

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 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 Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. 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 is scheduled for March 22, 2006, beginning at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the entrance more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** portion of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to this hearing. Persons who wish to present oral comments must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by March 1, 2006. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for reviewing outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### Drafting Information

The principal author of this regulation is Ethan Atticks, Office of Associate Chief Counsel (International). 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

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

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

**Par. 2.** In § 1.1291-9, paragraph (j)(2)(v) is revised to read as follows:

#### § 1.1291-9 Deemed dividend election.

\* \* \* \* \*

(j) \* \* \*

(2) \* \* \*

(v) [The text of the proposed amendment to § 1.1291-9(j)(2)(v) is the same as the text for § 1.1291-9T(j)(2)(v) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

**Par. 3.** Section 1.1297-0 is revised to read as follows:

#### § 1.1297-0 Table of contents.

[The text of proposed § 1.1297-0 is the same as the text of § 1.1297-0T published elsewhere in this issue of the **Federal Register**.]

**Par. 4.** Section 1.1297-3 is added to read as follows:

#### § 1.1297-3 Deemed sale or deemed dividend election by a U.S. person that is a shareholder of a section 1297(e) PFIC.

[The text of proposed § 1.1297-3 is the same as the text of § 1.1297-3T published elsewhere in this issue of the **Federal Register**.]

**Par. 5.** Section 1.1298-0 is revised to read as follows:

#### § 1.1298-0 Table of contents.

[The text of proposed § 1.1298-0 is the same as the text of § 1.1298-0T published elsewhere in this issue of the **Federal Register**.]

**Par. 6.** In § 1.1298-3, paragraph (e) and paragraph (f) are revised to read as follows:

#### § 1.1298-3 Deemed sale or deemed dividend election by a U.S. person that is a shareholder of a former PFIC.

\* \* \* \* \*

(e) [The text of the proposed revision to § 1.1298-3(e) is the same as the text of § 1.1298-3T(e) published elsewhere in this issue of the **Federal Register**.]

(f) [The text of the proposed revision to § 1.1298-3(f) is the same as the text

of § 1.1298-3T(f) published elsewhere in this issue of the **Federal Register**.]

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 05-23628 Filed 12-7-05; 8:45 am]

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#### DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

#### 26 CFR Part 54

[REG-138647-04]

RIN 1545-BE30

#### Employer Comparable Contributions to Health Savings Accounts Under Section 4980G; Correction

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

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document contains corrections to a notice of proposed rulemaking that was published in the **Federal Register** on Friday, August 26, 2005 (70 FR 50233) providing guidance on employer comparable contributions to Health Savings Accounts (HSAs) under section 4980G.

**FOR FURTHER INFORMATION CONTACT:** Barbara E. Pie at (202) 622-6080 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

#### Background

The notice of proposed rulemaking (REG-138647-04) that is the subject of this correction is under section 4980 of the Internal Revenue Code.

#### Need for Correction

As published, REG-138647-04 contains errors that may prove to be misleading and are in need of clarification.

#### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG-138647-04), which was the subject of FR Doc. 05-16941, is corrected as follows:

1. On page 50235, column 1, in the preamble under the paragraph heading “*Calculating Comparable Contributions*”, first paragraph, line 21, the language, “under employer’s HDHP. The proposed” is corrected to read “under the employer’s HDHP. The proposed”.

#### § 54.4980G-4 [Corrected]

2. On page 50241, column 2, § 54.4980G-4, A-1(b), *Example 8*, line

9, the language “H contributes \$500 to the HSA of each of” is corrected to read “H contributes \$500 to the HSA of each”.

3. On page 50241, column 2, § 54.4980G-4, A-2, line 3 from the bottom of the paragraph, the language “back-basis as described in Q & A-3 in” is corrected to read “back basis as described in Q & A-3 in”.

4. On page 50242, column 1, § 54.4980G-4, A-3(c), *Example 1*, paragraph (i)(D), line 3, the language “individual and employed by Employer from” is corrected to read “individual and employed by Employer J from”.

5. On page 50242, column 1, § 54.4980G-4, A-3(c), *Example 2*, line 3, the language “contributes on a monthly pay-as-you-go-basis” is corrected to read “contributes on a monthly pay-as-you-go basis”.

6. On page 50242, column 1, § 54.4980G-4, A-3(e), the *Example*, line 3, the language “contributes on a look-back-basis to the HSAs” is corrected to read “contributes on a look-back basis to the HSAs”.

7. On page 50242, column 2, § 54.4980G-4, A-4(a), line 15 from the bottom of the paragraph, the language “also contribute on a pre-funded-basis to” is corrected to read “also contribute on a pre-funded basis”.

8. On page 50243, column 1, § 54.4980G-4, A-7(a), line 3, the language “determined by rounding to nearest” is corrected to read “determined by rounding to the nearest”.

**Cynthia Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E5-7013 Filed 12-7-05; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 301**

[REG-137243-02]

RIN-1545-BA96

**Guidance Necessary To Facilitate Electronic Tax Administration—Updating of Section 7216 Regulations**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations to update the rules regarding the disclosure and use of tax

return information by tax return preparers. The proposed regulations announce new and additional rules for taxpayers to consent electronically to the disclosure or use of their tax return information by tax return preparers. The proposed rules provide guidelines for tax return preparers using or disclosing information obtained in the process of preparing income tax returns.

**DATES:** Written or electronically generated comments must be received by March 8, 2006. Outlines of topics to be discussed at the public hearing scheduled for April 4, 2006, in the Auditorium of the Internal Revenue Building at 1111 Constitution Avenue, NW., Washington, DC 20224, must be received by March 14, 2006.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-137243-02), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-137243-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at <http://www.irs.gov/regs> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS-REG-137243-02). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Dillon Taylor, at (202) 622-4940; concerning submissions of comments, LaNita Van Dyke of the Publications and Regulations Branch at (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under section 7216 of the Internal Revenue Code (Code). Section 7216 imposes criminal penalties on tax return preparers who make unauthorized disclosures or uses of information furnished to them in connection with the preparation of an income tax return. In addition, tax return preparers are subject to civil penalties under section 6713 for disclosure or use of this information unless an exception under the rules of section 7216(b) applies to the disclosure or use.

Section 7216 was enacted by section 316 of the Revenue Act of 1971, Public Law 92-178 (85 Stat. 529, 1971). In

1988, Congress modified the section by limiting the criminal sanction to knowing or reckless unauthorized disclosures. Public Law 100-647, (102 Stat. 3749, 1988). At the same time, Congress enacted the civil penalty that is now found in section 6713. Public Law 100-647, section 6242(a) (102 Stat. 3759, 1988). In 1989, Congress further modified section 7216, directing the Treasury Department to issue regulations permitting disclosures of tax return information for quality or peer reviews. Public Law 101-239, 7739(a) (102 Stat. 3759, 1989).

The Treasury Department and the IRS proposed regulations under section 7216 on December 20, 1972 (37 FR 28070). Final regulations were issued on March 29, 1974 (39 FR 11537). These regulations are divided into three parts: Section 301.7216-1 for general provisions and definitions; Section 301.7216-2 for disclosures and uses that do not require formal taxpayer consent; and section 301.7216-3 for disclosures and uses that require formal taxpayer consent. Since the regulations were adopted in 1974, the Treasury Department and the IRS have amended § 301.7216-2 on occasion, but §§ 301.7216-1 and 301.7216-3 have remained unchanged.

The current regulations were written in a paper filing era. They do not address current common industry practices, such as electronic preparation or filing of tax returns. The regulations are silent on taxpayers' consent to the disclosure or use of tax return information in an electronic environment. The proposed regulations address these issues.

The proposed regulations also contain other modifications to reflect the principle that taxpayers may provide knowing, informed, and voluntary consent to a tax return preparer's use of tax return information for purposes other than tax return preparation. While the ability of a tax return preparer to solicit consent from a taxpayer remains limited under certain circumstances, such as when the taxpayer has already rejected a substantially similar request for consent, these regulations allow a tax return preparer to solicit a taxpayer's consent to use tax return information under certain circumstances that the existing regulations currently prohibit. For example, these proposed regulations allow tax return preparers to obtain consents to use tax return information for solicitation of services or facilities furnished by any person rather than limiting solicitations to the services or facilities offered by the tax return preparer or member of the tax return preparer's "affiliated group."