

impacts, in the short- and long-term? Would utilization of OTC preventive products significantly replace utilization of non-OTC preventive products among participants, beneficiaries, and enrollees? Would there be an impact on the cost of non-OTC preventive products? What are the estimated initial and ongoing time and cost burdens on (or savings for) plans, issuers, plan sponsors, third-party administrators, PBMs, and retailers if plans and issuers were required to cover OTC preventive products without cost sharing and without a prescription by a health care provider?

- How would a requirement for plans and issuers to cover OTC preventive products without cost sharing and without a prescription by a health care provider affect price negotiations, pricing decisions, market power, discount or rebate programs, and marketing practices for these products? Would the costs to plans, issuers, third-party administrators, PBMs, and providers vary for small versus large entities? If so, what are the impacts for small entities as compared to large entities? What would the net impact of these changes be on prices for and the availability of OTC preventive products?

- To what degree would any potential increases in costs or premiums associated with a requirement for plans and issuers to cover OTC preventive products without cost sharing and without a prescription by a health care provider be offset by greater access to OTC preventive products (for example, due to improved health outcomes from greater uptake of recommended preventive products, or fewer office visits as a result of participants, beneficiaries, and enrollees no longer requiring an office visit to obtain a prescription for OTC preventive products)?

- Identify and provide estimates related to the potential societal and economic impacts (for example, benefits, costs, and transfers) on individuals and families, as well as on health care providers, if OTC preventive products were required to be covered without cost sharing and without a prescription by a health care provider. Would these impacts vary based on region, state, socioeconomic status, race, sex, age, insured status, or other factors? For example, would there be potential reductions in unintended pregnancies or maternal deaths due to participants, beneficiaries, and enrollees no longer requiring a prescription for OTC oral contraceptives? As another example, would there be increases in the length of time that children are breastfed if OTC preventive products such as

breastfeeding supplies were required to be covered without cost sharing and without a prescription by a health care provider? Would smoking cessation rates improve with increased access to OTC tobacco cessation products?

- Identify and provide any information regarding the potential impact on health outcomes and quality of life of participants, beneficiaries, and enrollees if plans and issuers were required to cover OTC preventive products without cost sharing and without a prescription by a health care provider.

- Identify and provide estimates related to the potential economic impacts (short- and long-term) on health care providers, retailers, and pharmacists if OTC preventive products were required to be covered without cost sharing and without a prescription by a health care provider. How would the claim processing burden for health care providers, retailers, and pharmacists change? How would the number of visits to health care providers, retailers, and pharmacists change?

### III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. However, section II of this document does contain a general solicitation of comments in the form of an RFI. In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA. Consequently, there is no need for review by the Office of Management and Budget under the authority of the PRA.

Signed at Washington DC.

**Rachel D. Levy,**

*Associate Chief Counsel, (Employee Benefits, Exempt Organizations, and Employment Taxes), Internal Revenue Service, Department of the Treasury.*

Signed at Washington DC.

**Carol A. Weiser,**

*Benefits Tax Counsel, Department of the Treasury.*

Signed at Washington DC.

**Lisa M. Gomez,**

*Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2023–21969 Filed 10–3–23; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 300

[REG–106203–23]

RIN 1545–BQ77

#### Preparer Tax Identification Number (PTIN) User Fee Update

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

**ACTION:** Notice of proposed rulemaking by cross-reference to interim final rule.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the Department of the Treasury (Treasury Department) and the IRS are issuing interim final regulations that amend the current regulations to reduce the amount of the user fee imposed on tax return preparers to apply for or renew a preparer tax identification number (PTIN). The text of the interim final regulations also serves as the text of these proposed regulations.

**DATES:** Electronic or written comments and requests for a public hearing must be received by December 4, 2023.

**ADDRESSES:** Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG–106203–23) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Treasury Department and the IRS will

publish for public availability any comments submitted to the IRS's public docket. Send paper submissions to: CC:PA:LPD:PR (REG-106203-23), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Jamie Song at (202) 317-6845; concerning cost methodology, Michael A. Weber at (202) 803-9738; concerning submissions of comments or requests for a public hearing, Vivian Hayes at (202) 317-6901 (not toll-free numbers) or by email at [publichearings@irs.gov](mailto:publichearings@irs.gov) (preferred).

**SUPPLEMENTARY INFORMATION:**

**Background and Explanation of Provisions**

Interim final regulations in the Rules and Regulations section of this issue of the **Federal Register** amend regulations under 26 CFR part 300 setting a user fee for individuals who apply for or renew a PTIN. The Independent Offices Appropriation Act of 1952 (IOAA), which is codified at 31 U.S.C. 9701, authorizes agencies to prescribe regulations that establish user fees for services provided by the agency. The IOAA provides that regulations implementing user fees are subject to policies prescribed by the President; these policies are set forth in the Office of Management and Budget Circular A-25, 58 FR 38142 (July 15, 1993). The text of the interim final regulations also serves as the text of these proposed regulations. The preamble to the interim final regulations explains the interim final regulations and these proposed regulations.

**Special Analyses**

*I. Regulatory Planning and Review*

The OMB's Office of Information and Regulatory Analysis has determined that this regulation is not significant and subject to review under section 6(b) of Executive Order 12866.

*II. Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The proposed regulations affect individuals who prepare or assist in preparing all or substantially all of a tax return or claim for refund for compensation. Only individuals, not businesses, can have a PTIN. Thus, the economic impact of these regulations on any small entity generally will be a result of an individual tax return

preparer who is required to have a PTIN owning a small business or a small business otherwise employing an individual tax return preparer who is required to have a PTIN. The Treasury Department and the IRS estimate that approximately 847,555 individuals will apply annually for an initial or renewal PTIN. Although the interim final regulations will likely affect a substantial number of small entities, the economic impact on those entities is not significant. The interim final regulations will establish an \$11 fee per application or renewal (plus \$8.75 payable directly to the contractor), which is a reduction from the previously established fee and will not have a significant economic impact on a small entity. Accordingly, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

*III. Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

*IV. Executive Order 13132: Federalism*

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

*V. Submission to Small Business Administration*

Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel of the Office of Advocacy of the Small

Business Administration for comment on its impact on small business.

**Comments and Requests for a Public Hearing**

Consideration will be given to comments that are submitted timely 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 regulations. Any comments submitted will be made available at <https://www.regulations.gov> or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**.

**Statement of Availability of IRS Documents**

IRS notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

**Drafting Information**

The principal author of these regulations is Jamie Song, Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

**List of Subjects in 26 CFR Part 300**

Estate taxes, Excise taxes, Fees, Gift taxes, Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 300 is proposed to be amended as follows:

**PART 300—USER FEES**

■ **Paragraph 1.** The authority citation for part 300 continues to read in part as follows:

**Authority:** 31 U.S.C. 9701.

■ **Par. 2.** Section 300.11 is amended by revising paragraphs (b) and (d) to read as follows:

**§ 300.11 Fee for obtaining a preparer tax identification number.**

\* \* \* \* \*

(b) [The text of proposed § 300.11(b) is the same as the text of § 300.11(b) published elsewhere in this issue of the **Federal Register**.  
\* \* \* \* \*

(d) [The text of proposed § 300.11(d) is the same as the text of § 300.11(d) published elsewhere in this issue of the **Federal Register**.]

**Douglas W. O'Donnell,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2023–22104 Filed 9–29–23; 4:15 pm]

BILLING CODE 4830–01–P

## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 384

[Docket No. 21–CRB–0013–BER (2024–2028)]

#### Determination of Royalty Rates and Terms for Making Ephemeral Copies of Sound Recordings for Transmission to Business Establishments (Business Establishments IV)

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Proposed rule.

**SUMMARY:** The Copyright Royalty Judges solicit comments on proposed rates and terms for the making of ephemeral copies of sound recordings to facilitate digital audio transmissions of those sound recordings to business establishments pursuant to the limitation on exclusive rights specified by the Copyright Act for the period from January 1, 2024, through December 31, 2028.

**DATES:** Comments and objections, if any, are due no later than October 24, 2023.

**ADDRESSES:** You may submit comments and objections, identified by docket number 21–CRB–0013–BER (2024–2028) online through eCRB at <https://app.crb.gov/>.

**Instructions:** All comments must include the Copyright Royalty Board name and the docket number for this proposed rule. All properly filed comments will appear without change in eCRB at <https://app.crb.gov/>, including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/>, and search for docket number 21–CRB–0013–BER (2024–2028).

**FOR FURTHER INFORMATION CONTACT:** Anita Brown, CRB Program Specialist, (202) 707–7658, [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** The Copyright Act provides that the Copyright Royalty Judges (Judges) commence a proceeding every fifth year to determine royalty rates and terms for the recording of ephemeral copies of sound recordings pursuant to the statutory license in 17 U.S.C. 112(e)(1) to facilitate digital audio transmissions of those sound recordings to business establishments pursuant to the limitation on exclusive rights specified by 17 U.S.C. 114(d)(1)(C)(iv). See 17 U.S.C. 804(b)(2).

In accordance with section 804(b)(2), the Judges commenced the proceeding to set rates and terms for the period 2024–2028 on January 5, 2022 (87 FR 490). In the **Federal Register** notice, the Judges requested that interested parties submit petitions to participate. Petitions to Participate were received from: Mood Media Corp., Music Choice, Rockbot, Inc., Sirius XM Radio Inc. and Its Wholly Owned Subsidiaries, SoundExchange, Inc., Soundtrack Your Brand Sweden AB, and Stingray Music USA Inc. The Judges initiated the three-month negotiation period and directed the participants to submit written direct statements no later than September 19, 2022. See 17 U.S.C. 803(b)(3).

On September 19, 2022, the Judges received a Motion to Adopt Settlement stating that all participants<sup>1</sup> had reached a settlement obviating the need for written direct statements or a hearing.

Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to adopt royalty rates and terms negotiated by “some or all of the participants in a proceeding at any time during the proceeding” provided they are submitted to the Judges for approval. The Judges must provide “an opportunity to comment on the agreement” to both participants and non-participants in the rate proceeding who “would be bound by the terms, rates, or other determination set by any agreement . . .” 17 U.S.C. 801(b)(7)(A)(i). Participants in the proceeding may also “object to [the agreement’s] adoption as a basis for statutory terms and rates.” *Id.*

The Judges “may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,” only “if any participant [to the proceeding] objects to the agreement and the [Judges]

conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.” 17 U.S.C. 801(b)(7)(A)(ii).

Royalty rates and terms adopted pursuant to section 801(b)(7)(A) are binding on all copyright owners of sound recordings and all business establishment services making an ephemeral recording of a sound recording for the period January 1, 2024, through December 31, 2028.

#### List of Subjects in 37 CFR Part 384

Copyright, Digital audio transmissions, Ephemeral recordings, Performance right, Sound recordings.

#### Proposed Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges propose to amend part 384 of chapter III of title 37 of the Code of Federal Regulations as follows:

#### PART 384—RATES AND TERMS FOR THE MAKING OF EPHEMERAL RECORDINGS BY BUSINESS ESTABLISHMENT SERVICES

■ 1. The authority citation for part 384 continues to read as follows:

**Authority:** 17 U.S.C. 112(e), 801(b)(1).

#### § 384.1 [Amended]

- 2. In § 384.1(a), remove the phrase “January 1, 2019, through December 31, 2023” and add in its place “January 1, 2024, through December 31, 2028”.
- 3. In § 384.3, revise paragraphs (a) and (b) to read as follows:

#### § 384.3 Royalty fees for ephemeral recordings.

(a) *Basic royalty rate.* (1) For the making of any number of Ephemeral Recordings in the operation of a Business Establishment Service, a Licensee shall pay a royalty equal to the following percentages of such Licensee’s “Gross Proceeds” derived from the use in such service of musical programs that are attributable to recordings subject to protection under title 17, United States Code:

TABLE 1 TO PARAGRAPH (a)(1)

Year	Rate (%)
2024 .....	14.0
2025 .....	14.5
2026 .....	14.75
2027 .....	15.0
2028 .....	15.0

(2) Gross Proceeds as used in this section means all fees and payments, including those made in kind, received

<sup>1</sup> Soundtrack Your Brand Sweden AB had withdrawn its Petition to Participate on April 5, 2022.