

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

[REG-141075-09]

RIN 1545-BJ15

**Property Transferred in Connection With the Performance of Services Under Section 83***Correction*

In proposed rule document 2012-12855 appearing on pages 31783-31786 in the issue of Wednesday, May 30, 2012 make the following correction:

On page 31785, in the second column, in the fifth full paragraph, the authority citation “26 U.S.C. 7805.” should read “26 U.S.C. 7805 \* \* \*”.

[FR Doc. C1-2012-12855 Filed 6-15-12; 8:45 am]

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Parts 20 and 25**

[REG-141832-11]

RIN 1545-BK74

**Portability of a Deceased Spousal Unused Exclusion Amount**

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

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance on the estate and gift tax applicable exclusion amount, in general, as well as on the applicable requirements for electing portability of a deceased spousal unused exclusion (DSUE) amount to the surviving spouse and on the applicable rules for the surviving spouse's use of this DSUE amount. The text of the temporary regulations also serves as the text of the proposed regulations set forth in this notice of proposed rulemaking. This document also provides a notice of public hearing on these proposed regulations.

**DATES:** Written or electronic comments must be received by September 17, 2012. Outlines of topics to be discussed at the public hearing scheduled for October 18, 2012, at 10 a.m., must be received by September 27, 2012.

**ADDRESSES:** Send submissions to CC:PA:LPD:PR (REG-141832-11), 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-141832-11), 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-141832-11). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Karlene Lesho at (202) 622-3090; concerning the submission of comments, the hearing, or to be placed on the building access list to attend the hearing, Oluwafunmilayo Taylor 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 approved by the Office of Management and Budget, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), under Form 706, “United States Estate (and Generation-Skipping Transfer) Tax Return,” and assigned control number 1545-0015.

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 August 17, 2012. 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 collections 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 of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in proposed §§ 20.2010-2(a), 20.2010-2(a)(1), 20.2010-2(a)(3)(i), 20.2010-2(a)(7)(ii)(B), and 20.2010-2(b). The information in §§ 20.2010-2(a), 20.2010-2(a)(1), and 20.2010-2(b) as it affects estates not otherwise required to file an estate tax return under section 6018(a) is necessary in order for an executor of a decedent's estate to elect portability of a DSUE amount to the surviving spouse. The information in § 20.2010-2(a)(3)(i) is necessary in order for an executor of a decedent's estate to signify that the estate is not electing portability of a DSUE amount to the surviving spouse. The information in § 20.2010-2(a)(7)(ii)(B) is necessary in order to evaluate whether an estate qualifies for a special rule relating to applicable estate tax return requirements. The collection of information is voluntary to obtain a benefit. The likely respondents are executors of estates of decedents having a date of death in 2011 or 2012 or any subsequent period in which portability of a DSUE amount is in effect.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information 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**

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** make additions to the Estate Tax Regulations (26 CFR part 20) under sections 2001 and 2010 of the Internal Revenue Code (Code) and Gift Tax Regulations (26 CFR part 25) under section 2505 of the Code. The temporary regulations provide guidance on the estate and gift tax applicable credit amount under sections 2010 and 2505 of the Code. In addition, the temporary regulations provide guidance on the portability of a deceased spousal unused exclusion (DSUE) amount under section 2010(c) of the Code, including the applicable requirements for electing portability of a DSUE amount to the surviving spouse,

for computing the deceased spouse's DSUE amount, and for the surviving spouse's use of the DSUE amount. The text of those regulations also serves as the text of these regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

### Special Analyses

It has been determined that this notice of proposed rulemaking is not considered a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory flexibility assessment is not required. In addition, section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information contained in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily affect estates of a decedent which generally are not small entities under the Act. Thus, we do not expect a substantial number of small entities to be effected. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. 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 Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. 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 for public inspection and copying.

A public hearing has been scheduled for October 18, 2012, in the IRS auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance more than 30 minutes before the hearing starts. For information about having your name

placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments (a signed original and eight (8) copies) and an outline of the topics to be discussed and the time to be devoted to each topic by September 27, 2012. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### Drafting Information

The principal author of these regulations is Karlene Lesho, Office of the Associate Chief Counsel (Passthroughs and Special Industries). Other personnel from the IRS and the Treasury Department participated in their development.

### List of Subjects

#### 26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

#### 26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 20 and 25 are proposed to be amended as follows:

#### **PART 20—ESTATE TAX; ESTATE OF DECEDENTS DYING AFTER AUGUST 16, 1954**

**Paragraph 1.** The authority citation for part 20 is amended by adding entries in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805. \* \* \*  
Section 20.2010–0 also issued under 26 U.S.C. 2010(c)(6).  
Section 20.2010–1 also issued under 26 U.S.C. 2010(c)(6).  
Section 20.2010–2 also issued under 26 U.S.C. 2010(c)(6).  
Section 20.2010–3 also issued under 26 U.S.C. 2010(c)(6). \* \* \*

**Par. 2.** Section 20.2001–2 is added to read as follows:

**§ 20.2001–2 Valuation of adjusted taxable gifts for purposes of determining the deceased spousal unused exclusion amount of last deceased spouse.**

[The text of the proposed amendments to § 20.2001–2(a) and (b) is the same as the text of § 20.2001–2T(a)

and (b) published elsewhere in this issue of the **Federal Register**].

**Par. 3.** Section 20.2010–0 is added to read as follows:

#### **§ 20.2010–0 Table of contents.**

[The entries in the table of contents for the proposed amendments to § 20.2010–0 are the same as the entries in the table of contents for § 20.2010–0T published elsewhere in this issue of the **Federal Register**].

**Par. 4.** Section 20.2010–1 is added to read as follows:

#### **§ 20.2010–1 Unified credit against estate tax; in general.**

[The text of the proposed amendments to § 20.2010–1(a) through (e) is the same as the text of § 20.2010–1T(a) through (e) published elsewhere in this issue of the **Federal Register**].

**Par. 5.** Section 20.2010–2 is added to read as follows:

#### **§ 20.2010–2 Portability provisions applicable to estate of a decedent survived by a spouse.**

[The text of the proposed amendments to § 20.2010–2(a) through (e) is the same as the text of § 20.2010–2T(a) through (e) published elsewhere in this issue of the **Federal Register**].

**Par. 6.** Section 20.2010–3 is added to read as follows:

#### **§ 20.2010–3 Portability provisions applicable to the surviving spouse's estate.**

[The text of the proposed amendments to § 20.2010–3(a) through (f) is the same as the text of § 20.2010–3T(a) through (f) published elsewhere in this issue of the **Federal Register**].

#### **PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954**

**Par. 7.** The authority citation for part 25 is amended by adding an entry in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805.  
Section 25.2505–2T also issued under 26 U.S.C. 2010(c)(6). \* \* \*

**Par. 8.** Section 25.2505–0 is added to read as follows:

#### **§ 25.2505–0 Table of contents.**

[The entries in the table of contents for the proposed amendments to § 25.2505–0 are the same as the entries in the table of contents for § 25.2505–0T published elsewhere in this issue of the **Federal Register**].

**Par. 9.** Section 25.2505–1 is added to read as follows:

#### **§ 25.2505–1 Unified credit against gift tax; in general.**

[The text of the proposed amendments to § 25.2505–1(a) through

(e) is the same as the text of § 25.2505–1T(a) through (e) published elsewhere in this issue of the **Federal Register**].

**Par. 10.** Section 25.2505–2 is added to read as follows:

**§ 25.2505–2 Gifts made by a surviving spouse having a DSUE amount available.**

[The text of the proposed amendments to § 25.2505–2(a) through (g) is the same as the text of § 25.2505–2T(a) through (g) published elsewhere in this issue of the **Federal Register**].

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2012–14775 Filed 6–15–12; 8:45 am]

**BILLING CODE 4830–01–P**

**ARCHITECTURAL AND  
TRANSPORTATION BARRIERS  
COMPLIANCE BOARD**

**36 CFR Part 1191**

[Docket No. ATBCB–2012–0004]

RIN 3014–AA39

**Americans With Disabilities Act (ADA)  
and Architectural Barriers Act (ABA)  
Accessibility Guidelines; Emergency  
Transportable Housing Units**

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) proposes to amend the Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) Accessibility Guidelines to specifically address emergency transportable housing units that are provided by the Federal Emergency Management Agency or other entities on a temporary site in response to an emergency need for temporary housing. The proposed amendments seek to ensure that newly constructed and altered emergency transportable housing units covered by the ADA or ABA are readily accessible to and usable by individuals with disabilities. Other federal agencies are required to issue enforceable accessibility standards for the construction and alteration of facilities covered by the ADA or ABA that are consistent with the ADA and ABA Accessibility Guidelines. When the other federal agencies amend their accessibility standards to be consistent with the proposed amendments to the ADA and ABA Accessibility Guidelines, newly constructed and altered emergency transportable housing units

covered by the ADA or ABA would be required to comply with the accessibility standards as amended.

**DATES:** Submit comments by August 17, 2012. A hearing will be held on the proposed amendments on July 11, 2012, 9:30 to 11:30 a.m. To pre-register to testify please contact Kathy Johnson at (202) 272–00041 (voice), (202) 272–0065 (TTY), or [johnson@access-board.gov](mailto:johnson@access-board.gov). Witnesses can testify in person or by telephone. More information and any updates to the hearings will be posted on the Access Board's Web site at <http://www.access-board.gov/eth/>.

**ADDRESSES:** Submit comments by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. *Regulations.gov* ID for this docket is ATBCB–2012–0004.

- *Email:* [docket@access-board.gov](mailto:docket@access-board.gov). Include docket number ATBCB–2012–0004 in the subject line of the message.

- *Fax:* 202–272–0081.

- *Mail or Hand Delivery/Courier:* Office of Technical and Informational Services, Access Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111.

All comments, including any personal information provided, will be posted without change to <http://www.regulations.gov> and are available for public viewing.

The hearing location is Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** Marsha Mazz, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111. Telephone numbers: (202) 272–0020 (voice); (202) 272–0076 (TTY). Email address: [mazz@access-board.gov](mailto:mazz@access-board.gov). These are not toll free numbers.

**SUPPLEMENTARY INFORMATION:**

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**1. Public Participation and Request for Comments**

The Access Board encourages all persons interested in the rulemaking to submit comments on the proposed amendments and the questions in the

preamble. Instructions for submitting and viewing comments are provided above under **ADDRESSES**. The Access Board will consider all the comments and may change the proposed amendments based on the comments.

**2. Executive Summary**

*ADA and ABA Accessibility Guidelines*

Section 502 of the Rehabilitation Act requires the Access Board to develop and maintain accessibility guidelines to ensure that the construction and alteration of facilities covered by the Americans with Disabilities Act (ADA) or the Architectural Barriers Act (ABA) are readily accessible to and usable by individuals with disabilities. See 29 U.S.C. 792(b)(3). The Access Board's current accessibility guidelines for facilities were issued in 2004 and are known as the ADA and ABA Accessibility Guidelines. Other federal agencies are required to issue enforceable accessibility standards for the construction and alteration of facilities covered by the ADA or ABA that are consistent with the ADA and ABA Accessibility Guidelines. Newly constructed and altered facilities covered by the ADA or ABA are required to comply with the accessibility standards issued by the other agencies.

The ADA and ABA Accessibility Guidelines contain scoping and technical provisions for residential dwelling units. The scoping provisions specify the minimum number of units required to provide mobility features for individuals with mobility disabilities and the minimum number of units required to provide communication features for individuals who are deaf or have a hearing loss, as well as the accessible features to be provided within each type of unit. The technical provisions specify the design criteria for accessible features within the units.

*Purpose of Proposed Rule*

Emergency transportable housing units provided by the Federal Emergency Management Agency (FEMA) in the aftermath of Hurricanes Katrina and Rita raised issues regarding the application of the scoping and technical provisions for residential dwelling units to emergency transportable housing units. Emergency transportable housing units are used to provide temporary housing and are not intended to be used as permanent dwellings. They are prefabricated so they can be deployed rapidly in response to an emergency and are installed on temporary sites with minimal site preparation. They are