

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

[REG-107548-11]

RIN 1545-BK10

**Modifications to Definition of United States Property****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this **Federal Register**, the IRS and the Treasury Department are issuing temporary regulations relating to the treatment of upfront payments made pursuant to certain notional principal contracts. The temporary regulations provide that certain obligations of United States persons arising from upfront payments made by controlled foreign corporations pursuant to contracts that are cleared by a derivatives clearing organization or clearing agency do not constitute United States property. The text of the temporary regulations also serves as the text of these proposed regulations.

**DATES:** Comments and requests for a public hearing must be received by August 9, 2012.**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-107548-11), room 5205, 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-107548-11), 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-107548-11).**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Kristine A. Crabtree, (202) 622-3840; concerning submissions of comments or a request for a public hearing, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).**SUPPLEMENTARY INFORMATION:****Background and Explanation of Provisions**

The temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** establish an exception to the definition of United States property (within the meaning of section 956(c)) for

obligations of United States persons arising from certain upfront payments made with respect to certain contracts that are properly classified as notional principal contracts for U.S. Federal income tax purposes and that are cleared by a derivatives clearing organization or clearing agency. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

**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 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 Internal Revenue 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 entities.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under **ADDRESSES**. In addition to the specific requests for comments made elsewhere in this preamble or the preamble to the temporary regulations, the IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments will be available at [www.regulations.gov](http://www.regulations.gov) or upon request. A public hearing will be scheduled if requested in writing by any person who timely submitted written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Kristine A. Crabtree of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendment to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be 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 \* \* \*  
Section 1.956-2(b)(1)(xi) also issued under 26 U.S.C. 956(e). \* \* \*

**Par. 2.** Section 1.956-2 is amended by adding new paragraphs (b)(1)(xi) and (f) to read as follows:

**§ 1.956-2 Definition of United States property.**

\* \* \* \* \*

(b)(1)(xi) [The text of this proposed amendment is the same as the text of § 1.956-2T(b)(1)(xi) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

(f) [The text of this proposed amendment is the same as the text of § 1.956-2T(f) published elsewhere in this issue of the **Federal Register**].

**Steven T. Miller,***Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2012-11327 Filed 5-10-12; 8:45 am]

BILLING CODE 4830-01-P

**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION****29 CFR Part 2200****Request for Public Comment on Settlement Part Program****AGENCY:** Occupational Safety and Health Review Commission.**ACTION:** Request for comment.

**SUMMARY:** The Occupational Safety and Health Review Commission (Review Commission) invites the public to comment on the Review Commission's Settlement Part program.

**DATES:** Written comments must be submitted on or before June 25, 2012.**ADDRESSES:** Submit all written comments, identified by the title "Settlement Part Public Comment," by mail or hand delivery to John X. Cerveny, Deputy Executive Secretary, Occupational Safety and Health Review Commission, 1120 20th Street NW.,

Washington, DC 20036-3457, by fax to 202-606-5050, or by email to [fedreg@oshrc.gov](mailto:fedreg@oshrc.gov).

**FOR FURTHER INFORMATION CONTACT:** John X. Cerveny, Deputy Executive Secretary, Occupational Safety and Health Review Commission, 1120 20th Street NW., Ninth Floor, Washington, DC 20036-3457; Telephone (202) 606-5706; email address: [fedreg@oshrc.gov](mailto:fedreg@oshrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Review Commission's Settlement Part program, codified at 29 CFR 2200.120, is designed to encourage settlements on contested citations issued by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) and to reduce litigation costs. The Settlement Part program is a form of alternative dispute resolution (ADR) under which larger contested OSHA citations (those with an aggregate penalty amount of \$100,000 or greater) docketed at the Review Commission are required to undergo a "settlement procedure" prior to the initiation of conventional hearing procedures before a Review Commission administrative law judge (ALJ). Under the mandatory Settlement Part, such a case is first assigned to a "Settlement Judge" who will issue a discovery order and supervise all discovery proceedings. Discovery may be limited or suspended entirely in advance of any conference before the settlement judge. After any discovery proceedings, the Settlement Judge conducts settlement proceedings which include conferences with the parties in order to identify or narrow factual and legal issues and/or to settle the case(s). All statements made and all information presented during the course of settlement proceedings are regarded as confidential and are not to be divulged outside of the settlement proceedings except with the consent of the parties. If Settlement Part proceedings do not result in a settlement, the case is assigned to a hearing judge (normally a judge other than the Settlement Judge) who will handle the matter under conventional hearing procedures.

The Review Commission's Mandatory Settlement Part was first instituted as a pilot program by the Review Commission in 1999 and was limited to contests of \$200,000 or more. *See* 64 FR 8243 (Feb. 19, 1999). During the pilot period, the Settlement Part program was the subject of a study performed by the Indiana Conflict Resolution Institute at the School of Public and Environmental Affairs of Indiana University (IU). That study, which was completed in August

2000, attempted to examine several aspects of the pilot Settlement Part program in order to make recommendations concerning continuation of the program and any changes that might improve the Settlement Part process. In general, IU concluded that Settlement Part resulted in a high settlement rate and that both internal and external stakeholders were satisfied with program requirements and the Review Commission's role.

**II. Current Status of Settlement Part Program Review**

The Review Commission's Settlement Part program has changed in three important ways since it was initiated in 1999. First, it was made a permanent program in 2000. *See* 65 FR 58350 (Sept. 29, 2000). Second, it was expanded to encompass contests of \$100,000 or more in 2005. *See* 70 FR 22785 (May 3, 2005). Last, the 2005 revisions also provided for discovery to take place prior to initiation of settlement conferences. However, the basic premise and foundation of Settlement Part has not been reviewed on an in-depth basis since completion of the IU study in 2000.

After the passage of twelve years and the substantial experience gained in Settlement Part use since that time, the Review Commission is considering what additional steps, if any, may be taken to improve, expand upon, or otherwise modify existing Settlement Part procedures. The Review Commission has again contracted with IU and data is being collected in order to examine the efficiency and effectiveness of its Settlement Part program in achieving its goals. IU will review case processing data obtained from the Review Commission's case tracking system and has interviewed Review Commission personnel. IU plans on distributing a survey to U.S. Department of Labor attorneys, employer counsel or representatives, counsel for employee representatives and employee representatives, and decision makers who personally participated in settlement cases from February 15, 2011 through February 14, 2012 that completed the settlement part process. IU plans an additional survey of a control group of participants with similar roles, in regular conventional proceedings between February 15, 2011 through June 30, 2012 where between \$50,000 and \$99,999 is at issue. Both surveys include questions that address the settlement process and do not include questions that ask about the substance or confidences of any particular case. These two surveys are voluntary and individual responses will

be confidential. The Review Commission will obtain all appropriate clearances, including Office of Management and Budget survey collection approvals, before any surveys of participants involved in Review Commission settlement and conventional proceedings are distributed by IU.

**III. Issues for Public Comment**

In addition to the data collected from our case tracking systems and participant surveys, we invite comments on the efficiency and effectiveness of the Settlement Part program from the general public. Comments on specific aspects of the program are most helpful. Below are several questions that may be considered in commenting on the Settlement Part program.

1. How should the Review Commission define "success" for its Settlement Part program? Should issues of time and cost savings be principal considerations, or should other issues (e.g., transparency, avoidance of litigation, fairness to parties) infuse the process?
2. Has use of Settlement Part improved cooperation among the parties in encouraging settlements? For example, is there more cooperation among the parties regarding abatement? Does the Settlement Part promote future compliance?
3. What is the appropriate role of employees and/or their representatives in the Settlement Part process? How might the Review Commission's Settlement Part rules address these roles?
4. One concern that has been voiced by some is that the confidentiality provisions of Settlement Part are too broad and comprehensive, and while perhaps appropriate for private arbitration agreements, may be inappropriate in the current context. Conversely, a concern expressed by some with substantial ADR experience, is that it is not feasible to expect settlement of a matter if a substantial degree of confidentiality is not maintained. Do existing Settlement Part rules adequately address the concerns of parties regarding confidentiality? How might the Review Commission's Settlement Part rules balance the competing interests of transparency and confidentiality, as well as creating an environment that will either foster or promote the resolution of contests?
5. Are the Review Commission's existing Settlement Part discovery rules appropriate for use in an ADR setting?
6. Should mandatory Settlement Part rules be amended to provide an option for the Chief ALJ to assign a case to

Settlement Part where the issues are particularly complex even if specific dollar thresholds are not met? Should the Chief ALJ be able to adjust the dollar thresholds for cases eligible for mandatory settlement part processes based upon the Review Commission's case load?

7. Should cases be permitted to remain in mandatory settlement part proceedings for more than 18 months without the approval of the Chief ALJ?

8. Should the parties be allowed to elect to not participate in a mandatory settlement part proceeding and, instead, request that the case proceed directly to a hearing on the merits?

The Review Commission welcomes any other comments or suggestions regarding Settlement Part.

Dated: May 1, 2012.

**Debra Hall,**

*Acting Executive Director.*

[FR Doc. 2012-11080 Filed 5-10-12; 8:45 am]

**BILLING CODE 7600-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2012-0345; FRL-9671-2]

#### State of Hawaii; Regional Haze Federal Implementation Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Announcement of public hearing.

**SUMMARY:** EPA is announcing that public hearings will be held on May 31, 2012 and June 1, 2012 for the proposed rule, "State of Hawaii; Regional Haze Federal Implementation Plan", which will be posted on EPA's Web site by May 16, 2012.

**DATES:** The public hearings will be held on May 31, 2012 and June 1, 2012. See **SUPPLEMENTARY INFORMATION** section for further details about the public hearings.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** section for hearing locations.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about the public hearings, please contact Gregory Nudd, EPA Region 9, 415-947-4107, [nudd.gregory@epa.gov](mailto:nudd.gregory@epa.gov). If you are a person with a disability under the ADA and require a reasonable accommodation for this event, please contact Philip Kum at [kum.philip@epa.gov](mailto:kum.philip@epa.gov) or at (415) 947-3566 by May 16, 2012.

**SUPPLEMENTARY INFORMATION:** Section 169A of the Clean Air Act (CAA) establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." Hawaii has two Class I areas: Hawaii Volcanoes National Park on the Big Island and Haleakala National Park on Maui.

Regional haze is visibility impairment caused by the cumulative air pollutant emissions from numerous sources over a wide geographic area. EPA's proposed Regional Haze Federal Implementation Plan (FIP) for Hawaii will address the requirements of the CAA and EPA's regulations regarding regional haze. The proposed rule, "State of Hawaii; Regional Haze Federal Implementation Plan", will be available by May 16, 2012 on the following Web site: <http://www.epa.gov/region9/air/actions/hawaii.html> and will subsequently be published in the **Federal Register**.

The proposed rule and information on which the proposed rule relies will also be available in the docket for this action. Generally, documents in the docket for this action will be available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street San Francisco, California. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**Public hearings:** EPA will hold two public hearings at the following dates, times and locations to accept oral and written comments into the record:

*Date:* May 31, 2012.

*Time:* Open House: 5:30-6:30 p.m.

*Public Hearing:* 6:30-8:30 p.m.

*Location:* The University of Hawaii, Maui College in the Pilina Multipurpose Room, 310 W. Kaahumanu Ave., Kahului, Hawaii 96732.

*Date:* June 1, 2012.

*Time:* Open House: 4:30-5:30 p.m.

*Public Hearing:* 5:30-7:30 p.m.

*Location:* Waiakea High School in the Cafeteria, 155 W. Kawili St., Hilo, Hawaii 96720.

To provide opportunities for questions and discussion, EPA will hold open houses prior to the public hearings. During these open houses, EPA staff will be available to informally

answer questions on our proposed action and this supplemental proposed rule. Any comments made to EPA staff during the open houses must still be provided formally in writing or orally during a public hearing in order to be considered in the record.

The public hearings will provide the public with an opportunity to present data, views, or arguments concerning the proposed Regional Haze FIP for Hawaii. EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Please consult the proposed rule for guidance on how to submit written comments to EPA.

At the public hearing, the hearing officer may limit the time available for each commenter to address the proposal to five minutes or less if the hearing officer determines it is appropriate. Any person may provide written or oral comments and data pertaining to our proposal at the public hearing. We will include verbatim transcripts, in English, of the hearing and written statements in the rulemaking docket.

Dated: May 1, 2012.

**Elizabeth Adams,**

*Acting Air Division Director, Region IX.*

[FR Doc. 2012-11426 Filed 5-10-12; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 438, 441, and 447

[CMS-2370-P]

RIN 0938-AQ63

#### Medicaid Program; Payments for Services Furnished by Certain Primary Care Physicians and Charges for Vaccine Administration Under the Vaccines for Children Program

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement new requirements in sections 1902(a)(13), 1902(jj), 1932(f), and 1905(dd) of the Social Security Act, as amended by the Patient Protection and Affordable Care Act of 2010 (the