DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9174]

RIN 1545–BD75

Substantial Understatement of Income Tax Liability

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document removes regulations relating to the addition to tax in the case of a substantial understatement of income tax liability and corrects an obsolete cross reference. The Internal Revenue Code (Code) provision imposing the addition to tax and cited in the cross reference was repealed in 1989. The changes made by this document will not affect taxpayers because the addition to tax does not apply to returns with a due date after December 31, 1989 (determined without regard to extensions).

DATES: The changes made by this document are effective January 5, 2005.

FOR FURTHER INFORMATION CONTACT: Audra M. Dineen, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Section 6661 of the Code, as in effect before its repeal in 1989, imposed an addition to tax equal to 25 percent of the amount of the underpayment of tax attributable to any substantial understatement of income tax liability for a taxable year. Sections 1.6661–1 through 1.6661–6 of the Income Tax Regulations (26 CFR part 1) provided rules for determining whether an addition to tax should be imposed and for computing the amount of any such addition.

The Omnibus Budget Reconciliation Act of 1989, Public Law 101–239 (103 Stat. 2106), repealed section 6661 effective for tax returns due after December 31, 1989 (determined without regard to extensions) and substituted, in section 6662, an accuracy-related penalty applicable to those returns. The repeal of section 6661 has rendered §§ 1.6661–1 through 1.6661–6 obsolete. This Treasury decision removes those provisions and corrects an obsolete cross reference to section 6661 in the regulations under section 448 (relating to the limitation on the use of the cash method of accounting).

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. In addition, 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 document has been submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of this document is Audra M. Dineen of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division).

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** In § 1.448–1T, paragraph (b)(1)(iii) is revised to read as follows:

§ 1.448–1T Limitation on the use of the cash receipts and disbursements method of accounting (temporary).

* * * * *

(b) * * *

(1) * * *

(iii) Tax shelter within the meaning of section 6662(d)(2)(C).

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§§ 1.6661–1 through 1.6661–6 [Removed]

■ **Par. 3.** Sections 1.6661–1 through 1.6661–6 are removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 4.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 5.** In § 602.101, paragraph (b) is amended by removing the entries for ''1.6661–3'' and ''1.6661–4'' from the table.

Approved: December 9, 2004.

Mark Matthews,

Deputy Commissioner for Services and Enforcement.

Gregory Jenner,

Acting Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9173]

RIN 1545–BB22

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

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: These final regulations adopt as final without change the temporary regulations published in the **Federal Register** on July 9, 2003, which amended the then-existing regulations regarding fees for copies of exempt organizations' material the IRS must make available to the public under section 6104 of the Internal Revenue Code (Code). These final regulations also adopt as final without change the conforming amendment included in the temporary regulations concerning the fees that an exempt organization may charge for furnishing copies of such material when required to do so.

DATES: These final regulations are effective January 5, 2005.

FOR FURTHER INFORMATION CONTACT: Sarah Tate, 202–622–4560 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published at 68 FR 40768, July 9, 2003, amended the then-existing regulations to make clear that any fee assessed by the IRS for