

the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 338. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations contains a full explanation of the reasons underlying the issues of the proposed regulations.

### 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. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. The number of corporations affected is limited because section 338(h)(10) elections are made only in extraordinary circumstances, the sale of a business. Furthermore, these regulations only affect transactions in which the stock of the acquiring corporation is a significant part of the consideration. Accordingly, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight copies) that are submitted timely to the IRS. Alternatively, taxpayers may submit comments electronically via the Internet directly to the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs). 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 may be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

### Drafting Information

The principal authors of these regulations are Daniel Heins and Mary Goode, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

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

#### PART 1—INCOME TAXES

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 1.338(h)(10)–1 is also issued under 26 U.S.C. 337(d), 338 and 1502.

2. § 1.338(h)(10)–1 is amended as follows:

1. Paragraph (c)(2) is revised
2. Paragraph (e) *Examples 11* through *14* are added.

The revision and additions read as follows:

#### § 1.338(h)(10)–1 Deemed asset sale and liquidation.

\* \* \* \* \*

(c) \* \* \*

(2) [The text of the proposed amendment to § 1.338(h)(10)–1(c)(2) is the same as the text of § 1.338(h)(10)–1T(c)(2) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(e) \* \* \*

*Examples 11* through *14* [The text of the proposed amendments to § 1.338(h)(10)–1(e) *Examples 11* through *14* is the same as the text of § 1.338(h)(10)–1T(e) *Examples 11* through *14* published elsewhere in the **Federal Register**.]

**Robert E. Wenzel,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 03–17227 Filed 7–8–03; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG–142538–02]

RIN 1545–BB21

### Authority To Charge Fees for Furnishing Copies of Exempt Organizations' Material Open to Public Inspection

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to fees for copies of exempt organizations' material available to the public under section 6104 of the Internal Revenue Code (Code). The text of the temporary regulations also serves as the text of the proposed regulations.

**DATES:** Written and electronic comments and requests for a public hearing must be received by October 7, 2003.

**ADDRESSES:** Send submissions to CC:PA:RU (REG–142538–02), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:PA:RU (REG–142538–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at: <http://www.irs.gov/regs>.

**FOR FURTHER INFORMATION CONTACT:** Sarah Tate, 202–622–4590 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

#### Background

The IRS' obligation under section 6104 of the Code to make certain information open to public inspection is satisfied by making the information available to the public at such times and places as the IRS shall reasonably prescribe. The existing regulations provide that copies of the information that the IRS must make open to public inspection shall be available to members of the public upon written request. Currently, § 301.6104(a)–6(d) provides that the IRS will charge a “fee” for copies of material available to the public under section 6104(a)(1) of the Code, including approved applications for recognition of tax-exempt status and supporting papers. Currently, § 301.6104(b)–1(d)(4) provides that the Commissioner of Internal Revenue (Commissioner) may prescribe a “reasonable fee” for copies of material available to the public under section 6104(b) of the Code, including certain information furnished on exempt organization annual information returns.

This notice of proposed rulemaking amends the existing regulations to clarify that any fee assessed by the IRS in the exercise of its discretion, whether in the case of requests for photocopies,

or for special media (e.g., computer printouts, transcripts, CD-ROM reproductions), shall be no more than the fee that would be assessed under the fee schedule promulgated pursuant to section (a)(4)(A)(i) of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a)(4)(A)(i), by the Commissioner from time to time (the "IRS' FOIA fee schedule"). For paper copies, the IRS' FOIA fee schedule, at 26 CFR § 601.702(f)(3)(iv), grants the first 100 pages free of charge to requesters other than commercial use requesters, but otherwise sets a per-page copying fee applicable to all requesters. The IRS' FOIA fee schedule, at 26 CFR § 601.702(f)(5), authorizes fees based on the actual cost of non-paper products, such as computer disks.

Currently, § 301.6104(d)-1(d)(3)(i) provides that an exempt organization required to furnish copies to a requester may charge a copying fee corresponding to that which the IRS may charge. This notice of proposed rulemaking amends the existing regulations to make clear that an exempt organization may charge the applicable per-page copying fee under the IRS' FOIA fee schedule. An exempt organization need not provide the first 100 pages of copies free of charge to requesters other than commercial use requesters as the IRS does.

Through December 18, 2002, the IRS' FOIA fee schedule set fees of \$1.00 for the first page and \$.15 for each subsequent page of exempt organization returns and related documents. 26 CFR § 601.702(f)(5)(iv)(B). Effective December 19, 2002, the fees are to be established by the Commissioner from time to time. 26 CFR § 601.702(f) as updated at 67 FR 69673, 69682. Currently, the Commissioner has established fees of \$.20 per page, up to 8½ by 14 inches, made by photocopy or similar process, and actual cost for other types of duplication. 31 CFR § 1.7(g)(1)(i), (ii) and (iii).

### 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 has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose 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 Code, this notice of proposed rulemaking will be submitted to the Chief Counsel of the

Small Business Administration for comment on its impact on small businesses.

### Comments and Request for a Public Hearing

Before these proposed regulations are adopted as final regulations, the IRS will consider any electronic or written comments (a signed original and eight (8) copies) that the IRS timely receives. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

### Drafting Information

The principal author of this notice of proposed rulemaking is Sarah Tate, Office of the Associate Chief Counsel (Procedure & Administration), Disclosure & Privacy Law Division.

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

#### PART 301—PROCEDURE AND ADMINISTRATION

1. The authority citation for part 301 is amended by adding entries in numerical order to read as follows:

- Authority:** 26 U.S.C. 7805 \* \* \*  
 Section 301.6104(a)-6(d) is also issued under 5 U.S.C. 552  
 Section 301.6104(b)-1(d)(4) is also issued under 5 U.S.C. 552  
 Section 301.6104(d)-1(d)(3)(i) is also issued under 5 U.S.C. 552 \* \* \*

2. In § 301.6104(a)-6(d), the fourth sentence is revised to read as follows:

[The text of this proposed revision is the same as the text of § 301.6104(a)-6(d)-T published elsewhere in this issue of the **Federal Register**].

3. In § 301.6104(b)-1(d)(4), the last sentence is revised to read as follows:

[The text of this proposed revision is the same as the text of § 301.6104(b)-1(d)(4)-T published elsewhere in this issue of the **Federal Register**].

4. In § 301.6104(d)-1(d)(3)(i), the second sentence is revised to read as follows:

[The text of this proposed revision is the same as the text of § 301.6104(d)-1(d)(3)(i)-T published elsewhere in this issue of the **Federal Register**].

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

[FR Doc. 03-17228 Filed 7-8-03; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG-140930-02]

RIN 1545-BB15

### Testimony or Production of Records in a Court or Other Proceeding

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed amendments to the existing regulation that establishes the procedures to be followed by IRS officers and employees upon receipt of a request or demand for disclosure of IRS records or information. The purpose of the proposed amendments is to provide specific instructions and to clarify when the existing regulation does not apply because more specific procedures take precedence. The proposed amendments extend the application of the regulation to former IRS officers and employees as well as to persons who are or were under contract to the IRS. The proposed amendments would affect current and former IRS officers, employees and contractors and persons who make requests or demands for disclosure.

**DATES:** Written or electronic comments and requests for a public hearing must be received by October 7, 2003.

**ADDRESSES:** Send submissions to: CC:PA:RU (REG-140930-02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:RU (REG-140930-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to IRS Internet site at: [www.irs.gov/regs](http://www.irs.gov/regs).

**FOR FURTHER INFORMATION CONTACT:** David Fish or J. Suzanne Sones, (202) 622-4590 (not a toll free number).

#### SUPPLEMENTARY INFORMATION:

#### Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the