

(adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### *Congressional Review Act*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### **List of Subjects in 21 CFR Part 1313**

Administrative practice and procedure, Drug traffic control, Exports, Imports, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1313 is proposed to be amended as follows:

#### **PART 1313—IMPORTATION AND EXPORTATION OF LIST I AND LIST II CHEMICALS**

1. The authority citation for part 1313 continues to read as follows:

**Authority:** 21 U.S.C. 802, 830, 871(b), 971.

2. Section 1313.13 is amended by adding paragraph (d) to read as follows:

##### **§ 1313.13 Contents of import declaration.**

\* \* \* \* \*

(d) Any regulated person importing ephedrine, pseudoephedrine, or phenylpropanolamine must submit, on the import declaration, all information known to the importer on the chain of distribution of the chemical from the manufacturer to the importer.

Ephedrine, pseudoephedrine, or phenylpropanolamine include each of the salts, optical isomers, and salts of optical isomers of the chemical.

3. Section 1313.42 is added to read as follows:

##### **§ 1313.42 Prohibition of shipments from certain foreign sources.**

(a) If the Administrator determines that a foreign manufacturer or distributor of ephedrine, pseudoephedrine, or phenylpropanolamine has refused to cooperate with a request by the Administrator for information known to the manufacturer or distributor on the distribution of the chemical, including

sales, the Administrator may issue an order prohibiting the importation of the chemical in any case where the manufacturer or distributor is part of the chain of distribution.

(b) Not later than 60 days prior to issuing the order to prohibit importation, the Administrator shall publish in the **Federal Register** a notice of intent to issue the order. During the 60 day period, imports from the foreign manufacturer or distributor may not be restricted under this section.

Dated: March 14, 2008.

**Michele M. Leonhart,**

*Deputy Administrator.*

[FR Doc. E8-6357 Filed 3-28-08; 8:45 am]

**BILLING CODE 4410-09-P**

## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Parts 1 and 301**

**[REG-119518-07]**

**RIN 1545-BG92**

#### **Travel Expenses of State Legislators**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to travel expenses of state legislators while away from home. The regulations affect eligible state legislators who make the election under section 162(h) of the Internal Revenue Code (Code). The regulations are necessary to clarify the amount of travel expenses that may be deducted by a state legislator who makes the election under section 162(h).

**DATES:** Written (paper or electronic) comments or a request for a public hearing must be received by June 30, 2008.

**ADDRESSES:** Send submissions to CC:PA:LPD:PR (REG-119518-07), Room 5203, Internal Revenue Service, POB 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-119518-07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-119518-07).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, R.

Matthew Kelley, (202) 622-7900; concerning submission of comments or a request for a hearing, Kelly Banks, (202) 622-7180 (not toll-free numbers).

#### **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 Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by May 30, 2008. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in these proposed regulations is in § 1.162-24(e). This collection of information will help the IRS determine if a taxpayer may make an election under section 162(h). The collection of information is required to obtain a benefit.

The estimated burden is 30 minutes.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are

confidential, as required by section 6103.

### Background

This document contains proposed amendments to 26 CFR part 1 and 26 CFR part 301, relating to travel expenses of state legislators while away from home.

Section 162(a)(2) provides that a taxpayer generally is allowed a deduction for ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business, including traveling expenses while away from home.

Section 162(h) provides that an eligible individual who is a state legislator at any time during the taxable year may make an election under section 162(h) (an electing legislator). Under section 162(h)(4), the election is not available to any legislator whose place of residence within the legislative district represented by the legislator is 50 or fewer miles from the state capitol building.

As a result of making the election for a taxable year, under section 162(h)(1)(A) an electing legislator's place of residence within the district represented by the legislator is treated as the legislator's home. In addition, under section 162(h)(1)(B) an electing legislator is deemed to have expended for living expenses (in connection with the trade or business of being a legislator), on each legislative day of the electing legislator, the greater of the amount generally allowable for the day (i) to employees of the legislator's state for per diem while away from home, to the extent the amount does not exceed 110 percent of the amount described in (ii); or (ii) to employees of the executive branch of the Federal government for per diem while traveling away from home in the United States. Finally, under section 162(h)(1)(C) an electing legislator is deemed to be away from home in the pursuit of a trade or business on each legislative day.

Section 162(h)(2) defines a legislative day for an electing legislator as any day on which (A) the legislature is in session (including any day in which the legislature is not in session for a period of 4 consecutive days or less), or (B) the legislature is not in session but the physical presence of the electing legislator is formally recorded at a meeting of a committee of the legislature.

Section 301.9100-4T(a) of the Procedure and Administration Regulations provides that a legislator makes the election under section 162(h) by attaching a statement to the legislator's income tax return (or

amended return) for the taxable year for which the election is effective. The statement must include the following information: (1) The taxpayer's name, address, and taxpayer identification number; (2) a statement that the taxpayer is making an election under section 162(h); and (3) information establishing that the taxpayer is entitled to make the election. A legislator must make the election by the due date for filing the return (including extensions). Under § 301.9100-4T(g), a legislator may revoke an election only with the consent of the Commissioner. Consent is requested by filing an application with the service center where the election was filed. The application must include the following information: (1) The taxpayer's name, address, and taxpayer identification number; (2) a statement that the taxpayer is revoking an election under section 162(h) for a specified year; and (3) a statement explaining why the taxpayer seeks to revoke the election.

Rev. Rul. 82-33 (1982-1 CB 28) (see § 601.601(d)(2)(ii)(b)) holds that (1) an electing legislator's tax home for all legislative travel, including travel between sessions, is the legislator's place of residence within the legislative district represented by the legislator; (2) the term "living expenses" for purposes of section 162(h) includes expenses for lodging, meals, laundry, and other incidental expenses but does not include expenses for travel fares, local transportation, or telephone calls; (3) a legislative day includes the days of any period for which the legislature is not in session for 4 consecutive days or less, without extension for Saturdays, Sundays, or holidays; (4) for purposes of section 162(h)(1)(B)(ii), the amount generally allowable to employees of the executive branch of the Federal government for per diem while traveling away from home in the United States is the per diem amount for the particular city in which the state capitol is located; and (5) any amount deductible by an electing legislator for deemed living expenses under section 162(h) is in addition to any other amount deductible under section 162(a) for other expenses incurred while traveling away from home.

An electing legislator's deduction under section 162(h) for deemed living expenses is reduced by the amount of any reimbursement received for the expenses that is not included in the legislator's gross income.

Section 1.62-1T(e)(4) provides rules regarding the allocation between meals and lodging of unreimbursed expenses of state legislators. Section 274(n) provides rules regarding the limitations

on the amount allowable as a deduction for expenses for or allocable to meals.

### Explanation of Provisions

The proposed regulations incorporate the holdings of Rev. Rul. 82-33, which will be obsoleted when the proposed regulations are issued as final regulations. The proposed regulations further provide that a taxpayer becomes a state legislator on the day the taxpayer is sworn into office and ceases to be a state legislator on the day following the day on which the taxpayer's term in office ends. The proposed regulations provide that the legislature of which an electing legislator is a member is in session when the members of the legislature are expected to attend and participate as an assembled body of the legislature, whether or not the electing legislator actually attends. The proposed regulations also provide that a legislator's legislative days include a day on which the legislator's attendance at a meeting of a committee of the legislature is formally recorded. A committee of the legislature is defined as a group that consists solely of members of the legislature charged with conducting business of the legislature. The proposed regulations further provide that a legislator's legislative days include any day that is not otherwise a legislative day if the legislator's attendance at a session of the legislature on that day is formally recorded. An example in the proposed regulations illustrates that if the members of the legislature are not expected to attend and participate as an assembled body on a day, then the legislature is not in session on that day; however, that day is a legislative day for those members whose actual attendance on that day is formally recorded.

The proposed regulations incorporate the current rules in § 301.9100-4T for making and revoking the election under section 162(h). The regulations propose to amend § 301.9100-4T by removing these rules from that section.

### Effective/Applicability Date

The regulations are proposed to apply to expenses deemed expended under section 162(h) after the date the regulations are published as final regulations in the **Federal Register**.

### Effect on Other Documents

When the proposed regulations are published as final regulations, Rev. Rul. 82-33 will be obsoleted.

### Special Analyses

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 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 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 has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original with eight (8) copies) or electronic comments that are submitted timely to the IRS. Comments are requested on the clarity of the proposed regulations 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 (including electronic) comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

### Drafting Information

The principal author of these regulations is R. Matthew Kelley of the Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

### List of Subjects

#### 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### 26 CFR Part 301

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

### Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 is amended by adding an entry to read in part as follows:

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

#### § 1.162–24 also issued under 26 U.S.C. 162(h). \* \* \*

**Par. 2.** Section 1.162–24 is added to read as follows:

#### § 1.162–24 Travel expenses of state legislators.

(a) *In general.* For purposes of section 162(a), in the case of any taxpayer who is a state legislator at any time during the taxable year and who makes an election under section 162(h) for the taxable year—

(1) The taxpayer's place of residence within the legislative district represented by the taxpayer is the taxpayer's home for that taxable year;

(2) The taxpayer is deemed to have expended for living expenses (in connection with the taxpayer's trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of the taxpayer during the taxable year by the greater of—

(i) The amount generally allowable with respect to that day to employees of the state of which the taxpayer is a legislator for per diem while away from home, to the extent the amount does not exceed 110 percent of the amount described in paragraph (a)(2)(ii) of this section; or

(ii) The Federal per diem with respect to that day for the taxpayer's state capital; and

(3) The taxpayer is deemed to be away from home in the pursuit of a trade or business on each legislative day.

(b) *Legislative day.* For purposes of section 162(h)(1) and this section, for any taxpayer who makes an election under section 162(h), a legislative day is any day on which the taxpayer is a state legislator and—

(1) The legislature is in session;

(2) The legislature is not in session for a period that is not longer than 4 consecutive days, without extension for Saturdays, Sundays, or holidays;

(3) The taxpayer's attendance at a meeting of a committee of the legislature is formally recorded; or

(4) The taxpayer's attendance at any session of the legislature that only a limited number of members are expected to attend (such as a "pro forma" session), on any day not described in paragraph (b)(1) or (b)(2) of this section, is formally recorded.

(c) *Fifty mile rule.* Section 162(h) and this section do not apply to any taxpayer who is a state legislator and whose place of residence within the legislative district represented by the taxpayer is 50 or fewer miles from the capitol building of the state. For purposes of this paragraph (c), the distance between the taxpayer's place of

residence within the legislative district represented by the taxpayer and the capitol building of the state is the shortest of the more commonly traveled routes between the two points.

(d) *Definitions and special rules.* The following definitions apply for purposes of section 162(h) and this section.

(1) *State legislator.* A taxpayer becomes a state legislator on the day the taxpayer is sworn into office and ceases to be a state legislator on the day following the day on which the taxpayer's term in office ends.

(2) *Living expenses.* Living expenses include lodging, meals, and incidental expenses. *Incidental expenses* has the same meaning as in 41 CFR 300–3.1.

(3) *In session*—(i) *In general.* For purposes of this section, the legislature of which a taxpayer is a member is in session on any day if, at any time during that day, the members of the legislature are expected to attend and participate as an assembled body of the legislature.

(ii) *Examples.* The following examples illustrate the rules of this paragraph (d)(3):

*Example 1.* B is a member of the legislature of State X. On Day 1, the State X legislature is convened and the members of the legislature generally are expected to attend and participate. On Day 1, the State X legislature is in session within the meaning of paragraph (d)(3)(i) of this section. B does not attend the session of the State X legislature on Day 1. However, Day 1 is a legislative day for B for purposes of section 162(h)(2)(A) and paragraph (b)(1) of this section.

*Example 2.* C, D, and E are members of the legislature of State X. On Day 2, the State X legislature is convened for a limited session in which not all members of the legislature are expected to attend and participate. C and D are the only members who are called to, and do, attend the limited session on Day 2, and their attendance at the session is formally recorded. E is not called and does not attend. Day 2 is not a day described in paragraph (b)(2) of this section. On Day 2, the State X legislature is not in session within the meaning of paragraph (d)(3)(i) of this section. Day 2 is a legislative day as to C and D under section 162(h)(2)(B) and paragraph (b)(4) of this section. Day 2 is not a legislative day as to C and D under section 162(h)(2)(A) and paragraph (b)(1) of this section. Day 2 is not a legislative day as to E under sections 162(h)(2)(A) and (h)(2)(B) and paragraphs (b)(1) and (b)(4) of this section.

(4) *Committee of the legislature.* A committee of the legislature is any group consisting solely of legislators charged with conducting business of the legislature. Committees of the legislature include, but are not limited to, committees to which the legislature refers bills for consideration, committees that the legislature has authorized to conduct inquiries into

matters of public concern, and committees charged with the internal administration of the legislature. For purposes of this section, groups that are not considered committees of the legislature include, but are not limited to, groups that promote particular issues, raise campaign funds, or are caucuses of members of a political party.

(5) *Federal per diem*. The Federal per diem for any city and day is the maximum amount allowable to employees of the executive branch of the Federal government for living expenses while away from home in pursuit of a trade or business in that city on that day. See 5 U.S.C. 5702 and the regulations under that section.

(e) *Election*—(1) *Time for making election*. A taxpayer's election under section 162(h) must be made for each taxable year for which the election is to be in effect and must be made no later than the due date (including extensions) of the taxpayer's Federal income tax return for the taxable year.

(2) *Manner of making election*. A taxpayer makes an election under section 162(h) by attaching a statement to the taxpayer's income tax return for the taxable year for which the election is made. The statement must include—

(i) The taxpayer's name, address, and taxpayer identification number;

(ii) A statement that the taxpayer is making an election under section 162(h); and

(iii) Information establishing that the taxpayer is a state legislator entitled to make the election, for example, a statement identifying the taxpayer's state and legislative district and representing that the taxpayer's place of residence in the legislative district is not 50 or fewer miles from the state capitol building.

(3) *Revocation of election*. An election under section 162(h) may be revoked only with the consent of the Commissioner. An application for consent to revoke an election must be signed by the taxpayer and filed with the submission processing center with which the election was filed, and must include—

(i) The taxpayer's name, address, and taxpayer identification number;

(ii) A statement that the taxpayer is revoking an election under section 162(h) for a specified year; and

(iii) A statement explaining why the taxpayer seeks to revoke the election.

(f) *Effect of election on otherwise deductible expenses for travel away from home*—(1) *Legislative days*—(i) *Living expenses*. For any legislative day for which an election under section 162(h) and this section is in effect, the

amount of an electing taxpayer's living expenses while away from home is the greater of the amount of the living expenses—

(A) Specified in paragraph (a)(2) of this section in connection with the trade or business of being a legislator; or

(B) Otherwise allowable under section 162(a)(2) in the pursuit of any other trade or business of the taxpayer.

(ii) *Other expenses*. For any legislative day for which an election under section 162(h) and this section is in effect, the amount of an electing taxpayer's expenses (other than living expenses) for travel away from home is the sum of the substantiated expenses, such as expenses for travel fares, telephone calls, and local transportation, that are otherwise deductible under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.

(2) *Non-legislative days*. For any day that is not a legislative day, the amount of an electing taxpayer's expenses (including amounts for living expenses) for travel away from home is the sum of the substantiated expenses that are otherwise deductible under section 162(a)(2) in the pursuit of any trade or business of the taxpayer.

(g) *Gross references*. See § 1.62–1T(e)(4) for rules regarding allocation of unreimbursed expenses of state legislators and section 274(n) for limitations on the amount allowable as a deduction for expenses for or allocable to meals.

(h) *Effective/applicability date*. This section applies to expenses deemed expended under section 162(h) after the date these regulations are published as final regulations in the **Federal Register**.

## PART 301—PROCEDURE AND ADMINISTRATION

**Par. 3.** The authority citation for part 301 continues to read as follows:

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

### § 301.9100–4T [Amended]

**Par. 4.** Section 301.9100–4T is amended by removing from the table in paragraph (a)(1) section 127(a) and removing paragraph (a)(2)(iv).

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E8–6500 Filed 3–28–08; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Notice No. 81]

RIN 1513–AB45

#### Proposed Establishment of the Haw River Valley Viticultural Area (2007R–179P)

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 868-square mile “Haw River Valley” viticultural area in Alamance, Caswell, Chatham, Guilford, Orange, and Rockingham Counties, North Carolina. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

**DATES:** We must receive written comments on or before May 30, 2008.

**ADDRESSES:** You may send comments on this notice to one of the following addresses:

- <http://www.regulations.gov> (via the comment form for this notice posted on Regulations.gov, the Federal e-rulemaking portal); or

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice and any comments we receive about this proposal at <http://www.regulations.gov>.

A direct link to the appropriate Regulations.gov docket is available under Notice No. 81 on the TTB Web site at [http://www.ttb.gov/wine/wine\\_rulemaking.shtml](http://www.ttb.gov/wine/wine_rulemaking.shtml). You also may view copies of this notice and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400.

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; phone 415–271–1254.