

Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations

Compromises

REG-116991-98

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In T.D. 8829, on page 235, the IRS is issuing temporary regulations relating to the compromise of tax liabilities. These regulations provide additional guidance regarding the compromise of internal revenue taxes. The temporary regulations reflect changes to the law made by the Internal Revenue Service Restructuring and Reform Act of 1998 and the Taxpayer bill of Rights II. The text of the temporary regulations also serves as the text of these proposed regulations.

DATE: Written or electronically generated comments and requests for a public hearing must be received by **October 19, 1999**.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-116991-98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-116991-98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.gov/prod/tax_regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Carol A. Campbell, (202) 622-3620 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in T.D. 8829 amend the Procedure and Administration Regulations (26 CFR part 301) under section 7122 of the Internal Revenue Code. The temporary regulations reflect the amendment of section 7122 by section 3462 of the Internal Revenue Service Restructuring and Reform Act of 1998 ("RRA 1998") Public Law, 105-206, (112 Stat. 685, 764) and by section 503(a) of Taxpayer Bill of Rights II Public Law 104-168, (110 Stat. 1452, 1461).

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 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 regulation does 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 will be 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 written comments (a signed original and eight (8) copies) or electronically generated comments that are submitted timely to the IRS. The IRS generally requests any comments on the clarity of the proposed rule and how it may be made easier to understand.

Section 3462 of RRA 1998 and its legislative history provide for the considera-

tion of factors such as equity, hardship, and public policy in the compromise of tax cases, if such consideration would promote effective tax administration. The legislative history also states that the IRS should use this new compromise authority "to resolve longstanding cases by forgoing penalties and interest which have accumulated as a result of delay in determining the taxpayer's liability." H. Conf. Rep. 599, 105th Cong., 2d Sess. 289 (1998). The text of the temporary regulation provides the authority to compromise cases involving issues of equity, hardship, and public policy, if such a compromise would promote effective tax administration. The temporary regulation provides factors to be considered and examples of cases that could be compromised under this authority when collection of the full amount of the tax liability would create economic hardship. The temporary regulation also provides limited examples of cases that could be compromised when the facts and circumstances presented indicate that collection of the full tax liability would be detrimental to voluntary compliance. The temporary regulation does not contain examples of longstanding cases that could be compromised to promote effective tax administration when penalties and interest have accumulated as the result of delay by the Service in determining the tax liability.

The public is specifically encouraged to make comments or provide examples regarding the particular types of cases or situations in which the Secretary's authority to compromise should be used because: (1) collection of the full amount of tax liability would be detrimental to voluntary compliance or (2) IRS delay in determining the tax liability has resulted in the accumulation of significant interest and penalties. In formulating comments regarding delay in interest and penalty cases, consideration should be given to the possible interplay between cases compromised under this provision and the relief accorded taxpayers under I.R.C. § 6404(e).

All comments will be available for public inspection and copying.

A public hearing may be scheduled if requested in writing by a person that

timely submits written 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 author of these regulations is Carol A. Campbell, Office of the Assistant Chief Counsel (General Litigation) CC:EL:GL, IRS. However, other personnel from the IRS and Treasury Department participated in their development.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR Part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

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

Paragraph 2. Section 301.7122-1 is added to read as follows:

§ 301.7122-1 Compromises.

[The text of this proposed section is the same as the text of § 301.7122-1T published in T.D. 8829, on page 235.]

Charles O. Rossotti,
*Commissioner of
Internal Revenue.*

(Filed by the Office of the Federal Register on July 19, 1999, 8:45 a.m., and published in the issue of the Federal Register for July 21, 1999, 64 F.R. 39106)