

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

[REG–135524–14]

RIN 1545–BM63

**Property Transferred in Connection With the Performance of Services****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to property transferred in connection with the performance of services. These proposed regulations affect certain taxpayers who receive property transferred in connection with the performance of services and make an election to include the value of substantially nonvested property in income in the year of transfer.

**DATES:** Comments must be received by October 15, 2015.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–135524–14), room 5205, Internal Revenue Service, PO 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–135524–14), 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–135524–14).

**FOR FURTHER INFORMATION CONTACT:** Concerning these proposed regulations, Thomas Scholz or Michael Hughes at (202) 317–5600 (not a toll-free number); concerning submissions of comments, and/or to request a hearing, Regina Johnson, at (202) 317–6901 (not a toll-free number).

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

Section 83(a) of the Internal Revenue Code (Code) provides generally that if, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the excess of the fair market value of the property (determined without regard to any restriction other than a restriction which by its terms will never lapse) as of the first time that the transferee's rights in the property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, over the amount (if any) paid for the property is

included in the service provider's gross income for the taxable year which includes such time. Section 83(b) and § 1.83–2(a) permit the service provider to elect to include in gross income, as compensation for services, the excess (if any) of the fair market value of the property at the time of transfer over the amount (if any) paid for the property.

Under section 83(b)(2), an election made under section 83(b) must be made in accordance with the regulations thereunder and must be filed with the IRS no later than 30 days after the date on which the property is transferred to the service provider. Under § 1.83–2(c), an election under section 83(b) is made by filing a copy of a written statement with the IRS office with which the person who performed the services files his or her return. In addition, the person who performed the services is required to submit a copy of such statement with his or her income tax return for the taxable year in which such property was transferred. Section 1.83–2(d) requires that the person who performed the services also submit a copy of the section 83(b) election to the person for whom the services were performed.

In recent years, it has come to the attention of the IRS that many taxpayers who wish to electronically file (e-file) their annual income tax return have been unable to do so because of the requirement in § 1.83–2(c) that they submit a copy of their section 83(b) election with their income tax return. Commercial software available for e-filing income tax returns does not consistently provide a mechanism for submitting a section 83(b) election with an individual's e-filed return. As a result, an individual who has made a section 83(b) election may be unable to e-file his or her return and at the same time comply with the requirement in § 1.83–2(c) that a copy of the section 83(b) election be submitted with the return. An individual who made a section 83(b) election would be required to paper file his or her income tax return to comply with the requirements under § 1.83–2(c).

Since the introduction of the e-file program, the IRS has encouraged taxpayers to file returns electronically. The e-file program reduces the amount of paper the government must process, and this reduction of paper processing allows the IRS to be more efficient and use valuable resources to address other critical work.

In order to remove this obstacle to e-filing an individual tax return, the proposed regulations would eliminate the requirement under § 1.83–2(c) that a copy of the section 83(b) election be submitted with an individual's tax

return for the year the property is transferred. As described in this preamble, section 83(b)(2) requires that an election made under section 83(b) be filed with the IRS no later than 30 days after the date that the property is transferred to the service provider. This statutory requirement provides the IRS with the original section 83(b) election. Section 83(b) elections are scanned by the service center receiving the election, and an electronic copy of the election is generated. The creation of this electronic copy of the section 83(b) election eliminates the need for a taxpayer to submit a copy of the section 83(b) election with his or her individual tax return.

Taxpayers are reminded of their general recordkeeping responsibilities pursuant to section 6001 of the Code, and more specifically of the need to keep records that show the basis of property owned by the taxpayer. Taxpayers must maintain sufficient records to show the original cost of the property and to support the tax treatment of the property transfer reported on the taxpayers' returns. Taxpayers must keep these records as long as they may be needed for the administration of any provision of the Code. Generally, this means records that support items shown on a return must be retained until the period of limitations for that return expires. See section 6501 of the Code. A copy of any section 83(b) election made with respect to property must be kept until the period of limitations expires for the return that reports the sale or other disposition of the property.

**Explanation of Provisions**

The proposed regulations would remove the second sentence in § 1.83–2(c) of the existing regulations. This would eliminate the requirement that taxpayers submit a copy of a section 83(b) election with their tax return for the year in which the property subject to the election was transferred.

**Proposed Effective Date**

These regulations under section 83 are proposed to apply as of January 1, 2016, and would apply to property transferred on or after that date. Taxpayers may rely on these proposed regulations for property transferred on or after January 1, 2015.

**Special Analyses**

It has been determined that this notice of proposed rulemaking 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 the 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, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### Comments and Request for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are timely submitted to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS 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 that timely submits written or electronic comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

### Drafting Information

The principal authors of these proposed regulations are Thomas Scholz and Michael Hughes, Office of the Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

### List of Subjects 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### 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 1.83-2 is amended by revising paragraph (c) and adding paragraph (g) to read as follows:

#### § 1.83-2 Election to include in gross income in year of transfer.

(c) *Manner of making election.* The election referred to in paragraph (a) of this section is made by filing one copy of a written statement with the internal

revenue office with which the person who performed the services files his return.

\* \* \* \* \*

(g) *Effective/applicability date.*

Paragraph (c) of this section applies to property transferred on or after January 1, 2016.

**John M. Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2015-17530 Filed 7-16-15; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2015-0004]

RIN 1625-AA11

#### Regulated Navigation Area; Middle Waterway Superfund Cleanup Site, Commencement Bay; Tacoma, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a regulated navigation area (RNA) on the Middle Waterway in Tacoma, Washington. The RNA will protect the sediment cap areas in the U.S. Environmental Protection Agency (EPA)'s Commencement Bay Nearshore/Tideflats (CB-NT) Superfund Cleanup Site in the Middle Waterway Problem Area. This regulated navigation area would prohibit activities that could disrupt the integrity of the engineered sediment caps that have been placed within the Middle Waterway Problem Area. These activities include vessel grounding, anchoring, dragging, trawling, spudding or other such activities that would disturb the integrity of the sediment caps. It will not affect transit or navigation of this area or the existing industrial activities occurring in this area.

**DATES:** Comments and related material must be received by the Coast Guard on or before October 15, 2015. Requests for public meetings must be received by the Coast Guard on or before August 17, 2015.

**ADDRESSES:** You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S.

Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LTJG Johnny Zeng, Waterways Management Division, Sector Puget Sound, U.S. Coast Guard; telephone (206) 217-6175, email [SectorPugetSoundWWM@uscg.mil](mailto:SectorPugetSoundWWM@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

#### A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### 1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if