

# Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations

## Automatic Extension of Time to File Certain Information Returns and Exempt Organization Returns

**REG-107618-02**

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: In this issue of the Bulletin, the IRS is issuing temporary regulations (T.D. 9061) providing an automatic extension of time to file certain information returns and exempt organization returns. The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by September 9, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG-107618-02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:RU (REG-107618-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at: [www.irs.gov/reg.s](http://www.irs.gov/reg.s).

FOR FURTHER INFORMATION CONTACT: Concerning submissions, Treena Garret, (202) 622-7180; concerning the regulations, Charles A. Hall, (202) 622-4940 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

### Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995

(44 U.S.C. 3507(d)). 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, W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by August 11, 2003. 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 (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection 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 and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this proposed regulation is in §1.6081-8T and §1.6081-9T. This collection of information is required by the IRS for taxpayers to obtain a benefit (an automatic 30-day extension of time to file certain information returns and an automatic three-month extension of time to file exempt organization returns). The respondents are taxpayers required to file certain information returns or exempt organization returns.

Estimates of the reporting burden in §1.6081-8T of these proposed regulations are reflected in the burden estimates of Form 8809, *Request for Extension of Time to File Information Returns*.

*Estimated total annual reporting burden for 2001 for Form 8809: 155,000 hours.*

*Estimated number of responses for 2001 Form 8809: 50,000.*

*Estimated average annual burden hours per response for 2001 Form 8809: 3 hours and 6 minutes.*

Estimates of the reporting burden in §1.6081-9T of these proposed regulations are reflected in the burden estimates of Form 8868, *Application for Extension of Time To File an Exempt Organization Return*.

*Estimated total annual reporting burden for 2001 for Form 8868: 1,373,335 hours.*

*Estimated number of responses for 2001 Form 8868: 248,932.*

*Estimated average annual burden hours per response for 2001 Form 8809: 5 hours and 31 minutes.*

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it 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 and Explanation of Provisions

Temporary regulations (T.D. 9061) on page 5 of this issue of the Bulletin amend 26 CFR parts 1 and 31. The temporary regulations provide that filers and transmitters of certain information returns may obtain an automatic 30-day extension of time to file. The temporary regulations also provide that exempt organizations may obtain an automatic three-month extension of time to file an exempt organization return. 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. In addition, these regulations also propose other minor changes to conform the regulations under section 6081 to current law and practice.

### 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 has also been determined that section 553(b) of the

Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to the regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the collection of information imposed by this regulation is not significant because the burden in these regulations is more than offset by the reduction of the burden in Forms 8809 and 8868. These regulations reduce the burden in those forms by removing the signature requirement and the requirement to provide an explanation of the need for the extension of time to file. 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 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 their impact on small business.

### Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (preferably a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. 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 public hearing will be published in the **Federal Register**.

### Drafting Information

The principal author of the regulations is Charles A. Hall of the Office of the Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division).

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### Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 25, 31, 53, 55, and 156 are proposed to be amended as follows:

## PART 1—INCOME TAXES

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

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

Section 1.6081-8 also issued under 26 U.S.C. 6081(a).

Section 1.6081-9 also issued under 26 U.S.C. 6081(a). \* \* \*

Par. 2. Section 1.6081-1 is amended by revising paragraph (a) to read as follows:

*§1.6081-1 Extension of time for filing returns.*

(a) *In general.* The Commissioner is authorized to grant a reasonable extension of time for filing any return, declaration, statement, or other document which relates to any tax imposed by subtitle A of the Code and which is required under the provisions of subtitle A or F of the Code or the regulations thereunder. However, other than in the case of taxpayers who are abroad, such extensions of time shall not be granted for more than 6 months, and the extension of time for filing the return of a DISC (as defined in section 992(a)), as specified in section 6072(b), shall not be granted. An extension of time for filing an income tax return shall not operate to extend the time for the payment of the tax or any installment thereof unless specified to the contrary in the extension. For rules relating to extensions of time for paying tax, see §1.6161-1.

\* \* \* \* \*

Par. 3. Section 1.6081-8 is added to read as follows:

*§1.6081-8 Automatic extension of time to file certain information returns.*

[The text of proposed §1.6081-8 is the same as the text of §1.6081-8T published elsewhere in this issue of the Bulletin].

Par. 4. Section 1.6081-9 is added to read as follows:

*§1.6081-9 Automatic extension of time to file exempt organization returns.*

[The text of proposed §1.6081-9 is the same as the text of §1.6081-9T published elsewhere in this issue of the Bulletin].

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

Par. 5. The authority citation for part 25 continues to read in part as follows:

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

## PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 6. The authority citation for part 31 continues to read in part as follows:

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

Par. 7. In §31.6081(a)-1, paragraph (a)(2)(i) is revised to read as follows:

*§31.6081(a)-1 Extensions of time for filing returns and other documents.*

(a) \* \* \*

(2) \* \* \* (i) [The text of proposed §31.6081(a)-1(a)(2)(i) is the same as the text of §31.6081(a)-1T(a)(2)(i) published elsewhere in this issue of the Bulletin].

\* \* \* \* \*

## PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 8. The authority citation for part 53 continues to read as follows:

Authority: 26 U.S.C. 7805.

## PART 55—EXCISE TAX ON REAL ESTATE INVESTMENT TRUSTS AND REGULATED INVESTMENT COMPANIES

Par. 9. The first sentence of the authority citation for part 55 is revised to read as follows:

Authority: 26 U.S.C. 6001, 6011, 6071, 6091, and 7805. \* \* \*

## PART 156—EXCISE TAX ON GREENMAIL

Par. 10. The authority citation for part 156 is revised to read as follows:

Authority: 26 U.S.C. 6001, 6011, 6061, 6071, 6091, 6161, and 7805.

Par. 11. In the list below, for each section indicated in the left column, remove the language in the middle column and add the language in the right column in its place:

Section	Remove	Add
1.6081–2(f), first sentence	district director, including the Assistant Commissioner (International), or the director of a service center	Commissioner
1.6081–3(d), first sentence	district director, including the Director of International Operations, or the director of a service center may, in his discretion,	Commissioner may
1.6081–4(c), first sentence	district director, including the Assistant Commissioner (International), or the director of a service center	Commissioner
1.6081–5(a)(1)	1.6031–1(e)(2)	1.6031(a)–1(e)(2)
1.6081–6(d), first sentence	district director, including the Assistant Commissioner (International), or the director of a service center	Commissioner
1.6081–7(d), first sentence	district director, including the Assistant Commissioner (International), or the director of a service center	Commissioner
25.6081–1, second sentence	district director or director of the service center	Commissioner
31.6081(a)–1(b), first sentence	district director or director of a service center	Commissioner
53.6081–1(a), first sentence	District directors and directors of service centers are	The Commissioner is
53.6081–1(b), first sentence	to the district director or director of the service center with whom the return is to be filed	in accordance with the instructions to the extension request form
55.6081–1, first sentence	District directors and directors of service centers are	The Commissioner is
156.6081–1(a), first sentence	District directors and directors of service centers are	The Commissioner is
156.6081–1(b), first sentence	to the district director or director of the service center with whom the return is to be filed	in accordance with the instructions to the extension request form

Judith B. Tomaso,  
*Acting Deputy Commissioner  
for Services and Enforcement.*