12–15–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC82

Special Regulations, Areas of the National Park System

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to phase out snowmobile use in Yellowstone National Park, the John D. Rockefeller, Jr., Memorial Parkway, and, with some exceptions, in Grand Teton National Park, and to prohibit snowplane use in Grand Teton National Park, by the winter of 2003–2004. We also are proposing interim measures to limit the impacts of snowmobiles before their use is prohibited. This proposal is in conjunction with the Winter Use Management Plan and FEIS written for the three NPS areas and implements provisions of the Record of Decision from that Management Plan. That Record of Decision, overall, will shift oversnow motorized use of the parks from snowmobile use to snowcoach use, to allow continued winter use of the parks while eliminating the impacts on park resources and values from snowmobile use.

DATES: Written comments will be accepted through January 17, 2001.

ADDRESSES: Comments should be addressed to: National Park Service, Ranger Activities Division, 1849 C Street, NW., Room 7408, Washington, DC 20240. Fax: (202) 208–6756. Email: WASO_Regulations@nps.gov.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, N.W., Room 7413, Washington, DC 20240. Telephone: (202) 208–4206. Fax: (202) 208–6756. Email: Kym_Hall@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

Much of the public use of these three parks in winter is snowmobile use. In the winter of 1999–2000, 76,571 visitor-days of snowmobile use occurred in Yellowstone, representing over 60 percent of all visitors, and 23,399 visitor-days of snowmobile use occurred in the Parkway. Less snowmobile use occurred in Grand Teton, with 1,329 visitor-days of snowmobile use on the Continental Divide Snowmobile Trail that traverses the park and 2,867 visitor-days of snowmobile use on other park trails. On Jackson Lake in Grand Teton, there also were 1,091 visitor-days of the use of snowplanes—ski-mounted motor vehicles, driven across the ice by rear-mounted propellers. In Yellowstone and the Parkway, snowcoaches—larger vehicles, comparable to passenger vans (which often are converted vans)—also operate on routes open to snowmobile use. This motorized, oversnow use of the parks is a relatively recent development, with virtually no such use present in the parks in the 1970s.

In May 1997, the National Park Service was sued in U.S. District Court for the District of Columbia by The Fund for Animals, Biodiversity Legal Foundation, Predator Project, Ecology Center, and five individuals for allegedly failing to comply with the National Park Service's Organic Act (16 U.S.C. 1–4), the National Environmental Policy Act of 1969 (NEPA), the Endangered Species Act (ESA), and other federal laws and regulations in connection with winter use in these three contiguous parks. The NPS subsequently settled the suit, in part, by an agreement to prepare a winter use plan for all three parks, based on a comprehensive environmental impact statement (EIS).

Nine cooperating agencies joined the NPS in the preparation of the EIS. They are the U.S. Forest Service; the States of Idaho, Montana, and Wyoming; and the Counties of Gallatin and Park, Montana, Park and Teton, Wyoming, and Fremont, Idaho. To develop the scope of the winter use plan, scoping brochures were mailed to about 6,000 interested parties, 12 public meetings were held in the Greater Yellowstone Area, 4 public meetings were held in other parts of the country, and about 2,000 public comments were considered. In July 1999, the NPS published a draft EIS for public comment. Five public hearings were held in the region, and one in Colorado. About 46,500 public comments were received by the December 1999 deadline.

Separately, in January 1999, the NPS received a petition for rulemaking from the Bluewater Network and some 60 other conservation organizations, requesting that we begin immediate rulemaking to prohibit snowmobile use within the 44 units of the national park system in which it is allowed, including the three parks involved in this rulemaking. That petition prompted an agency review of our policies and practices on snowmobile use in parks. As part of that review, the NPS conducted a survey of parks in which snowmobile use is currently allowed. The survey gathered information from each relevant park on such matters as the basis on which a decision was originally made to allow snowmobile use in that park; how extensive that use is; what is known about the impacts of that use on park resources and values, including the enjoyment of other visitors; and what monitoring, if any, is conducted to determine those impacts. Additionally, the NPS also held a two-day snowmobile ''summit'' in February 2000 at which officials from the Department of the Interior (including the Office of the Solicitor) and the National Park Service (including all but one of the 44 affected parks) reviewed the snowmobile use now occurring in the national park system. We learned through the survey and the snowmobile ''summit'' that much of the snowmobile use that occurs in the national park system is not consistent with management objectives or the protection of park resources and values, and is not in compliance with the requirements of the two executive orders and the NPS general regulations on snowmobile use.

In April 2000, the Department and NPS publicly announced an intention to propose changes in the snowmobile use allowed in parks, including the three parks involved here, to protect park resources and values, to meet management objectives for the parks,