

**PART 249—[CORRECTED]**

**Note:** The text of Forms 8–K, 10–Q and 10–K do not, and these amendments will not, appear in the Code of Federal Regulations.

**Form 8–K [Corrected]**

■ 1. On page 68366, in the first column, paragraph (a) of Form 8–K is corrected to read as follows:

“(a) The date of the meeting and whether it was an annual or special meeting. This information must be provided only if a meeting of security holders was held.”

■ 2. On page 68366, in the first column, in Form 8–K, “Instruction 3 to Item 5.07” is corrected to read:

“*Instruction 3 to Item 5.07.* If the registrant did not solicit proxies and the board of directors as previously reported to the Commission was re-elected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto regarding the election of directors.”

■ 3. On page 68366, in the first and second column, in Form 8–K, “Instruction 5 to Item 5.07” is corrected to read:

“*Instruction 5 to Item 5.07.* A registrant may omit the information called for by this Item 5.07 if, on the date of the filing of its report on Form 8–K, the registrant meets the following conditions:

1. All of the registrant’s equity securities are owned, either directly or indirectly, by a single person which is a reporting company under the Exchange Act and which has filed all the material required to be filed pursuant to Section 13, 14 or 15(d) thereof, as applicable; and

2. During the preceding thirty-six calendar months and any subsequent period of days, there has not been any material default in the payment of principal, interest, a sinking or purchase fund installment, or any other material default not cured within thirty days, with respect to any indebtedness of the registrant or its subsidiaries, and there has not been any material default in the payment of rentals under material long-term leases.”

**Form 10–Q [Corrected]**

■ 4. On page 68366, in the second column, the amendatory language for amendment 10 is corrected to read:

“10. Amend Form 10–Q (referenced in § 249.308a) by removing and reserving Item 4 in Part II—Other Information.”

**Form 10–K [Corrected]**

■ 5. On page 68366, in the second column, the amendatory language for amendment 11 is corrected to read:

“11. Amend Form 10–K (referenced in § 249.310) by removing and reserving Item 4 in Part I.”

Dated: February 23, 2010.

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2010–4006 Filed 2–26–10; 8:45 am]

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

[TD 9480]

RIN 1545–B189

**Reduced 2009 Estimated Income Tax Payments for Individuals With Small Business Income**

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

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final and temporary regulations under section 6654 of the Internal Revenue Code (Code) relating to reduced estimated income tax payments for qualified individuals with small business income for any taxable year beginning in 2009. The temporary regulations implement changes to section 6654 made by the American Recovery and Reinvestment Act of 2009. The temporary regulations provide guidance for qualified individuals with small business income to certify that they satisfy the statutory gross income requirement for purposes of the reduction in their required 2009 estimated income tax payments. The text of the temporary regulations serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These regulations are effective on March 1, 2010.

*Applicability Date:* These regulations apply for any taxable year beginning in 2009.

**FOR FURTHER INFORMATION CONTACT:**

Adrienne Mikolashek, (202) 622–4940 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

These temporary regulations contain amendments to the Income Tax

Regulations (26 CFR part 1) under section 6654(d) of the Code relating to the addition to tax for failure by an individual to pay estimated income tax. Section 6654(d)(1)(D) was added by section 1212 of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111–5 (123 Stat. 336 (2009)), effective for taxable years beginning in 2009.

Section 6654 imposes an addition to tax in the case of an individual taxpayer’s underpayment of estimated tax. Estimated tax is payable in four installments throughout the taxable year, and the amount of each required installment is generally 25 percent of the required annual payment of estimated tax. Under section 6654(d)(1)(B), the required annual payment is the lesser of (i) 90 percent of the tax shown on the income tax return for the taxable year (or, if no return is filed, 90 percent of the tax for the year) or (ii) 100 percent of the tax shown on the taxpayer’s return for the preceding taxable year (or 110 percent if the taxpayer’s adjusted gross income for the preceding taxable year exceeded \$150,000). The provision allowing for the payment of 100 (or 110) percent of the tax shown on the taxpayer’s return for the preceding taxable year does not apply if the preceding taxable year was less than 12 months or if the taxpayer did not file a return for that year.

Under section 6654(d)(1)(D), the applicable percentage of tax shown on the return for the preceding taxable year (either 100 or 110 percent) is reduced to 90 percent for qualified individuals for taxable years beginning in 2009. In other words, for taxable years beginning in 2009, a qualified individual’s annual required payment of estimated tax is the lesser of (i) 90 percent of the tax shown on the return for the 2009 taxable year (or, if no return is filed, 90 percent of the tax for the year) or (ii) 90 percent of the tax shown on the individual’s return for taxable year 2008.

**Explanation of Provisions**

The temporary regulations explain who is a qualified individual under section 6654(d)(1)(D) and how a taxpayer establishes that the taxpayer is a qualified individual. A qualified individual is any individual (1) whose adjusted gross income shown on the individual’s return for the preceding taxable year is less than \$500,000 and (2) who certifies that more than 50 percent of the gross income shown on that return was income from a small business. See section 6654(d)(1)(D)(ii). If an individual is married, within the meaning of section 7703, and files a separate return for a taxable year

beginning in 2009, then to qualify, the individual's adjusted gross income shown on the preceding year's return must be less than \$250,000, rather than \$500,000. See section 6654(d)(1)(D)(iv). Pursuant to section 6654(d)(1)(D)(ii)(II), the Secretary shall prescribe by regulation the form, manner, and time for filing a certification. Additionally, section 6654(m) authorizes the Secretary to prescribe regulations as necessary to carry out the purposes of section 6654.

Income from a small business is defined in general terms in section 6654(d)(1)(D)(iii) as income from a trade or business the average number of employees of which was less than 500 for calendar year 2008. The temporary regulations specify that the trade or business must be a bona fide trade or business of which the individual was an owner. The temporary regulations provide that a trade or business may be organized as, or take the legal form of, a corporation, partnership, limited liability company, or sole proprietorship.

The temporary regulations also provide that a qualified individual shall file a certification with the IRS in the manner and at the time prescribed in forms, publications, or other guidance, such as Form 2210, "Underpayment of Estimated Tax by Individuals, Estates, and Trusts" (or any successor form and its instructions).

The temporary regulations will be applicable for taxable years beginning in 2009. The reduced percentage in section 6654(d)(1)(D) is limited to taxable years beginning in 2009 and does not apply to taxable years beginning before or after 2009.

### 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. For the applicability of the Regulatory Flexibility Act, see the cross-referenced notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, this regulation has been 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 Adrienne Mikolashek, Office of the Associate Chief Counsel, Procedure and Administration.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Amendments to the Regulations

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

### PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.6654-2 is amended by:

■ 1. Revising paragraph (a) introductory text.

■ 2. Redesignating paragraph (a)(1) as paragraph (a)(1)(i).

■ 3. Adding new paragraphs (a)(1)(ii) and (f).

The additions and revision read as follows:

#### § 1.6654-2 Exceptions to imposition of the addition to the tax in the case of individuals.

(a) [Reserved]. For further guidance, see § 1.6654-2T(a).

(1)(i) \* \* \*

(ii) [Reserved]. For further guidance, see § 1.6654-2T(a)(1)(ii).

\* \* \* \* \*

(f) [Reserved]. For further guidance, see § 1.6654-2T(f).

■ **Par. 3.** Section 1.6654-2T is added to read as follows:

#### § 1.6654-2T Exceptions to imposition of the addition to the tax in the case of individuals (temporary).

(a) *In general.* The addition to the tax under section 6654 will not be imposed for any underpayment of any installment of estimated tax if, on or before the date prescribed for payment of the installment, the total amount of all payments of estimated tax made equals or exceeds the lesser of the amount in § 1.6654-2(a)(1) or the amount in § 1.6654-2(a)(2).

(1)(i) [Reserved]. For further guidance, see § 1.6654-2(a)(1)(i).

(ii) *Special rule for taxable years beginning in 2009.* For any taxable year beginning in 2009, for a qualified individual, the amount described in § 1.6654-2(a)(1)(i) is reduced to 90 percent of that amount.

(A) *Qualified individual* means any individual whose adjusted gross income shown on the individual's return for the preceding taxable year is less than \$500,000 and who certifies, as prescribed in paragraph (a)(1)(ii)(D) of this section, that more than 50 percent

of the gross income shown on the return for the preceding taxable year was income from a small business.

(B) *Income from a small business* means income from the operation of a bona fide trade or business of which the individual was an owner during calendar year 2009, and that on average had fewer than 500 employees in calendar year 2008.

(C) The trade or business may be organized as, or take the legal form of, a corporation, partnership, limited liability company, or sole proprietorship.

(D) A qualified individual shall file a certification of the individual's qualification in the manner and at the time prescribed by the Internal Revenue Service in forms, publications, or other guidance.

(a)(2) through (e) [Reserved]. For further guidance, see § 1.6654-2(a)(2) through (e).

(f) *Effective/applicability date.*

Paragraph (a) of this section applies to any taxable year beginning in 2009.

(g) *Expiration date.* The applicability of paragraph (a) of this section expires on or before February 26, 2013.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

Approved: February 18, 2010.

**Michael F. Mundaca,**

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

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 43

[AG Order No. 3141-2010]

### Recovery of Cost of Hospital and Medical Care and Treatment Furnished by the United States; Delegation of Authority

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule amends Department of Justice regulations to increase the settlement and waiver authority delegated to heads of departments and agencies of the United States responsible for the furnishing of hospital, medical, surgical, or dental care. This change responds to the increase in medical costs since 1992, when the current level of delegated settlement and waiver authority was established, and will further the efficient operation of the government.

**DATES:** *Effective Date:* March 1, 2010.