

# Notice of Proposed Rulemaking and Notice of Public Hearing

## Magnetic Media Filing Requirements for Information Returns

REG-209803-95

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: In \*\*\*T.D. 8683, page 9, the IRS is issuing temporary regulations relating to the requirements for filing information returns on magnetic media or in other machine-readable form under section 6011(e) of the Internal Revenue Code. The text of those temporary regulations also serves as the text of the proposed regulations. This document also contains a proposed amendment to § 301.6011-2(g)(2). This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by January 8, 1997. Outlines of topics to be discussed at the public hearing scheduled for February 5, 1997, must be received by January 15, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-209803-95), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-209803-95), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave., 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.ustreas.gov/prod/tax\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax_regs/comments.html). The public hearing will be held in Room 3313 of the Internal Revenue Building, 1111 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Donna Welch, (202) 622-4910; concerning submissions and the hearing, Mike Slaughter, (202) 622-7190 (not toll-free numbers).

## SUPPLEMENTARY INFORMATION:

### *Background*

Temporary regulations in T.D. 8683 amend the Income Tax Regulations (26 CFR part 1) relating to section 6045 and the Procedure and Administration Regulations (26 CFR part 301) relating to section 6011(e). The temporary regulations contain rules relating to the filing requirements of information returns on magnetic media or in other machine-readable form under section 6011(e).

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

### *Special Analyses*

It has been determined that these proposed regulations are not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required.

It is hereby certified that the regulations in this document will not have a significant economic impact on a substantial number of small entities. This certification is based on a determination that these regulations impose no additional reporting or recordkeeping requirement and only prescribe the method of filing information returns that are already required to be filed. Further, these regulations are consistent with the requirements imposed by statute. Section 6011(e)(2)(A) provides that, in prescribing regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form, the Secretary shall not require any person to file returns on magnetic media unless the person is required to file at least 250 returns during the calendar year. Consistent with the statutory provision, these regulations do not require information returns to be filed on magnetic media unless 250 or more returns are required to be filed. Further, the economic impact caused by requiring filing on magnetic media should be minimal. If a taxpayer's operations are computerized, reporting in accordance with the regulations should be less costly than filing on paper. If the taxpayer's operations are not computerized, the incremental cost of magnetic media reporting should be minimal in most cases because of the availability of

computer service bureaus. In addition, the existing regulations provide that the IRS may waive the magnetic media filing requirements upon a showing of hardship. It is anticipated that the waiver authority will be exercised so as not to unduly burden taxpayers lacking both the necessary data processing facilities and access at a reasonable cost to computer service bureaus. Accordingly, 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, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### *Comments and 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) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for February 5, 1997, at 10 am. The hearing will be held in room 3313 of the Internal Revenue Building, 1111 Constitution Ave., NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit written comments by January 8, 1997, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by January 15, 1997.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### *Drafting Information*

The principal author of the regulations is Donna Welch, Office of Assis-

tant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

(c)(2), (f), and the first sentence of (g)(2) published in T.D. 8683, page 9.

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

(Filed by the Office of the Federal Register on October 9, 1996, 8:45 a.m., and published in the issue of the Federal Register for October 10, 1996, 61 FR. 53161)

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*Proposed Amendments to the Regulations*

Accordingly, 26 CFR parts 1 and 301 are 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. In § 1.6045-1, paragraph (l) is revised to read as follows:

*§ 1.6045-1 Returns of information of brokers and barter exchanges.*

[The text of paragraph (l) as proposed is the same as the first sentence of § 1.6045-1T(l) published in T.D. 8683, page 9.

Par. 3. In § 1.6045-2, paragraph (g)(2) is revised to read as follows:

*§ 1.6045-2 Furnishing statement required with respect to certain substitute payments.*

[The text of paragraph (g)(2) as proposed is the same as the text of the first sentence of § 1.6045-2T(g)(2) published in T.D. 8683, page 9.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 4. The authority citation for part 301 continues to read in part as follows:

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

Par. 5. Section 301.6011-2 is amended by revising paragraphs (a)(1), (b)(1) and (2), (c)(1)(i) and (iii), (c)(2), (f) and (g)(2), and by adding (c)(1)(iv), and by removing paragraphs (c)(3) and (4) and the last sentence of paragraph (e). The revisions and additions read as follows:

*§ 301.6011-2 Required use of magnetic media.*

[The text of paragraphs (a)(1), (b)(1) and (2), (c)(1)(i), (iii), and (iv), (c)(2), (f), and (g)(2) as proposed is the same as the text in § 301.6011-2T(a)(1), (b)(1) and (2), (c)(1)(i), (iii), and (iv),