

Example. (i) A, B, and C form equal partnership PRS. A contributes \$50,000 and Asset 1, nondepreciable capital gain property with a fair market value of \$50,000 and an adjusted tax basis of \$25,000. B and C each contributes \$100,000. PRS uses the cash to purchase Assets 2, 3, 4, 5, and 6. Assets 2 and 3 are nondepreciable capital assets, and Assets 4, 5, and 6 are inventory that has not appreciated substantially in value within the meaning of section 751(b)(3). Assets 4, 5, and 6 are the only assets held by the partnership that are subject to section 751. The partnership has an election in effect under section 754. After seven years, the adjusted basis and fair market value of PRS's assets are as follows:

* * * * *

(d) *Required statements.* See § 1.743-1(k)(2) for provisions requiring the transferee of a partnership interest to provide information to the partnership relating to the transfer of an interest in the partnership. See § 1.743-1(k)(1) for a provision requiring the partnership to attach a statement to the partnership return showing the computation of a basis adjustment under section 743(b) and the partnership properties to which the adjustment is allocated under section 755. See § 1.732-1(d)(3) for a provision requiring a transferee partner to attach a statement to its return showing the computation of a basis adjustment under section 732(d) and the partnership properties to which the adjustment is allocated under section 755. See § 1.732-1(d)(5) for a provision requiring the partnership to provide information to a transferee partner reporting a basis adjustment under section 732(d).

(e) *Effective Date—(1) Generally.* Except as provided in paragraphs (b)(5) and (e)(2) of this section, this section applies to transfers of partnership interests and distributions of property from a partnership that occur on or after December 15, 1999.

(2) *Special rules.* Paragraphs (a) and (b)(3)(iii) of this section apply to transfers of partnership interests and distributions of property from a partnership that occur on or after June 9, 2003.

§ 1.755-2T [Removed]

■ **Par. 3.** Section 1.755-2T is removed.

■ **Par. 4.** In § 1.1060-1, paragraph (e)(2) is revised to read as follows:

§ 1.1060-1 Special allocation rules for certain asset acquisitions.

* * * * *

(e) * * *

(2) *Transfers of interests in partnerships.* For reporting requirements relating to the transfer of a partnership interest, see § 1.755-1(d).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 5.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

■ **Par. 6.** In § 602.101, paragraph (b), the entry for “1.755-2T” is removed.

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: May 22, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03-14204 Filed 6-6-03; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 571

[BOP-1097-F]

RIN 1120-AA93

Release Gratuities, Transportation, and Clothing: Aliens

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the Bureau of Prisons (Bureau) regulations on release gratuities, transportation, and clothing to limit the release gratuity available to aliens. Only aliens released to immigration authorities for release or transfer to a community corrections center are eligible for a gratuity of up to \$10. Aliens released for deportation, exclusion, or removal, or aliens detained or serving 60 days or less in a contract facility will not receive any release gratuity. We intend this rule to reduce costs by providing the gratuity only to those aliens whom the Bureau determines to be in need.

DATES: This rule is effective on July 9, 2003.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT:

Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202)307-2105.

SUPPLEMENTARY INFORMATION: The Bureau published a proposed rule amending its regulations on release gratuities, transportation, and clothing (28 CFR 571, subpart C) on October 4,

1999 (64 FR 53872). The previous regulations on this subject were published in the **Federal Register** on May 21, 1991 (56 FR 23480) and were amended on September 10, 1996 (61 FR 47795).

Change to the Previous Rule

Previous provisions on release gratuities in section 571.21(e) specified that with the exception of aliens serving 60 days or less in contract facilities, each alien released to immigration authorities is to have \$10 cash.

Under this final rule, aliens released for the purpose of deportation, exclusion, or removal will not receive a \$10 gratuity. Because these inmates are to become the responsibility of the Bureau of Citizenship and Immigration Services (BCIS), it is not appropriate for the Bureau to provide a \$10 gratuity.

We estimate that approximately 8.5% of the total inmate population of the Federal Bureau of Prisons will be affected by this rule.

Public Comment and Bureau Response

We received five comments on the proposed rule. One commenter supported the rule, indicating that it would reduce cost to the Bureau.

Two commenters expressed concern that when aliens are released to the Immigration and Naturalization Service (INS, now the Bureau of Citizenship and Immigration Services [BCIS]), they may not necessarily be released for the purposes of exclusion, deportation or removal, and therefore still need a \$10 gratuity. One commenter was concerned that aliens may be “wrongly classified” by the Bureau as being excludable, deportable, or removable, a decision which, the commenter said, cannot be made without “a hearing before an Immigration judge.”

The Bureau's policies regarding release of aliens to the INS (BCIS) for exclusion, deportation, or removal can be found in the Bureau's Program Statement on the Institution Hearing Program (PS 5111.01), accessible on the internet at www.bop.gov or through the Freedom of Information Act process. This describes the process for identifying aliens for release to the INS (BCIS) for purposes of exclusion, deportation or removal. The Bureau, INS (BCIS) and the Executive Office for Immigration Review (EOIR) jointly developed the Institution Hearing Program (IHP) to ensure that deportation proceedings begin as quickly as possible after an alien inmate's conviction and finish before the alien inmate's release date.

IHP hearing sites are specific institutions where alien inmates

participate in immigration hearings conducted by the INS (BCIS) and EOIR. After INS (BCIS) and EOIR make a decision to exclude, deport or remove an alien, the alien is transferred to an IHP release site close to deportation locations, where alien inmates remain until their sentences expire. The INS (BCIS) and EOIR, not the Bureau, make the decision regarding an alien's status. Therefore, there is no way that the Bureau can "wrongly classify" an alien, as the commenter feared.

One commenter cited the preamble to the original rule, published in 1979 (44 FR 38236), which stated that the purpose of the gratuity is to ensure that the alien has money to care for him-/herself in the community until he/she receives an income. The commenter suggested that eliminating this gratuity would be contrary to the purpose of providing the funds—for transportation and communicating with family or legal counsel.

Since aliens who had received the \$10 gratuity were not released to the community, but instead to INS (BCIS), they would have no need of support pending their ability to earn an income. Instead, they are released into the custody of INS (BCIS), who is responsible for transporting them, and they can access INS (BCIS) provisions for communicating with family members and legal counsel.

One commenter expressed concern that this rule would not actually reduce cost to the Bureau. According to our recent statistics, in December of 1999, we released approximately 958 INS (BCIS) detainees. Therefore, extrapolating this statistic, we estimate that approximately 11,500 aliens receive this gratuity annually. Therefore, this rule would save the Bureau approximately \$115,000 every year. We consider this a significant cost savings for the Bureau.

Finally, we received a letter which we construed to be a comment on the proposed rule, as it raised the subject of release gratuities. However, we found that the commenter, an inmate, did not address the issues raised by the proposed rule, but instead questioned the Bureau's application of 18 U.S.C. 4281, instead of 18 U.S.C. 3624(d), to his situation. Although this comment is not relevant to this final rule, we will briefly address it here.

18 U.S.C. 4281, which was repealed in 1984 (see Pub.L. 98-473, Title II, § 218(a)(7), October 12, 1984, 98 Stat. 2027), allowed only a \$100 gratuity to prisoners upon release. Its replacement, 18 U.S.C. 3624(d), allows "an amount of money, not more than \$500" in the Director's discretion. The inmate

commented that, on his release, he should receive the \$500 described in the latter statute instead of the \$100 described in the former statute.

Section 235 of Public Law 98-473 stated that 18 U.S.C. 3624 and other provisions created by that Public Law would "take effect on the first day of the first calendar month beginning 36 months after the date of enactment [October 12, 1984] and [would] apply only to offenses committed after the taking effect of this chapter." The effective date of 18 U.S.C. 3624 is, therefore, November 1, 1987. Because this commenter's offense occurred before November 1, 1987, 18 U.S.C. 3624(d) does not entitle him to a \$500 gratuity upon release.

We publish the proposed rule, without change, as a final rule. You may send further comments on this rule by writing to the address noted above. Although we will not formally respond to further comments by publication in the **Federal Register**, we will consider them.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review", section 1(b), Principles of Regulation. The Director of the Bureau of Prisons has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons,

and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. It will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 571

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

■ Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we amend part 551 in subchapter C of 28 CFR, chapter V as set forth below.

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 571—RELEASE FROM CUSTODY

■ 1. Revise the authority citation for 28 CFR part 571 to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3565; 3568-3569 (Repealed in part as to offenses committed on or after November 1, 1987), 3582, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161-4166 and 4201-4218 (Repealed as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984, as to offenses committed after that date), 5031-5042; 28 U.S.C. 509, 510; U.S. Const., Art. II, Sec. 2; 28 CFR 1.1-1.10.

■ 2. In § 571.21, revise paragraph (e) to read as follows:

§ 571.21 Procedures.

* * * * *

(e) Staff will ensure that each alien released to immigration authorities for

the purpose of release or transfer to a community corrections center has \$10 cash. This provision does not apply to aliens being released for the purpose of deportation, exclusion, or removal, or to aliens detained or serving 60 days or less in contract facilities.

[FR Doc. 03-14379 Filed 6-6-03; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 571

[BOP-1108-I]

RIN 1120-AB21

Clarifying of Release Gratuities— Release Transportation Regulations to More Closely Conform to Statutory Provisions

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim final rule.

SUMMARY: This document makes a minor clarifying change to the Bureau of Prisons (Bureau) regulations on release gratuities, transportation, and clothing. The amendment will clarify that the Bureau is authorized, upon an inmate's release, to provide transportation to an inmate's place of conviction or his/her legal residence only within the United States, under 18 U.S.C. 3624(d)(3). We intend this clarification to remove the misunderstanding that the Bureau is authorized to provide transportation outside the United States.

DATES: This rule is effective on June 9, 2003. Please send comments on this rulemaking by August 8, 2003.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT:

Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202)307-2105.

SUPPLEMENTARY INFORMATION:

What Change Are We Making?

28 CFR 571.22, the current rule on release gratuities, states in paragraph (c) that "[t]ransportation will be provided to an inmate's place of conviction, his legal residence within the United States, or to other such place as authorized and approved."

However, 18 U.S.C. 3624(d)(3) allows only for "transportation to the place of the prisoner's conviction, to the prisoner's bona fide residence within the United States, or to such other place

within the United States as may be authorized by the Director."

This clarification will revise the rule only to the extent that our rule appears to conflict with the Bureau's statutory authority, and to correct any misunderstanding that we may transport inmates outside the United States upon their release.

The new rule text of 28 CFR 571.22(c) correctly states that "[t]ransportation will be provided to an inmate's place of conviction or legal residence within the United States or its territories."

Why Are We Making This Change as an Interim Final Rule?

The Administrative Procedure Act (5 U.S.C. 553) allows exceptions to notice-and-comment rulemaking for "(A) interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice; or (B) when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

This rulemaking is exempt from normal notice-and-comment procedures because it is a minor clarification of currently existing Bureau policy. We are modifying our rule to directly mirror the language of the statute authorizing us to transport inmates, upon their release, only to areas within the United States.

Because this change is interpretive in nature, reflects current Bureau policy, and is a minor clarification of current agency procedure and practice, we find that normal notice-and-comment rulemaking is unnecessary. We are, however, allowing the public to comment on this rule change by publishing it as an interim final rule.

The Bureau notes that it published a notice of proposed rulemaking to amend its regulations on release gratuities with respect to deportable aliens (28 CFR 571, subpart C) on October 4, 1999 (64 FR 53872) (BOP 1097).

Although this interim rule (BOP 1108I) amends regulations in the same part of the Code of Federal Regulations as were proposed to be amended by BOP 1097, it makes no changes to what was proposed by BOP 1097.

Where to Send Comments

You can send written comments on this rule to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

We will consider comments received during the comment period before taking final action. We will try to consider comments received after the end of the comment period. In light of

comments received, we may change the rule.

We do not plan to have oral hearings on this rule. All the comments received remain on file for public inspection at the above address.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review", section 1(b), Principles of Regulation. The Director of the Bureau of Prisons has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or