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Manager, Alaska Flight Services Information Area Group.

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DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 90

[Docket Number 0908171239-91239-01]

RIN 0607-AA49

Temporary Suspension of the Population Estimates and Income Estimates Challenge Programs

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: This document provides notice to state and local governments and to federal agencies that, beginning on January 1, 2010, the Bureau of the Census (Census Bureau) proposes to temporarily suspend the Population Estimates Challenge Program and to indefinitely suspend the Per Capita Income Estimates Challenge Program (also known as Procedure for Challenging Certain Population and Income Estimates) during the decennial census year and the year following it to accommodate the taking of the 2010 Census. During this time, the Census Bureau would not provide the operations necessary to review the July 1, 2009, population or per capita income estimates for state, and other general-purpose governments, such as cities, towns, and villages. The Population Estimates Challenge Program is expected to resume in 2012 as the program begins operations based upon the results of the 2010 Census. The Per Capita Income Estimates Challenge Program would be suspended until a rulemaking can be initiated to remove those regulations from the Code of Federal Regulations.

DATES: Comments must be received by November 6, 2009.

ADDRESSES: Comments may be submitted through any of the following methods:

- *Federal eRulemaking Portal:* www.Regulations.gov
- *Mail:* Mr. Rodger Johnson, Population Division, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Mr. Rodger Johnson, Population Division,

Bureau of the Census, Washington, DC 20233, telephone (301) 763-2461, e-mail at rodger.v.johnson@census.gov.

SUPPLEMENTARY INFORMATION: The Census Bureau first adopted procedures for initiating informal challenges to certain population or per capita income estimates prepared by the Census Bureau in 1979 by amending Title 15 of the Code of Federal Regulations (CFR) to provide for a new Part 90 (44 FR 20646). These regulations were needed to standardize and codify procedures and to extend to the state or local government the right to a hearing prior to a final determination of the challenged estimate by the Director of the Census Bureau. Legal authority for the challenge procedures remains 13 U.S.C. 4, which provides in pertinent part, that the Secretary may issue rules and regulations as he deems necessary to carry out his functions and duties under Title 13.

The Census Bureau prepares estimates of total population and per capita income for states and units of local government for the period between decennial censuses. States, counties, and other units of general-purpose government may initiate informal challenges to population and per capita income estimates under the procedures set forth in 15 CFR Part 90. Under the regulations, a challenge is defined as “the process of objecting to or calling into question the Census Bureau’s population or per capita income estimates of a state or unit of local government.” Government entities are given 180 days after the release of the population or per capita income estimates to initiate an informal challenge. If the challenge cannot be resolved informally, the government submitting the challenge can choose to file a formal challenge (15 CFR 90.9), which is resolved in a hearing that is held at the Census Bureau and presided over by a hearing officer that is appointed by the Census Bureau Director.

As is done for other intercensal programs, the Census Bureau hereby notifies the public that it proposes to suspend the Population Estimates Challenge Program after the resolution of all challenges to the 2008 population estimates, which should occur by January 1, 2010. The Census Bureau will release the 2009 population estimates in 2010, however, the Census Bureau would not accept challenges to the 2009 estimates.

The Population Estimates Challenge Program would resume in 2012 after the Census Bureau concludes its responsibilities in the conduct of the

decennial census. During the period when the program is suspended, the Census Bureau will be conducting demographic analysis of the 2010 Census, evaluating the results of the 2010 Census in comparison with the population estimates, conducting research to enhance the estimates and challenge programs and integrating the updates from the 2010 Census into the estimates program after the 2010 Census.

After the conduct of the decennial census, the Census Bureau would resume accepting challenges to the population estimates by publishing in the **Federal Register** a notice that announces the date when it will begin to accept challenges. The Census Bureau would accept challenges beginning with the 2011 population estimates. The 2011 population estimates are based upon the 2010 Census and are scheduled for release in 2012.

Suspending the Population Estimates Challenge Program is a necessary action in order to ensure that sufficient resources are allocated to the conduct of the decennial census, allowing the Census Bureau’s Population Division staff to effectively evaluate the 2010 census results.

In addition, the Census Bureau notifies the public that it will also suspend the Per Capita Income Estimates Challenge Program, which are codified in the same part as the Population Estimates Challenge Program. This program has not been active since the general revenue sharing program ended in 1986, along with its requirement for per capita income estimates, and thus it has been determined to suspend the program indefinitely. The Census Bureau will undertake a rulemaking action in the near future to remove these regulations from the Code of Federal Regulations.

Classification

Executive Order 12866: It has been determined that this notice is not significant for purposes of E.O. 12866.

Executive Order 13132: It has been determined that this notice does not contain policies with federalism implications as that term is defined in EO 13132.

Regulatory Flexibility Act: The Chief Counsel for Regulations certified to the Chief Counsel for Advocacy that this rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The entities that would be impacted by this rule are all States, counties, and other units of general-purpose government. Section 601(5) of the Regulatory Flexibility Act defines small

governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000. Under this definition, the Census Bureau estimates that there are 37,204 general purpose governmental units impacted by this rule that would be considered small entities based upon the 2008 population estimates. Although a substantial number of small entities would be impacted by this rule, the proposed rule is not expected to result in significant economic impact. The suspension of the Population Estimates Challenge Program does not directly impose economic costs to the impacted entities, as the program is a mechanism to allow affected entities to seek corrections to their population estimates. The indirect impacts of this rulemaking are unknown as it is infeasible to identify the programs that rely on the population estimates and to determine which of those programs would avail themselves of the challenge program results. However, it is noted that the 2010 Census population counts will be available shortly thereafter for comprehensive use in various programs in lieu of the population estimates.

List of Subjects in 15 CFR Part 90

Administrative practice and procedure; Census data; State and local governments.

For reasons discussed in the preamble, the Census Bureau proposed to amend 15 CFR Part 90 as follows:

PART 90—PROCEDURE FOR CHALLENGING CERTAIN POPULATION AND INCOME ESTIMATES [AMENDED]

1. The authority citation for Part 90 continues to read as follows:

Authority: 13 U.S.C. 4.

2. Effective January 1, 2010, PART 90—PROCEDURE FOR CHALLENGING CERTAIN POPULATION AND INCOME ESTIMATES is stayed.

Dated: September 30, 2009.

Robert M. Groves,

Director, Bureau of the Census.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-160871-04]

RIN 1545-BH37

Period of Limitations on Assessment for Listed Transactions Not Disclosed Under Section 6011

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the exception to the general three-year period of limitations on assessment under section 6501(c)(10) of the Internal Revenue Code (Code) for listed transactions that a taxpayer failed to disclose as required under section 6011. These regulations will affect taxpayers who fail to disclose listed transactions in accordance with section 6011.

DATES: Written or electronic comments and requests for a public hearing must be received by January 5, 2010.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-160871-04), room 5203, Internal Revenue Service, P.O. 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-160871-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-160871-04).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Audra M. Dineen at (202) 622-4910; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo Taylor of the Publications and Regulations Branch at (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 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 1545-1940. The collection of information in these proposed regulations is in § 301.6501(c)-1(g)(5). This information is required to provide the IRS, under penalties of perjury, with

the information necessary to properly determine the taxpayer's applicable period of limitations. The collection of information in these proposed regulations is the same as the collection of information in Revenue Procedure 2005-26 (2005-1 CB 965), which was previously reviewed and approved by the Office of Management and Budget under control number 1545-1940. The collection of information in § 301.6501(c)-1(g)(6) is the same as the collection of information required under section 6112. See § 601.601(d)(2)(ii)(b).

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 tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR Part 301) under section 6501(c) relating to exceptions to the period of limitations on assessment. Section 6501(a) provides that, except as otherwise provided, if a return is filed, tax with respect to that return must be assessed within 3 years from the later of the date the return was filed or the original due date of the return. Section 6501(c) contains several exceptions to the general three-year period of limitations on assessment.

Section 6501(c)(10) was added to the Code by section 814 of the American Jobs Creation Act of 2004, Public Law 108-357 (118 Stat. 1418, 1581 (2004)) (AJCA), enacted on October 22, 2004. Section 6501(c)(10) provides that, if a taxpayer fails to disclose a listed transaction as required under section 6011, the time to assess tax against the taxpayer with respect to that transaction will end no earlier than one year after the earlier of (1) the date on which the taxpayer furnishes the information required under section 6011, or (2) the date that a material advisor furnishes to the Secretary, upon written request, the information required under section 6112 with respect to the taxpayer related to the listed transaction. Accordingly, if neither the taxpayer nor a material advisor furnishes the requisite information, the period of limitations on assessment will remain open, and thus, the tax with respect to the listed