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Commissioner of Customs.

Approved: December 20, 2000.

Timothy E. Skud,
Acting Deputy Assistant Secretary of the
Treasury

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8918]

RIN 1545-AY11

Removal of Federal Reserve Banks as Federal Depositaries

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations

SUMMARY: This document contains temporary regulations relating to the deposit of Federal taxes pursuant to section 6302 of the Internal Revenue Code. The regulations remove Federal Reserve banks as authorized depositaries for Federal tax deposits. The regulations affect taxpayers that make Federal tax deposits using paper Federal Tax Deposit (FTD) coupons (Form 8109) at Federal Reserve banks.

DATES: *Effective Date:* These regulations are effective December 26, 2000.

Applicability Date: These regulations apply to deposits made after December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Brinton T. Warren (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to the Procedure and Administration Regulations (26 CFR part 301) relating to Federal tax deposits under section 6302(c) of the Internal Revenue Code (Code). Section 6302(c) provides that the Secretary may authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions that are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as the Secretary may prescribe. Pursuant to this authority, various regulations provide that Federal Reserve banks, as well as other authorized financial

institutions, may receive certain Federal tax deposits.

In cooperation with the Treasury Department's Financial Management Service (FMS), the Federal Reserve System has been streamlining its Treasury Tax and Loan (TT&L) Operation to respond to the fact that the overwhelming majority of Federal Tax Deposits (FTDs) are now received electronically. The widespread adoption of electronic deposits by taxpayers is an important aspect of improving the efficiency, reliability, and cost-effectiveness of the Treasury Department's financial management. In general, compared to the universe of all tax deposits, the percentage of FTDs made with paper coupons has significantly declined. FTDs made with paper coupons at Federal Reserve banks now constitute only a tiny percentage of all tax deposits. For example, in Fiscal Year 1999, of the approximately 100 million Federal tax deposits, made by paper coupon and electronically, only about 270,000, or less than one half of one percent, were paper coupons presented at Federal Reserve banks. Additionally, the number of paper coupons presented at Federal Reserve banks has declined over twenty-five percent since 1997.

The Treasury Department has developed an array of other deposit options that are more convenient for taxpayers to use, and more economical to process, than deposits with Federal Reserve banks. For example, taxpayers may use their touch tone telephone or personal computer to make deposits 24 hours a day through the Electronic Federal Tax Payment System (EFTPS). For those taxpayers who still prefer paper coupons over electronic deposits, there are now more than 10,000 financial institutions nationwide that are designated as TT&L depositaries where taxpayers may make FTD deposits using paper coupons.

In response to the declining number of deposits being made with paper coupons at Federal Reserve banks, the Federal Reserve Bank of St. Louis was selected, effective May 1, 2000, to serve as the only Federal Reserve bank accepting FTDs. Even after this consolidation, however, it is no longer cost-effective for the Federal Reserve bank in St. Louis to process the small number of paper coupons it receives annually. Accordingly, these temporary regulations remove all Federal Reserve banks as depositaries for Federal taxes. To mitigate any difficulties for those taxpayers who still do not wish to use the deposit alternatives discussed above, the Treasury Department has authorized a financial agent to receive

and process FTD payments through the mail, thereby maintaining a mail-in alternative for taxpayers who do not have an account with an authorized financial institution and who do not wish to use EFTPS. The address for this mail-in alternative is Financial Agent, Federal Tax Deposit Processing, P.O. Box 970030, St. Louis, Missouri, 63197. The IRS is also issuing proposed regulations that remove Federal Reserve banks as depositaries of Federal taxes. See the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 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 the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Brinton T. Warren of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). 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.

Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

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

Par. 2. Section 301.6302-1T is added to read as follows:

§ 301.6302-1T Use of Federal Reserve banks after December 31, 2000

Federal Reserve banks are not authorized depositories for Federal tax deposits made after December 31, 2000.

Dated: December 6, 2000.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 6, 2000.

Jonathan Talisman,

Acting Assistant Secretary for Tax Policy.

[FR Doc. 00-32567 Filed 12-22-00; 8:45 am]

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DEPARTMENT OF DEFENSE**Department of the Army****32 CFR Part 668****Report On Use of Employees of Non-Federal Entities to Provide Services to the Department of the Army**

AGENCY: Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs), and Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology), Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This final rule implements Section 343 of the FY 2000 Department of Defense Authorization Act, Section 129a and Section 2461(g) of title 10 within the Department of the Army by means of a reporting requirement included in certain contract actions described in the rule.

EFFECTIVE DATE: December 26, 2000.

ADDRESSES: Office of the Assistant Secretary of the Army for Manpower & Reserve Affairs (ASA (M&RA)), Attention SAMR-FMMR, Rm. 2A672, Washington, DC 20310, or contact the following persons by e-mail or phone as indicated below.

FOR FURTHER INFORMATION CONTACT: Dr. John Anderson, SAMR-FMMR, Phone 703-614-8247, e-mail: John.Anderson@hqda.army.mil or John R. Conklin, SAAL-ZPS, e-mail: John.Conklin@sarda.army.mil

SUPPLEMENTARY INFORMATION:**a. Background**

(1) The Department of the Army previously announced an interim rule to establish basic contractor-reporting requirements to identify the number and value of direct, and associated indirect, labor work year equivalents for contracted services in support of the Army. The interim rule, effective on the date of publication, was published in

the **Federal Register** (65 FR 13906) dated Wednesday, March 15, 2000. Comments and responses pertaining to the new reporting requirements are provided in b. below.

(2) Major changes to the Interim Rule are outlined herein and further explained in "b." below. In response to numerous administrative questions and requests for clarification from both public and private sector sources, Part 668 has been completely reorganized and rewritten for better readability, clarity and completeness; and to allow easier implementation by the Army contracting community and Army contractors. To further assist with this objective, the Final Rule will be cited and further implemented as appropriate in the Army Federal Acquisition Regulation Supplement.

(3) The substantive changes resulting from the Public Comment process are as follows:

(a) Section 668.1(b)(1)(i) excepting FAR Part 12 contract actions from inclusion of the reporting requirement, and mandatory reporting, is deleted in its entirety. With the effective date of this Final Rule, the reporting requirement will be included in all contracts specified in the amended § 668.1(c)(3) (including those entered into using Part 12 procedures, unless otherwise exempt). All affected contractors shall be requested to provide reportable data from October 1, 1999 (or later start of contract date), in order to insure complete, accurate and useful information to Congress and Army planners.

(b) Section 668(b)(1)(iii) is deleted, and will be moved to § 668.2(e).

(c) Section 668.2 is renamed "Contract Reporting Requirements." Section 668.2(a) is changed (in § 668.2(d)) by amending "relevant composite indirect labor rate" to read "relevant annualized average or composite indirect labor rates" in order to clarify that rates reported (for hours and dollar value) do not have to be adjusted for every reporting period; and will further clarify that actual estimated hours and dollars may always be reported (in lieu of rates) for indirect labor related to the direct labor reported. To this end, the ASA (M&RA) secure website (<https://contractorpower.us.army.mil>) will be amended to add appropriate fields and clarifications.

(d) A new § 668.2(g) is added to clarify that prime contractors may use their discretion to determine whether sub-contractors will report their information directly to the data collection web site, or to the prime

contractors for validation and submission to the collection web site.

(e) The current paragraph (c), titled "Reporting format" is redesignated as paragraph (i) and corresponding changes are made to the list of required data elements;

(f) The secure Army website and its URL address is now highlighted in Section 668.2(a) and (i). The website is the principal source of detailed information on the reporting process, Help Desk functions, and other information and assistance.

b. Comments and Responses

Comments and responses are provided as follows:

Comment: Contractor recommended that the rule clarify that it is permissible for a contractor to use an algorithm of the overall relation of total indirect labor hours to the total direct and indirect hours on an annualized basis for the purposes of reporting the composite indirect rate.

Response: The rule will be clarified to reflect the permissibility for contractors to report using an annualized average composite indirect rate for estimating indirect man-hours rather than a rate developed for the specific reporting period.

Comment: Public sector union requested clarification on the meaning of the "composite indirect rate" for estimating value.

Response: The composite indirect rate for estimating value (as opposed to hours) is intended to capture the labor-related charges included in the indirect pools. This rate, when multiplied against the value of direct labor hours is intended to provide an estimate of all of the compensation related charges associated with the reportable services under the contract action during the reporting period (*i.e.*, both direct and indirect labor charges). These compensation charges include: salaries and wages; directors' fees; bonuses (including stock); incentive awards; employee stock options; stock appreciation rights; employee insurance; fringe benefits (*e.g.*, vacation, sick leave, holidays, military leave, supplemental unemployment benefit plans); contributions to pension plans (defined benefit, defined contribution); other post-retirement benefits, annuity, and employee incentive compensation and deferred compensation plans; early retirement plans; off-site pay; incentive pay; hardship pay; severance pay; and COLA differential. Contractors may also report estimated total hours and dollars for (related) indirect labor (as opposed to providing average composite rates). Either method chosen should be