

authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace serving the Evangelical Community Hospital East in Lewisburg, PA.

#### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, effective September 15, 2007, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### AEA PA E5 Lewisburg, PA [New]

Evangelical Community Hospital East Heliport

(lat. 40°58'47" N., long. 76°53'08" W.)

Point in Space Coordinates

(lat. 40°58'09" N., long. 76°52'58" W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6-mile radius of the Point in Space coordinates (lat. 40°58'09" N., long. 76°52'58" W.) serving the Evangelical Community Hospital East Heliport.

\* \* \* \* \*

Issued in College Park, Georgia, on December 17, 2007.

**Mark D. Ward,**

*Manager, System Support Group, Eastern Service Center.*

[FR Doc. 08–349 Filed 1–30–08; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 301 and 401

[TD 9378]

RIN 1545–BE35

#### Release of Lien or Discharge of Property

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

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations related to release of lien and discharge of property under sections 6325, 6503, and 7426 of the Internal Revenue Code (Code). These regulations update existing regulations and contain procedures for processing a request made by a property owner for discharge of a Federal tax lien from his property under section 6325(b)(4). The regulations also clarify the impact of these procedures on sections 6503(f)(2) and 7426(a)(4) and (b)(5). These regulations reflect the enactment of sections 6325(b)(4), 6503(f)(2), and 7426(a)(4) by the IRS Restructuring and Reform Act of 1998.

**DATES:** *Effective Date:* These regulations are effective January 31, 2008.

*Applicability Date:* These regulations apply to any release of lien or discharge of property that is requested after January 31, 2008.

**FOR FURTHER INFORMATION CONTACT:** Debra A. Kohn, (202) 622–7985 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains final regulations that amend the Procedure and Administration Regulations (26 CFR part 301) under sections 6325, 6503, and 7426 of the Code. The IRS Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685) (RRA 1998), enacted sections 6325(b)(4), 6503(f)(2), 7426(a)(4), and 7426(a)(5) to provide a statutory mechanism for a person other than the person against whom the underlying tax was assessed, upon furnishing a deposit or bond, to obtain a discharge of the Federal tax lien from property owned by him, and for the IRS or the courts to determine the disposition of the deposit or bond amount. RRA 1998 thereby necessitated changes to the rules under sections 6325, 6503, and 7426.

On January 11, 2007, a notice of proposed rulemaking (REG–159444–04) relating to release of lien or discharge of

property was published in the **Federal Register** (72 FR 1301–03). No comments were received and no public hearing was requested or held. Accordingly, the proposed regulations are adopted as amended by this Treasury decision. These final regulations generally retain the provisions of the proposed regulations but include one modification as explained in more detail below.

#### Explanation of Modification

The final regulations differ substantively in one respect from the version of the regulations set forth in the notice of proposed rulemaking. The proposed regulations interpret section 6325(b)(4)(D), which states that section 6325(b)(4)(A) is inapplicable “if the owner of the property is the person whose unsatisfied liability gave rise to the lien,” as indicating that the procedures for obtaining a discharge of a Federal tax lien under section 6325(b)(4) are not available to a person who owns the subject property with the person whose tax liability gave rise to the lien (the taxpayer). Upon further consideration of this issue, it was decided that section 6235(b)(4)(D) should not be so interpreted, as that interpretation would unfairly leave some third-party property owners without a means to discharge Federal tax liens from their properties. Accordingly, the final regulations reflect an interpretation of section 6325(b)(4)(D) that makes the section 6325(b)(4) procedures available to a person who co-owns property with the taxpayer.

#### 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, and because these regulations do not impose 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, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Drafting Information

The principal author of these regulations is Debra A. Kohn of the Office of the Associate Chief Counsel (Procedure and Administration).

**List of Subjects***26 CFR Part 301*

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

*26 CFR Part 401*

Reporting and recordkeeping requirements, Taxes.

**Adoption of Amendments to the Regulations**

■ Accordingly, under the authority of 26 U.S.C. 7805, 26 CFR parts 301 and 401 are amended as follows:

**PART 301—PROCEDURE AND ADMINISTRATION**

■ **Paragraph 1.** The authority citation for part 301 continues to read, in part, as follows:

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

■ **Par. 2.** Section 301.6325–1 is amended as follows:

■ 1. Paragraphs (a) and (b)(1)(i), (b)(2)(i), and (b)(2)(ii) and (b)(3) are revised.

■ 2. Paragraph (b)(2)(iii) is redesignated as paragraph (b)(6) and revised.

■ 3. Paragraph (b)(4) is redesignated as paragraph (b)(5) and revised.

■ 4. A new paragraph (b)(4) is added.

■ 5. Paragraphs (c)(1) and (c)(2) are amended by removing the language “district director” and adding the language “appropriate official” in its place, wherever it appears.

■ 6. The first sentence of paragraph (d)(1) is amended by removing the language “A district director” and adding the language “The appropriate official” in its place, by removing the word “Code” and adding the language “Internal Revenue Code” in its place, and by removing the language “the district director” and adding the language “the appropriate official” in its place. The third sentence is amended by removing the language “a district director” and adding the language “the appropriate official” in its place, and removing the language “the district director” and adding “the appropriate official” in its place.

■ 7. Paragraph (d)(2)(i) is amended by removing the language “A district director” and adding the language “The appropriate official” in its place, by removing the word “Code” and adding the language “Internal Revenue Code” in its place, and by removing the language “the district director” and adding the language “the appropriate official” in its place.

■ 8. Paragraph (d)(2)(ii), *Examples 1* through 4, are amended by removing the

language “district director” and adding the language “appropriate official” in its place, wherever it appears.

■ 9. Paragraphs (d)(3) and (d)(4) are amended by removing the language “district director” and adding the language “appropriate official” in its place, wherever it appears.

■ 10. The first sentence of paragraph (e) is amended by removing the language “a district director” and adding the language “the appropriate official” in its place, and by removing the language “the district director” and adding the language “the appropriate official” in its place. The third and fourth sentences are amended by removing the language “district director” and adding the language “appropriate official” in its place.

■ 11. Paragraphs (f)(1) and (f)(2)(i) are amended by removing the language “a district director” and adding the language “the appropriate official” in its place, paragraph (f)(2)(i)(b) is amended by removing the language “the district director” and adding the language “the appropriate official” in its place, and paragraph (f)(3) is amended by removing the word “Code” and adding the language “Internal Revenue Code” in its place.

■ 12. Paragraphs (h) and (i) are added.

The revisions and additions read as follows:

**§ 301.6325–1 Release of lien or discharge of property.**

(a) *Release of lien—(1) Liability satisfied or unenforceable.* The appropriate official shall issue a certificate of release for a filed notice of Federal tax lien, no later than 30 days after the date on which he finds that the entire tax liability listed in such notice of Federal tax lien either has been fully satisfied (as defined in paragraph (a)(4) of this section) or has become legally unenforceable. In all cases, the liability for the payment of the tax continues until satisfaction of the tax in full or until the expiration of the statutory period for collection, including such extension of the period for collection as is agreed to.

(2) *Bond accepted.* The appropriate official shall issue a certificate of release of any tax lien if he is furnished and accepts a bond that is conditioned upon the payment of the amount assessed (together with all interest in respect thereof), within the time agreed upon in the bond, but not later than 6 months before the expiration of the statutory period for collection, including any agreed upon extensions. For provisions relating to bonds, see sections 7101 and

7102 and §§ 301.7101–1 and 301.7102–1.

(3) *Certificate of release for a lien which has become legally unenforceable.* The appropriate official shall have the authority to file a notice of Federal tax lien which also contains a certificate of release pertaining to those liens which become legally unenforceable. Such release will become effective as a release as of a date prescribed in the document containing the notice of Federal tax lien and certificate of release.

(4) *Satisfaction of tax liability.* For purposes of paragraph (a)(1) of this section, satisfaction of the tax liability occurs when—

(i) The appropriate official determines that the entire tax liability listed in a notice of Federal tax lien has been fully satisfied. Such determination will be made as soon as practicable after tender of payment; or

(ii) The taxpayer provides the appropriate official with proof of full payment (as defined in paragraph (a)(5) of this section) with respect to the entire tax liability listed in a notice of Federal tax lien together with the information and documents set forth in paragraph (a)(7) of this section. See paragraph (a)(6) of this section if more than one tax liability is listed in a notice of Federal tax lien.

(5) *Proof of full payment.* As used in paragraph (a)(4)(ii) of this section, the term proof of full payment means—

(i) An internal revenue cashier’s receipt reflecting full payment of the tax liability in question;

(ii) A canceled check in an amount sufficient to satisfy the tax liability for which the release is being sought;

(iii) A record, made in accordance with procedures prescribed by the Commissioner, of proper payment of the tax liability by credit or debit card or by electronic funds transfer; or

(iv) Any other manner of proof acceptable to the appropriate official.

(6) *Notice of a Federal tax lien which lists multiple liabilities.* When a notice of Federal tax lien lists multiple tax liabilities, the appropriate official shall issue a certificate of release when all of the tax liabilities listed in the notice of Federal tax lien have been fully satisfied or have become legally unenforceable. In addition, if the taxpayer requests that a certificate of release be issued with respect to one or more tax liabilities

listed in the notice of Federal tax lien and such liability has been fully satisfied or has become legally unenforceable, the appropriate official shall issue a certificate of release. For example, if a notice of Federal tax lien lists two separate liabilities and one of the liabilities is satisfied, the taxpayer may request the issuance of a certificate of release with respect to the satisfied tax liability and the appropriate official shall issue a release.

(7) *Taxpayer requests.* A request for a certificate of release with respect to a notice of Federal tax lien shall be submitted in writing to the appropriate official. The request shall contain the information required in the appropriate IRS Publication.

(b) *Discharge of specific property from the lien—(1) Property double the amount of the liability.* (i) The appropriate official may, in his discretion, issue a certificate of discharge of any part of the property subject to a Federal tax lien imposed under chapter 64 of the Internal Revenue Code if he determines that the fair market value of that part of the property remaining subject to the Federal tax lien is at least double the sum of the amount of the unsatisfied liability secured by the Federal tax lien and of the amount of all other liens upon the property which have priority over the Federal tax lien. In general, fair market value is that amount which one ready and willing but not compelled to buy would pay to another ready and willing but not compelled to sell the property.

\* \* \* \* \*

(2) *Part payment; interest of United States valueless—(i) Part payment.* The appropriate official may, in his discretion, issue a certificate of discharge of any part of the property subject to a Federal tax lien imposed under chapter 64 of the Internal Revenue Code if there is paid over to him in partial satisfaction of the liability secured by the Federal tax lien an amount determined by him to be not less than the value of the interest of the United States in the property to be so discharged. In determining the amount to be paid, the appropriate official will take into consideration all the facts and circumstances of the case, including the expenses to which the government has been put into the matter. In no case shall the amount to be paid be less than the value of the interest of the United States in the property with respect to which the certificate of discharge is to be issued.

(ii) *Interest of the United States valueless.* The appropriate official may,

in his discretion, issue a certificate of discharge of any part of the property subject to the Federal tax lien if he determines that the interest of the United States in the property to be so discharged has no value.

(3) *Discharge of property by substitution of proceeds of sale.* The appropriate official may, in his discretion, issue a certificate of discharge of any part of the property subject to a Federal tax lien imposed under chapter 64 of the Internal Revenue Code if such part of the property is sold and, pursuant to a written agreement with the appropriate official, the proceeds of the sale are held, as a fund subject to the Federal tax liens and claims of the United States, in the same manner and with the same priority as the Federal tax liens or claims had with respect to the discharged property. This paragraph does not apply unless the sale divests the taxpayer of all right, title, and interest in the property sought to be discharged. Any reasonable and necessary expenses incurred in connection with the sale of the property and the administration of the sale proceeds shall be paid by the applicant or from the proceeds of the sale before satisfaction of any Federal tax liens or claims of the United States.

(4) *Right of substitution of value—(i) Issuance of certificate of discharge to property owner who is not the taxpayer.* If an owner of property subject to a Federal tax lien imposed under chapter 64 of the Internal Revenue Code submits an application for a certificate of discharge pursuant to paragraph (b)(5) of this section, the appropriate official shall issue a certificate of discharge of such property after the owner either deposits with the appropriate official an amount equal to the value of the interest of the United States in the property, as determined by the appropriate official pursuant to paragraph (b)(6) of this section, or furnishes an acceptable bond in a like amount. This paragraph does not apply if the person seeking the discharge is the person whose unsatisfied liability gave rise to the Federal tax lien. Thus, if the property is owned by both the taxpayer and another person, the other person may obtain a certificate of discharge of the property under this paragraph, but the taxpayer may not.

(ii) *Refund of deposit and release of bond.* The appropriate official may, in his discretion, determine that either the entire unsatisfied tax liability listed on the notice of Federal tax lien can be satisfied from a source other than the property sought to be discharged, or the value of the interest in the United States

is less than the prior determination of such value. The appropriate official shall refund the amount deposited with interest at the overpayment rate determined under section 6621 or release the bond furnished to the extent that he makes this determination.

(iii) *Refund request.* If a property owner desires an administrative refund of his deposit or release of the bond, the owner shall file a request in writing with the appropriate official. The request shall contain such information as the appropriate IRS Publication may require. The request must be filed within 120 days after the date the certificate of discharge is issued. A refund request made under this paragraph neither is required nor is effective to extend the period for filing an action in court under section 7426(a)(4).

(iv) *Internal Revenue Service's use of deposit if court action not filed.* If no action is filed under section 7426(a)(4) for refund of the deposit or release of the bond within the 120-day period specified therein, the appropriate official shall, within 60 days after the expiration of the 120-day period, apply the amount deposited or collect on such bond to the extent necessary to satisfy the liability listed on the notice of Federal tax lien, and shall refund, with interest at the overpayment rate determined under section 6621, any portion of the amount deposited that is not used to satisfy the liability. If the appropriate official has not completed the application of the deposit to the unsatisfied liability before the end of the 60-day period, the deposit will be deemed to have been applied to the unsatisfied liability as of the 60th day.

(5) *Application for certificate of discharge.* Any person desiring a certificate of discharge under this paragraph (b) shall submit an application in writing to the appropriate official. The application shall contain the information required by the appropriate IRS Publication. For purposes of this paragraph (b), any application for certificate of discharge made by a property owner who is not the taxpayer, and any amount submitted pursuant to the application, will be treated as an application for discharge and a deposit under section 6325(b)(4) unless the owner of the property submits a statement, in writing, that the application is being submitted under another paragraph of section 6325 and not under section 6325(b)(4), and the owner in writing waives the rights afforded under paragraph (b)(4), including the right to seek judicial review.

(6) *Valuation of interest of United States.* For purposes of paragraphs (b)(2) and (b)(4) of this section, in determining the value of the interest of the United States in the property, or any part thereof, with respect to which the certificate of discharge is to be issued, the appropriate official shall give consideration to the value of the property and the amount of all liens and encumbrances thereon having priority over the Federal tax lien. In determining the value of the property, the appropriate official may, in his discretion, give consideration to the forced sale value of the property in appropriate cases.

\* \* \* \* \*

(h) As used in this section, the term *appropriate official* means either the official or office identified in the relevant IRS Publication or, if such official or office is not so identified, the Secretary or his delegate.

(i) *Effective/applicability date.* This section applies to any release of lien or discharge of property that is requested after January 31, 2008.

■ **Par. 3.** Section 301.6503(f)–1 is amended as follows:

- 1. The section heading is revised.
- 2. The undesignated paragraph is designated as paragraph (a), a paragraph heading is added, and a new sentence is added immediately prior to the *Example*.
- 3. In newly designated paragraph (a), the language “a district director” is removed and the language “the appropriate official” is added in its place, the language “the district director” is removed and the language “the appropriate official” is added in its place, and in the *Example* the language “district director” is removed and the language “appropriate official” is added in its place, wherever it appears.
- 4. Paragraphs (b), (c), and (d) are added.

The revisions and additions read as follows:

**§ 301.6503(f)–1 Suspension of running of period of limitation; wrongful seizure of property of third-party owner and discharge of lien for substitution of value.**

(a) *Wrongful seizure.* \* \* \* The following example illustrates the principles of this section:

\* \* \* \* \*

(b) *Discharge of wrongful lien for substitution of value.* If a person other than the taxpayer submits a request in writing for a certificate of discharge for a filed Federal tax lien under section 6325(b)(4), the running of the period of limitations on collection after assessment under section 6502 for any liability listed in such notice of Federal

tax lien shall be suspended for a period equal to the period beginning on the date the appropriate official receives a deposit or bond in the amount specified in § 301.6325–1(b)(4)(i) and ending on the date that is 30 days after the earlier of—

(1) The date the appropriate official no longer holds, or is deemed to no longer hold, within the meaning of paragraph (b)(4)(iv) of this section, any amount as a deposit or bond by reason of taking such actions as prescribed in sections 6325(b)(4)(B) and (C); or

(2) The date the judgment secured under section 7426(b)(5) becomes final.

(c) As used in this section, the term *appropriate official* means either the official or office identified in the relevant IRS Publication or, if such official or office is not so identified, the Secretary or his delegate.

(d) *Effective/applicability date.* This section applies to any request for a certificate of discharge made after January 31, 2008.

■ **Par. 4.** In § 301.7426–1, paragraphs (a)(4), (b)(5), and (d) are added.

**§ 301.7426–1 Civil actions by persons other than taxpayers.**

(a) \* \* \*

(4) *Substitution of value.* A person who obtains a certificate of discharge under section 6325(b)(4) with respect to any property may, within 120 days after the day on which the certificate is issued, bring a civil action against the United States in a district court of the United States for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the appropriate official. A civil action under this provision shall be the exclusive judicial remedy for a person other than the taxpayer who obtains a certificate of discharge for a filed notice of Federal tax lien.

(b) \* \* \*

(5) *Substitution of value.* If the court determines that the determination by the appropriate official of the value of the interest of the United States in the property exceeds the actual value of such interest, the court may grant a judgment ordering a refund of the amount deposited, or a release of the bond, to the extent that the aggregate of those amounts exceeds the value as determined by the court.

\* \* \* \* \*

(d) Paragraphs (a)(4) and (b)(5) of this section apply to any request for a certificate of discharge made after January 31, 2008.

**PART 401—[REMOVED]**

■ **Par. 5.** Part 401 is removed.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

Approved: January 9, 2008.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. E8–1569 Filed 1–30–08; 8:45 am]

BILLING CODE 4830–01–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 110**

[Docket No. USCG–2008–0041 formerly published under CGD05–06–064]

RIN 1625–AA01

**Anchorage Grounds, Hampton Roads, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is updating the coordinates of the boundaries of the anchorages listed below from the former North American Datum 1927 (NAD 27) standard to the current North American Datum 1983 (NAD 83) standard. These changes will not affect the locations or size of the anchorages on the NOAA charts as published by NOAA. The change simply updates the anchorage positions in our regulations to match the current datum in use on the applicable charts, which are NAD 83.

**DATES:** This rule is effective March 3, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0041 formerly published under CGD05–06–064 and are available for copying or inspection at the Fifth Coast Guard District (dpw), 431 Crawford Street, Room 100, Portsmouth, VA 23704–5004, between 9 a.m. and 3 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Albert Grimes, Fifth Coast Guard District Prevention and Waterways, (757) 398–6360, E-mail: [Albert.L.Grimes@uscg.mil](mailto:Albert.L.Grimes@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On March 8, 2007, we published a notice of proposed rulemaking (NPRM)