

# Proposed Rules

Federal Register

Vol. 77, No. 249

Friday, December 28, 2012

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG 155929-06]

RIN 1545-BL44

#### Payout Requirements for Type III Supporting Organizations That Are Not Functionally Integrated

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

**ACTION:** Partial withdrawal of notice of proposed rulemaking and notice of proposed rulemaking by cross-reference to temporary regulation.

**SUMMARY:** This document withdraws portions of the notice of proposed rulemaking published on September 24, 2009, relating to the payout requirements for Type III supporting organizations that are not functionally integrated. The withdrawal affects Type III supporting organizations that are not functionally integrated. In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations regarding the requirements to qualify as a Type III supporting organization that is operated in connection with one or more supported organizations. Those regulations reflect changes to the law made by the Pension Protection Act of 2006 and will affect Type III supporting organizations and their supported organizations. The text of those temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by March 28, 2013.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-155929-06), room 55203, 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-155929-06), 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-155929-06).

#### FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Preston J. Quesenberry at (202) 622-6070; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo Taylor at (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Final and temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations (26 CFR part 1) regarding organizations described in section 509(a)(3) of the Internal Revenue Code (Code), which are known as supporting organizations. The final and temporary regulations provide requirements to qualify as a supporting organization that is operated in connection with one or more supported organizations (called "Type III Supporting Organizations"). Those regulations reflect changes to the law made by the Pension Protection Act of 2006, Public Law 109-280 (120 Stat. 780 (2006)), and will affect Type III supporting organizations and their supported organizations. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the final and temporary regulations explains the temporary regulations and these proposed regulations.

##### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also 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 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.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic comments or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments that are submitted by the public will be available for public inspection and copying at [www.regulations.gov](http://www.regulations.gov) or upon request. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

#### Drafting Information

The principal authors of these regulations are Preston J. Quesenberry, and Stephanie N. Robbins, Office of Associate Chief Counsel (Tax-Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

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

Income taxes, Reporting and recordkeeping requirements.

#### Partial Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, §§ 1.509(a)-4(i)(5)(ii)(B) and 1.509(a)-4(i)(8) of the notice of proposed rulemaking (REG-155929-06) that was published in the **Federal Register** on September 24, 2009 (78 FR 48672), are withdrawn.

#### Proposed Amendments 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 continues to read in part as follows:

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

**Par. 2.** Section 1.509(a)–4 is amended by revising paragraphs (i)(5)(ii)(B), (i)(5)(ii)(C), and (i)(8) to read as follows:

**§ 1.509(a)–4 Supporting organizations.**

\* \* \* \* \*

- (i) \* \* \*
- (5) \* \* \*
- (ii) \* \* \*

(B) [The text of proposed amendments to § 1.509(a)–4(i)(5)(ii)(B) is the same as the text of § 1.509(a)–4T(i)(5)(ii)(B) published elsewhere in this issue of the **Federal Register**].

(C) [The text of proposed amendments to § 1.509(a)–4(i)(5)(ii)(C) is the same as the text of § 1.509(a)–4T(i)(5)(ii)(C) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

(8) [The text of proposed amendments to § 1.509(a)–4(i)(8) is the same as the text of § 1.509(a)–4T(i)(8) published elsewhere in this issue of the **Federal Register**].

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2012–31046 Filed 12–21–12; 4:15 pm]

**BILLING CODE 4830–01–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R05–OAR–2011–0347; FRL–9765–3]

**Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Milwaukee-Racine Nonattainment Area; Determination of Attainment for the 2006 24-Hour Fine Particle Standard**

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

**ACTION:** Proposed rule.

**SUMMARY:** On April 24, 2012, EPA proposed to determine that the Milwaukee-Racine, Wisconsin area had attained the 2006 24-hour fine particle (2006 PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS). EPA received several comments on the original proposal, including one suggesting that the suspension of certain Clean Air Act (CAA) requirements cannot be applied in this instance because it only pertains to the 1997 PM<sub>2.5</sub> NAAQS and not to the 2006 PM<sub>2.5</sub> NAAQS. As a result, we are repropounding a narrow portion of our original determination to address this issue. We will address all comments received on the original proposal and this proposal in our final notice.

**DATES:** Comments must be received on or before January 28, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2011–0347, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email*: [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).
3. *Fax*: (312) 408–2279.
4. *Mail*: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2011–3047. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of

special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Gilberto Alvarez, Environmental Scientist, at (312) 886–6143 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Gilberto Alvarez, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6143, [alvarez.gilberto@epa.gov](mailto:alvarez.gilberto@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What should I consider as I prepare my comments for EPA?
- II. What action is EPA taking?
- III. What is the background for this action?
- IV. Statutory and Executive Order Reviews

**I. What should I consider as I prepare my comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at