

*Unfunded Mandates Reform Act*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. This regulation provides contact information to be used by all Departments and Agencies and the State of Alaska for deposit information.

(b) This rule will not produce a Federal mandate of \$100 million or greater in any year, *i.e.*, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The deposit of proceeds for a one year period do not add up to \$100 million.

*Takings (Executive Order 12630)*

This rule does not have significant takings implications. A takings implication assessment is not required. The purpose of this regulation is to provide contact information to be used by all Departments and Agencies and the State of Alaska for deposit information.

*Federalism (Executive Order 13132)*

This rule does not have significant Federalism effects. A Federalism assessment is not required. This regulation does not contain federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999). The proposed regulations do not change any aspect of Federal-State relations already provided for in the current version of the rule.

*Civil Justice Reform (Executive Order 12988)*

The Office of the Solicitor has determined that the rule does not unduly burden the judicial system and does not meet the requirements of sections 3(a) and 3(b)(2) of the Order. The proposed regulation does not involve court action, nor does it provide significant use of enforcement or judicial action.

*Paperwork Reduction Act*

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

*National Environmental Policy Act*

The Office has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement is not required. This regulation provides contact information to be used by all Departments and Agencies and the State of Alaska for deposit information.

*Government-to-Government Relationship With Tribes*

In accordance with the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments,” Executive Order 13175, and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. The purpose of this regulation is to provide contact information to be used by all Departments and Agencies and the State of Alaska for deposit information. The regulation pertains to funds that may belong to specific Native groups. No other Indian tribes or Native groups are affected by this regulation.

*Effects on the Nation’s Energy Supply*

In accordance with Executive Order 13211, this regulation does not have a significant effect on the nation’s energy supply, distribution, or use. This regulation provides contact information to be used by all Departments and Agencies and the State of Alaska for deposit information. There are no energy issues involved.

**List of Subjects in 25 CFR Part 124**

Alaska Natives, Indians, Trust.

Dated: July 11, 2005.

**James E. Cason,**

*Associate Deputy Secretary, Department of the Interior.*

■ For the reasons stated in the preamble, part 124 of title 25 of the Code of Federal Regulations is amended as set forth below.

**PART 124—DEPOSITS OF PROCEEDS FROM LANDS WITHDRAWN FOR NATIVE SELECTION**

Sec.

124.1 What is the purpose of this part?

124.2 Who should an agency or the State of Alaska contact for information?

**Authority:** 43 U.S.C. 1601 *et seq.*; Pub. L. 92–203, 85 Stat. 688; 25 U.S.C. 4001 *et seq.*; Pub. L. 103–402, 108 Stat. 4239.

**§ 124.1 What is the purpose of this part?**

This part provides contact information on depositing proceeds from contracts, leases, permits, rights-of-way, or easements pertaining to lands withdrawn for Native selection under the Alaska Native Claims Settlement Act. All Federal agencies and the State of Alaska must use this part when making deposits of this type.

**§ 124.2 Who should an agency or the State of Alaska contact for information?**

When a Federal agency or the State of Alaska receives proceeds covered by this part, it must deposit the proceeds to the credit of the United States Department of the Interior, Office of the Special Trustee for American Indians. For further information including depositing instructions, contact: Office of the Special Trustee for American Indians, Attention: Division of Trust Funds Accounting, 4400 Masthead Street NE., Albuquerque, New Mexico 87109.

[FR Doc. 05–13891 Filed 7–13–05; 8:45 am]

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 9211]

RIN 1545–AP30; RIN 1545–BD47

**Allocation and Apportionment of Deductions for Charitable Contributions**

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the allocation and apportionment of the deduction for charitable contributions allowed under sections 170, 873(b)(2), and 882(c)(1)(B) and the deduction for charitable contributions allowed under an income tax treaty. These regulations apportion the deduction for charitable contributions on the basis of income from sources within the United States. These regulations affect individuals and corporations that make contributions to charitable organizations and that have foreign source income and calculate their foreign tax credit limitations under section 904.

**DATES:** *Effective Date:* These regulations are effective July 28, 2004, except § 1.861–8(e)(12)(ii), which is effective July 14, 2005.

**Applicability Dates:** For dates of applicability, see §§ 1.861–8(e)(12)(iv) and 1.861–14(e)(6)(ii). The regulations generally apply to charitable contributions made on or after July 28, 2004, although taxpayers generally may choose to apply these regulations to contributions made before July 28, 2004, but during a taxable year ending on or after July 28, 2004. Section 1.861–8(e)(12)(ii) applies to contributions made on or after July 14, 2005, although taxpayers may choose to apply that section to contributions made before July 14, 2005, but during a taxable year ending on or after July 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** Teresa Burridge Hughes at (202) 622–3850 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document contains amendments to 26 CFR part 1. Section 1.861–8(e)(9)(iv) (the 1977 regulations) provided that deductions for charitable contributions generally were not definitely related to any gross income and therefore were ratably apportioned to the statutory and residual groupings on the basis of gross income. In 1991, the Treasury Department and the IRS issued proposed regulations (the 1991 proposed regulations) that would have changed the ratable apportionment rule of the 1977 regulations to a rule that, assuming certain requirements were met, generally would have apportioned the deduction for a charitable contribution based on where the contribution would have been used. Prop. Treas. Reg. § 1.861–8(e)(12), 56 FR 10,395.

On July 28, 2004, the Treasury Department and the IRS issued temporary regulations (T.D. 9143, 2004–36 I.R.B. 442) relating to the allocation and apportionment of the deduction for charitable contributions allowed under sections 170, 873(b)(2), and 882(c)(1)(B) of the Internal Revenue Code. A notice of proposed rulemaking by cross reference to the temporary regulations (REG–208246–90, 2004–36 I.R.B. 450) was also published in the **Federal Register** on the same date. That notice of proposed rulemaking also proposed rules governing the allocation and apportionment of the deduction for charitable contributions that is allowed under a U.S. income tax treaty (rather than under sections 170, 873(b)(2), and 882(c)(1)(B)). As part of the issuance of the temporary and proposed regulations, the Treasury Department and the IRS removed the 1977 regulations and withdrew the 1991 proposed regulations. REG–208246–90; 2004–36

I.R.B. 450. Although a public hearing on the proposed regulations was originally scheduled for December 2, 2004, the public hearing was cancelled because no person requested to provide an oral statement at the hearing.

**Explanation of Provisions**

These final regulations adopt the rules of the temporary and proposed regulations, which provide that the deduction for charitable contributions allowed under sections 170, 873(b)(2), and 882(c)(1)(B) is definitely related and allocable to all of the taxpayer's gross income and is apportioned between the statutory grouping (or among the statutory groupings) of gross income and the residual grouping on the basis of the relative amounts of gross income from sources in the United States in each grouping. The corresponding temporary regulations are removed.

One written comment responding to the temporary and proposed regulations was received. The comment requested that taxpayers be permitted to elect to apply the new allocation and apportionment rules to deductions for charitable contributions previously claimed on timely filed tax returns for all open tax years. After consideration, the Treasury Department and the IRS concluded that adoption of the comment's suggestion is not appropriate. The new allocation and apportionment rules apply to charitable contributions made on or after July 28, 2004. Although the temporary regulations permit taxpayers to apply the new rules to charitable contributions made before July 28, 2004, this election applies only to charitable contributions made in a taxable year that ends on or after July 28, 2004. The purpose of this election is to allow taxpayers to apply only one set of allocation and apportionment rules to charitable contributions made in the same taxable year. To permit taxpayers to apply the new rules to all open tax years would not provide such simplification and would raise concerns regarding fairness and administration.

The regulations also adopt, as proposed, the rules with respect to deductions for charitable contributions that are allowed under an income tax treaty (rather than by sections 170, 873(b)(2), and 882(c)(1)(B)). The regulations make one change to the effective date in the proposed regulations. As with the deduction for charitable contributions allowed under sections 170, 873(b)(2), and 882(c)(1)(B), the regulations give taxpayers the opportunity to apply the new rules for all charitable contributions made during the taxable year. Accordingly, the rule

for the deduction for charitable contributions allowed under an income tax treaty is effective for taxable years beginning on or after July 14, 2005, with an election to apply the rule to contributions made before July 14, 2005, but during a taxable year that ends on or after July 14, 2005.

**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. 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, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

**Drafting Information**

The principal author of these regulations is Teresa Burridge Hughes, Office of Associate Chief Counsel (International). 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.

**Adoption of Amendments to the Regulations**

■ Accordingly, 26 CFR part 1 is amended as follows:

**PART 1—INCOME TAXES**

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

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

■ **Par. 2.** Section 1.861–8 is amended as follows:

- 1. Remove the last sentence of paragraph (a)(5)(i).
- 2. Revise paragraph (e)(12).

The revision reads as follows:

**§ 1.861–8 Computation of taxable income from sources within the United States and from other sources and activities.**

\* \* \* \* \*

(e) \* \* \* (1) \* \* \*  
(12) *Deductions for certain charitable contributions—(i) In general.* The deduction for charitable contributions

that is allowed under sections 170, 873(b)(2), and 882(c)(1)(B) is definitely related and allocable to all of the taxpayer's gross income. The deduction allocated under this paragraph (e)(12)(i) shall be apportioned between the statutory grouping (or among the statutory groupings) of gross income and the residual grouping on the basis of the relative amounts of gross income from sources in the United States in each grouping.

(ii) *Treaty provisions.* If a deduction for charitable contributions not otherwise permitted by sections 170, 873(b)(2), and 882(c)(1)(B) is allowed under a U.S. income tax treaty, and such treaty limits the amount of the deduction based on a percentage of income arising from sources within the treaty partner, the deduction is definitely related and allocable to all of the taxpayer's gross income. The deduction allocated under this paragraph (e)(12)(ii) shall be apportioned between the statutory grouping (or among the statutory groupings) of gross income and the residual grouping on the basis of the relative amounts of gross income from sources within the treaty partner within each grouping.

(iii) *Coordination with §§ 1.861-14 and 1.861-14T.* A deduction for a charitable contribution by a member of an affiliated group shall be allocated and apportioned under the rules of this section, § 1.861-14(e)(6), and § 1.861-14T(c)(1).

(iv) *Effective date.* (A) The rules of paragraphs (e)(12)(i) and (iii) of this section shall apply to charitable contributions made on or after July 28, 2004. Taxpayers may apply the provisions of paragraphs (e)(12)(i) and (iii) of this section to charitable contributions made before July 28, 2004, but during the taxable year ending on or after July 28, 2004.

(B) The rules of paragraphs (e)(12)(ii) of this section shall apply to charitable contributions made on or after July 14, 2005. Taxpayers may apply the provisions of paragraph (e)(12)(ii) of this section to charitable contributions made before July 14, 2005, but during the taxable year ending on or after July 14, 2005.

\* \* \* \* \*

■ **Par. 3.** Section 1.861-8T is amended as follows:

- 1. Remove paragraph (e)(12).
- 2. Revise the second sentence of paragraph (h) introductory text.

The revision reads as follows:

**§ 1.861-8T Computation of taxable income from sources within the United States and from other sources and activities (temporary).**

\* \* \* \* \*

(h) \* \* \* However, see §§ 1.861-8(e)(12)(iv) and 1.861-14(e)(6) for rules concerning the allocation and apportionment of deductions for charitable contributions. \* \* \*

\* \* \* \* \*

■ **Par. 4.** Section 1.861-14 is amended by removing paragraphs (d)(3) through (j), adding new paragraphs (d)(3) through (e)(5), adding paragraph (e)(6) and adding new paragraphs (f) through (j) to read as follows:

**§ 1.861-14 Special rules for allocating and apportioning certain expenses (other than interest expense) of an affiliated group of corporations.**

\* \* \* \* \*

(d)(3) through (e)(5) [Reserved]. For further guidance, see § 1.861-14T(d)(3) through (e)(5).

(e)(6) *Charitable contribution expenses—(i) In general.* A deduction for a charitable contribution by a member of an affiliated group shall be allocated and apportioned under the rules of §§ 1.861-8(e)(12) and 1.861-14T(c)(1).

(ii) *Effective date.* (A) The rules of this paragraph shall apply to charitable contributions subject to § 1.861-8(e)(12)(i) that are made on or after July 28, 2004, and, for taxpayers applying the second sentence of § 1.861-8(e)(12)(iv)(A), to charitable contributions made during the taxable year ending on or after July 28, 2004.

(B) The rules of this paragraph shall apply to charitable contributions subject to § 1.861-8(e)(12)(ii) that are made on or after July 14, 2005, and, for taxpayers applying the second sentence of § 1.861-8(e)(12)(iv)(B), to charitable contributions made during the taxable year ending on or after July 14, 2005.

(f) through (j) [Reserved]. For further guidance, see § 1.861-14T(f) through (j).

**§ 1.861-14T [AMENDED]**

■ **Par. 5.** Section 1.861-14T is amended by removing paragraph (e)(6).

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 5, 2005.

**Eric Solomon,**

*Acting Deputy Assistant Secretary of the Treasury.*

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1 and 602**

[TD 9212]

RIN 1545-A072

**Source of Compensation for Labor or Personal Services**

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

**ACTION:** Final regulation.

**SUMMARY:** This document contains final regulations that describe the proper basis for determining the source of compensation for labor or personal services performed partly within and partly without the United States. These final regulations will affect individuals who earn compensation for labor or personal services performed partly within and partly without the United States and are needed to provide appropriate guidance regarding the determination of the proper source of that compensation.

**DATES:** *Effective Date:* These regulations are effective July 14, 2005.

*Applicability Date:* For dates of applicability, see § 1.861-4(d).

**FOR FURTHER INFORMATION CONTACT:** David Bergkuist, (202) 622-3850 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545-1900.

The collections of information in these final regulations are in § 1.861-4(b)(2) (ii)(C)(1)(i), (b)(2)(ii)(D), and (b)(2)(ii)(D)(6). The information required in § 1.861-4(b)(2) (ii)(C)(1)(i) will enable an individual, where appropriate, to use an alternative basis other than that described in § 1.861-4(b)(2)(ii)(A) or (B) to determine the source of his or her compensation as an employee for labor or personal services performed partly within and partly without the United States. The information required in § 1.861-4(b)(2)(ii)(D) and (D)(6) will enable an employee to source certain fringe benefits on a geographical basis. The collections of information will, likewise, allow the IRS to verify these determinations.

An agency may not conduct or sponsor, and a person is not required to