

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2011-17-07 M7 Aerospace LP: Amendment 39-16771; Docket No. FAA-2011-0832; Directorate Identifier 2011-CE-025-AD.

(a) Effective Date

This AD is effective September 1, 2011.

(b) Affected ADs

AD 87-02-02 (52 FR 2511, January 23, 1987) requires repetitive inspection or replacement of all flight control cables on Models SA226 and SA227 airplanes. This new action requires repetitive replacement of specific flight control cables on affected serial number Model SA226 airplanes that have been modified by installation of a camera system requiring rerouting of the affected flight control cables.

(c) Applicability

This AD applies to the following M7 Aerospace LP airplanes, certificated in any category, as identified in Table 1 of this AD:

TABLE 1—APPLICABILITY

Model—	Serial Nos.—
SA226-T	T265, T267.
SA226-T(B)	T(B)348.
SA226-TC	TC277.
SA226-AT	AT071, AT072, AT073.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code: 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by a report of a failure of a rudder control cable. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done, following M7 Aerospace LP Service Bulletin 226-27-072, dated June 27, 2011. If the hours time-in-service (TIS) of the control cables can not be positively determined by the logbook, then you must use hours TIS of the airplane to comply with the requirements of this AD.

(g) Inspection

(1) *For cables with more than 6,000 hours TIS:* Inspect cables for deficiencies within 10 hours TIS after September 1, 2011 (the effective date of this AD).

(2) If any deficiencies are found during the inspection required in paragraph (g)(1) of this AD, before further flight replace cables.

(h) Replacement

(1) Replace primary control cables within the initial compliance times as listed below and repetitively thereafter at intervals not to exceed 3,500 hours time-in-service (TIS):

(i) *For cables with less than or equal to 3,500 hours TIS:* Replace cables when the control cables reach a total of 3,500 hours TIS or 150 hours TIS after September 1, 2011 (the effective date of this AD), whichever occurs later.

(ii) *For cables with less than or equal to 5,000 hours TIS but greater than 3,500 hours TIS:* Replace cables within 150 hours TIS after September 1, 2011 (the effective date of this AD).

(iii) *For cables with more than 5,000 hours TIS:* Replace cables within 50 hours TIS after September 1, 2011 (the effective date of this AD).

(2) Between 50 hours TIS and 200 hours TIS after installing any new control cable as required in paragraphs (g)(2) or (h)(1) of this AD, check (set) flight control cable tension.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(j) Related Information

For more information about this AD, contact Andrew McAnaul, Aerospace Engineer, FAA, ASW-150 (c/o San Antonio MIDO (SW-MIDO-43)), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216;

phone: (210) 308-3365; fax: (210) 308-3370; e-mail: andrew.mcanaul@faa.gov.

(k) Material Incorporated by Reference

You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference (IBR) under 5 U.S.C. 552(a) and 1 CFR part 51 of M7 Aerospace LP Service Bulletin 226-27-072, dated June 27, 2011, on September 1, 2011.

(2) For service information identified in this AD, contact M7 Aerospace, LC, 10823 NE Entrance Road, San Antonio, Texas 78216; telephone (210) 824-9421; fax: 800-347-5901; e-mail: http://www.m7aerospace.com/page/1/contact_parts.jsp; Web site: <http://www.m7aerospace.com>.

(3) You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816-329-4148.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202-741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Kansas City, Missouri, on August 2, 2011.

John R. Colomy,
Acting Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 2011-20127 Filed 8-16-11; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 159

[USCBP-2010-0008; BP Dec. 11-17]

RIN 1515-AD67 (formerly RIN 1505-AC21)

Courtesy Notice of Liquidation

AGENCY: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends title 19 of the Code of Federal Regulations (“CFR”) pertaining to the method by which U.S. Customs and Border Protection (“CBP”) issues courtesy notices of liquidation to importers of record whose entry summaries are filed in the Automated Broker Interface (“ABI”). Courtesy notices of liquidation

provide informal, advance notice of the liquidation date and are not required by statute. For importers of record whose entry summaries are electronically filed in ABI, CBP currently provides an electronic courtesy notice to the ABI filer (importer of record or a broker that files as the agent of the importer of record) and a paper courtesy notice to the importer of record. In an effort to streamline the notification process and reduce printing and mailing costs, CBP will discontinue mailing paper courtesy notices of liquidation. All ABI filers (importers of record and brokers that file as the agent of an importer of record) will receive electronic courtesy notices. In addition, all importers of record with an Automated Commercial Environment (“ACE”) Secure Data Portal Account can monitor the liquidation of their entries by using the reporting tool in the ACE Secure Data Portal Account. Importers of record whose entries are not filed through ABI will continue to receive paper courtesy notices of liquidation.

DATES: *Effective date:* September 30, 2011. *Implementation date:* The first day on or after September 30, 2011, that CBP can provide importers with complete liquidation reports, including liquidation dates, electronically through the ACE Portal. CBP will confirm the date of implementation through electronic notification (see CBP.gov).

FOR FURTHER INFORMATION CONTACT: Laurie Dempsey, Trade Policy and Programs, Office of International Trade, Customs and Border Protection, 202–863–6509.

SUPPLEMENTARY INFORMATION:

Background

On March 16, 2010, U.S. Customs and Border Protection (“CBP”) published a proposed rule in the **Federal Register** (75 FR 12483) proposing to amend title

19 of the Code of Federal Regulations (“19 CFR”) to discontinue mailing paper courtesy notices to importers of record whose entry summaries are filed in the Automated Broker Interface (“ABI”). The proposed amendments were intended to streamline the notification process and reduce printing and mailing costs, as provided in the proposed rule. See 75 FR 12483.

While CBP is not statutorily required to provide advance notice of the liquidation date to the importer or his agent, CBP does issue informal, courtesy notices of liquidation (hereinafter “courtesy notice” or “courtesy notices”). See 19 CFR 159.9(d).

Currently, CBP issues electronic courtesy notices to all ABI filers: importers of record who file their own entries and customs brokers who file as the duly authorized agents of the importer of record. CBP’s Technology Center also mails paper courtesy notices, on CBP Form 4333–A, to all importers of record whose entry summaries are scheduled to liquidate by each port of entry. As a result, two courtesy notices are issued for importers of record whose electronic entry summaries are filed in ABI: An electronic courtesy notice to the ABI filer, that is either the importer of record or a customs broker filing on behalf of the importer of record, and a paper courtesy notice to the importer of record. Therefore, this renders duplicative the paper courtesy notice sent by CBP to importers of record that file their own entries in ABI because, as an ABI filer, they already receive an electronic courtesy notice. See 19 CFR part 143.

Under the proposed rule, when electronic entry summaries are filed in ABI, ABI filers would only receive electronic courtesy notices; paper

courtesy notices would not also be sent to importers of record that do not file their own entries. Importers of record filing a paper formal entry with CBP would continue to receive a mailed courtesy notice. See 19 CFR parts 141 and 142. In addition, all importers of record with an Automated Commercial Environment (“ACE”) Secure Data Portal Account can monitor the liquidation of their entries by using the reporting tool in the ACE Secure Data Portal Account.

Cost Savings

The following analysis details the cost savings that would be realized by the agency as a result of eliminating paper courtesy notices to importers of record who personally receive an electronic courtesy notice or whose broker receives an electronic courtesy notice on their behalf. In FY 2009, CBP sent approximately 7.2 million paper courtesy notices. Under this rule, CBP estimates that over 90 percent of paper courtesy notices will be eliminated. For the purpose of this analysis, we assume 6.5 million paper notices (90 percent) will be eliminated. Additionally, we assume that the number of notices does not change from year to year.

Quantified Savings

1. Postage

By decreasing the number of paper courtesy notices distributed, CBP will significantly reduce postage costs required to mail the notices. Current U.S. Postal Service first-class letter rates are 44 cents within the United States, 75 cents to Canada, 79 cents to Mexico, and 98 cents to the rest of the world. Exhibit 1 shows the total estimated savings on postage in 2010, an estimated \$3 million.

EXHIBIT 1—TOTAL SAVINGS ON POSTAGE IN 2010 (UNDISCOUNTED)

Notice destination	Number of notices	Total cost
Domestic	5,899,816	\$2,595,919
Canada	379,301	284,475
Mexico	57,371	45,323
Other Foreign	167,193	163,849
Total	6,503,681	3,089,566

2. Forms

CBP estimates that each courtesy notice form costs \$0.027. Decreasing the number of paper forms by 6.5 million will save the agency approximately \$175,599 per year.

3. Labor

CBP estimates the cost of contractors employed to print the paper courtesy notices is \$0.08 per copy. Based on this estimate, the cost savings on labor for printing is approximately \$520,294 per year.

Total Quantified Savings

Exhibit 2 displays all of the cost savings that have been quantified for this analysis.

EXHIBIT 2—TOTAL SAVINGS FROM REDUCING PAPER COURTESY NOTICES IN 2010 (UNDISCOUNTED)

Cost	Annual savings
Postage	\$3,089,566
Forms	175,599
Labor	520,294
Total	3,785,460

We total these savings over the next 10 years at a 3 and 7 percent discount rate, per guidance provided in the OMB's Circular A-4. Total estimated savings range from \$28.4 million to \$33.3 million over the period of analysis. Annualized savings are \$3.8 million. Total present value and annualized savings are presented in Exhibit 3.

EXHIBIT 3—TOTAL PRESENT VALUE AND ANNUALIZED COSTS OF ADDITIONAL DATA ELEMENTS, 2010–2019

Total present value costs (\$ millions)		Annualized costs (\$ millions)	
3%	7%	3%	7%
\$33.3	\$28.4	\$3.8	\$3.8

Additional Savings Not Quantified

CBP has service contracts with fixed monthly costs for the equipment used to print and mail the paper courtesy notices. Current maintenance costs are approximately \$45,048 per year for two printers and approximately \$3,478 per year for a finishing machine. CBP is exploring lower cost options to replace these machines, but we are unable to quantify these savings or predict when they might occur. Additional costs associated with the printing and distribution of paper courtesy notices include labor by government employees on the CBP Mail Management Team and mainframe processing time. Reducing the number of paper notices will allow both Mail Management Team and mainframe resources to be used for other purposes. While we do not have enough data to quantify these savings at this time, they are important to consider in the analysis of the total impact of the reduction of paper courtesy notices.

Summary of Cost Savings

CBP estimates that this rule will save the agency \$3.8 million annually by eliminating 90 percent, or approximately 6.5 million, of the paper courtesy notices currently sent to importers. If more than 90 percent are eliminated, savings could be higher.

Quantified savings include reduced postage, forms, and contract labor costs. Additional savings may be realized by reducing maintenance costs on equipment used to produce the paper notices and allowing more efficient use of other government resources.

CBP solicited public comments on the proposed rule.

Discussion of Comments

Eight commenters responded to the solicitation of public comments in the proposed rule. Several of these commenters applauded CBP's effort to achieve cost savings by eliminating the mailing of paper. However, three commenters objected to CBP entirely eliminating the paper courtesy notice for ABI filers for several reasons discussed below, and four commenters requested that the courtesy mailing continue until CBP develops an alternative means of notifying importers of the liquidation of their entries.

Comment

Several commenters stated that the proposal will make importers of record reliant upon their brokers for liquidation information. Importers stated that they use the liquidation information on the courtesy notices to: monitor their entries for fraudulent activities; determine liquidation dates, protest deadlines, and contingent liability periods; check for errors; and track the status of antidumping and countervailing duty entries.

Without the courtesy notice, importers who are ABI filers state that they would need to contact their brokers for the liquidation information. However, a commenter noted that many importers utilize more than one customs broker to make their entries, and sometimes, the importer's broker will use outport brokers (those from other customs broker districts) to make entry on behalf of the importer for whom they have a power of attorney.

Moreover, it was noted that brokers sometimes fail to provide importers with timely notification of liquidation information. When such instances occur, the broker's liability is limited to \$50, whereas importers may lose their ability to challenge a CBP decision, thereby potentially resulting in a loss of millions of dollars.

CBP Response

Pursuant to 19 CFR 111.39, "[a] broker must not withhold information relative to any customs business from a client who is entitled to that information." Liquidation information is information related to "customs business"; therefore, brokers cannot

withhold this information from their importer clients.

In addition, ACE is being reprogrammed to allow all importers of record to monitor liquidation of entries filed under their importer of record number(s) through the ACE Portal. Importers can establish an ACE Portal Account to access reports that will help them monitor entry filings for potential fraudulent entries and access liquidation dates for entries filed by any filer using the importer of record number belonging to the importer, regardless of the filer code used.

Furthermore, whether or not the importer has an ACE Portal Account, the importer may gain limited access to a broker's ACE Portal Account to obtain reports for entries filed by the broker using the importer of record number belonging to that importer, if the broker that filed the entry grants the importer such access.

Given data storage limitations, at this time, the ACE Portal only contains entry data for entries filed in the current CBP fiscal year and the previous four CBP fiscal years. (The CBP fiscal year runs from October 1 through September 30.) Importers needing liquidation dates for entries filed beyond that time period may contact their broker, who can obtain that information by running an ABI query. As for antidumping and countervailing duty entries, depending on the entry date, importers may be able to check their status via a report in the ACE Portal. Please note that contractual terms of liability between importers and brokers are not controlled by CBP.

Additional information on the ACE Portal capabilities and instructions for applying for access to the ACE Portal, which is accessible free of charge, are available on the following Web site: http://www.cbp.gov/xp/cgov/trade/automated/modernization/ace_app_info/.

The instructions for managing ACE Portal user accounts are available on the following Web site: http://www.cbp.gov/xp/cgov/trade/automated/modernization/ace_welcome/ace_welcome_package/.

Comment

One commentator was concerned about the accessibility of liquidation information entered with a filer code that subsequently became inactive at the time of liquidation.

CBP Response

Even if the filer code is no longer active, the importer will be able to access the liquidation date associated with the importer's importer of record

number using the reporting tool in the ACE Portal.

Comment

Several commenters suggested alternatives to CBP's proposal, such as: creating a system for importers to obtain the liquidation information that is available on the courtesy notices; sending courtesy notifications via e-mail; surveying importers who file their entries via ABI to determine whether they wish to discontinue receiving mailed courtesy notices allowing importers to opt out of receiving paper courtesy notices at the time CBP assigns an importer of record number for importers, or notifying the importers at that time that they will have either to rely upon ABI for liquidation information or participate in ACE; ensuring that the information listed in ACE is accurate, particularly the data regarding older entries; and developing an electronic bulletin notice of liquidation.

Also, several commenters suggested delaying implementation of the proposal until ACE becomes capable of issuing complete liquidation reports and/or until all entry filers begin using ACE.

CBP Response

On the effective date of this document, through the ACE Portal reporting mechanism, CBP will be able to make available complete liquidation reports to importers with ACE accounts, including liquidation dates for all entries. Furthermore, an e-mail courtesy notification of liquidation would just duplicate this information.

CBP does not plan on surveying the trade community to determine which ABI-filing importers wish to discontinue receiving mailed courtesy notices, which CBP believes would not garner further substantial input. CBP agrees that training will help importers transition into using the ACE system. Currently, CBP provides Web-based training for new ACE Account holders, and help desk support to aid with account access, account management, and report generation in the ACE Portal. Please see the following Web site for further information: https://nemo.customs.gov/ace_online/.

Although this training resource and the ACE Portal are already available and functional, importers will have until September 17, 2011 to enroll in the ACE Portal Account and familiarize themselves with the reporting system.

Moreover, CBP has considered the option of posting an electronic bulletin notice of liquidation and will continue to explore the feasibility of that option.

Courtesy notices of liquidations, rather than the statutorily mandated bulletin notice of liquidation, are the focus of this rulemaking. Accordingly, this suggestion is outside the scope of this rulemaking.

The purpose of this proposal is to reduce printing and mailing costs by eliminating duplicative notice to importers that file their entries via ABI. Therefore, CBP does not intend to provide importers with the option of receiving paper courtesy notices or opting out of receiving paper courtesy notices.

Regarding the suggestion that CBP should ensure that the information in ACE is accurate, particularly regarding older entries, CBP agrees that maintaining accurate data in any system of record is of paramount concern. As discussed above, the entry data in the ACE Portal is confined to the current CBP fiscal year and the previous four CBP fiscal years because of data storage limitations. ABI filers may run an ABI query for liquidation dates for entries filed beyond that time period. Please note that for a historical report on all of an importer's importation activity over a set time period, an importer can file a request with CBP for an ITRAC (Importer Trade Activity) report for a fee, see <http://www.cbp.gov/xp/cgov/admin/fl/foia/itrac/itrac.xml>. If one is a C-TPAT member, this report is provided free of cost.

Finally, the ACE report contains the same data elements as the paper courtesy notice, with the exception of: (1) Importer address; (2) series; (3) refer inquiries to; and (4) liquidation code. The "importer address" data element will not appear in the ACE Portal report because the report will not be mailed. The "series" data element will not appear because it has not been used since 1986 when the entry format configuration was changed to eliminate the series, that is, the "2-digit Fiscal Year" code which appeared in the 5th and 6th place of the entry number format. The "refer inquiries to" data element will not appear in the ACE Portal report; however, the report will provide the name and code for the port of entry. Importers can refer any inquiries to the appropriate port of entry using the following Web site: <http://www.cbp.gov/xp/cgov/toolbox/contacts/ports/>. Finally, the "liquidation code" data element is an internal CBP-assigned code used for managing various liquidation types and will not appear in the report.

Comment

One commenter indicated that courtesy notices deemed undeliverable

by the U.S. Postal Service help the Revenue Division update its importer address database.

CBP Response

The Revenue Division now relies on the importer to keep its address and contact information current with CBP.

Conclusion

After review of the comments and further consideration, CBP has decided to adopt the proposed rule published in the **Federal Register** (75 FR 12483) on March 16, 2010, without substantive change. Accordingly, the effective date will be September 30, 2011. The implementation date will be the first day on or after September 30, 2011, that CBP can provide importers with complete liquidation reports, including liquidation dates, electronically through the ACE Portal. CBP will confirm implementation through electronic notification (see <http://www.cbp.gov>).

Executive Order 12866

This final rule is not a "significant regulatory action" per Executive Order 12866 because it will not result in savings or expenditures totaling \$100 million or more in any one year. The Office of Management and Budget ("OMB") has not reviewed this regulation under that order. The final rule will result in cost savings as discussed earlier in the preamble.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires Federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This final rule will eliminate paper courtesy notices that are sent to importers who file entry summaries via ABI or who hire a third party to file via ABI on their behalf. The primary impact of this final rule will be the savings realized by CBP as a result of eliminating a large portion of its annual printing and mailing costs associated with paper courtesy notices. Those importers that do not file using ABI will continue to receive paper courtesy notices. Those importers that file via ABI themselves will not be significantly impacted because they will continue to receive an electronic notification. Those importers that hire a broker to file via ABI on their behalf (with the broker

filing as an agent and not an importer of record) will now have to obtain the notification from their broker or view the information via CBP's ACE Portal. To the extent that brokers send the notification to the importer, they will bear a small cost, but because of the low cost of forwarding this information either electronically or by mail, this cost does not rise to the level of significance. CBP solicited comments on the economic impact of this rule on small entities in the Notice of Proposed Rulemaking, but did not receive any of substance. For these reasons, CBP certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

As there is no collection of information in this document, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the Secretary of the Treasury's authority (or that of his delegate) to approve regulations related to certain customs revenue functions.

List of Subjects in 19 CFR Part 159

Antidumping, Countervailing duties, Customs duties and inspection, Foreign currencies.

Amendments to the CBP Regulations

For the reasons set forth in the preamble, part 159 of title 19 of the CFR (19 CFR part 159) is amended as set forth below.

PART 159—LIQUIDATION OF DUTIES

■ 1. The general authority citation for part 159 continues to read as follows:

Authority: 19 U.S.C. 66, 1500, 1504, 1624.

* * * * *

■ 2. In § 159.9, paragraph (d) is revised to read as follows:

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

* * * * *

(d) *Courtesy notice of liquidation.* CBP will endeavor to provide importers or their agents with a courtesy notice of liquidation for all entries scheduled to be liquidated or deemed liquidated by operation of law. The courtesy notice of liquidation that CBP will endeavor to provide will be electronically transmitted pursuant to an authorized electronic data interchange system if the entry summary was filed electronically in accordance with part 143 of this

chapter or on CBP Form 4333–A if the entry was filed on paper pursuant to parts 141 and 142 of this chapter. This notice will serve as an informal, courtesy notice and not as a direct, formal, and decisive notice of liquidation.

§ 159.11 [Amended]

■ 3. In § 159.11, paragraph (a) is amended in the last sentence, by removing the words “on CBP Form 4333–A”.

§ 159.12 [Amended]

■ 4. In § 159.12:

■ a. Paragraph (f)(1) is amended, in the last sentence, by removing the words “on CBP Form 4333–A”;

■ b. Paragraph (g) is amended, in the last sentence, by removing the words “on CBP Form 4333–A”.

Alan D. Bersin,

Commissioner, U.S. Customs and Border Protection.

Approved: August 12, 2011.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2011–20957 Filed 8–16–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9542]

RIN 1545–BE77

Elections Regarding Start-Up Expenditures, Corporation Organizational Expenditures, and Partnership Organizational Expenses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to elections to deduct start-up expenditures, organizational expenditures of corporations, and organizational expenses of partnerships. The American Jobs Creation Act of 2004 amended the Internal Revenue Code to permit the optional deduction of a limited amount of these types of expenses that are paid or incurred after October 22, 2004. The regulations affect taxpayers that pay or incur these expenses and provide guidance on how to elect to deduct the expenses in accordance with the new rules.

DATES: *Effective Date:* These regulations are effective on August 16, 2011.

Applicability Dates: For dates of applicability, see §§ 1.195–1(d), 1.248–1(f), and 1.709–1(b)(5).

FOR FURTHER INFORMATION CONTACT:

R. Matthew Kelley, (202) 622–7900 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final amendments to the Income Tax Regulations (26 CFR part 1) under sections 195, 248, and 709 of the Internal Revenue Code to reflect amendments made by section 902 of the American Jobs Creation Act of 2004 (Pub. L. 108–357, 118 Stat. 1418) (the Act). The amendments made by section 902 of the Act are effective for amounts paid or incurred after October 22, 2004, the date of the enactment of the Act.

As amended by section 902(a) of the Act, section 195(b) allows an electing taxpayer to deduct, in the taxable year in which the taxpayer begins an active trade or business, an amount equal to the lesser of (1) the amount of the start-up expenditures that relate to the active trade or business, or (2) \$5,000, reduced (but not below zero) by the amount by which the start-up expenditures exceed \$50,000. The remainder of the start-up expenditures is deductible ratably over the 180-month period beginning with the month in which the active trade or business begins.

As amended by section 902(b) of the Act, section 248(a) allows an electing corporation to deduct, in the taxable year in which the corporation begins business, an amount equal to the lesser of (1) the amount of the organizational expenditures of the corporation, or (2) \$5,000, reduced (but not below zero) by the amount by which the organizational expenditures exceed \$50,000. The remainder of the organizational expenditures is deductible ratably over the 180-month period beginning with the month in which the corporation begins business.

As amended by section 902(c) of the Act, section 709(b) allows an electing partnership to deduct, in the taxable year in which the partnership begins business, an amount equal to the lesser of (1) the amount of the organizational expenses of the partnership, or (2) \$5,000, reduced (but not below zero) by the amount by which the organizational expenses exceed \$50,000. The remainder of the organizational expenses is deductible ratably over the 180-month period beginning with the month in which the partnership begins business.