

The FLRA seeks comments and suggestions concerning its proposed method of adjusting the statutory fee cap.

Other Specific Factors

The FLRA is seeking comment on whether to also amend its EAJA regulations to allow for an adjustment to the statutory fees cap based on "special factors." We note that the Federal Mine Safety and Health Review Commission has recently amended its regulations to allow fee increases based on special factors, 61 FR 66961 (Nov. 12, 1998).

The EAJA, 5 U.S.C. 504(b)(1)(A), lists as a special factor the "limited availability of attorneys qualified to handle certain types of proceedings." This phrase refers to a narrow category of attorneys who have "some distinctive knowledge or specialized skill" such as those who practice patent law. *Pierce v. Underwood*, 487 U.S. 552, 572 (1988). Without specifying what other special factors may exist, the Supreme Court noted that they "must be such as are not of broad and general application." *Id.* at 573.

The FLRA reiterates that it is unclear whether expertise in administrative practice before the FLRA qualifies as a "special factor." See 55 FLRA at 448 n.4 (citing *F.J. Vollmer Co., Inc. v. Magaw*, 102 F.3d 591, 598–99 (D.C. Cir. 1994); *Waterman Steamship Corp. v. Maritime Subsidy Bd.*, 901 F.2d 1119, 1124 (D.C. Cir. 1990)).

The FLRA proposes revising § 2430.5 to provide that requests for special factor increases in fees are submitted to the administrative law judge assigned to the matter, and thereafter subject to Authority review. The FLRA asks

commentators to address two questions. First, is it appropriate to establish a regulation allowing for increases due to special factors? Second, assuming that such a regulation is established, what, if any, specific criteria should the regulation set out to be considered in analyzing a request for such an increase? As currently proposed, the regulation does not list any specific criteria.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FLRA has determined that this regulation, as amended, will not have a significant economic impact on a substantial number of small entities, because this rule applies to Federal employees, Federal agencies, and labor organizations representing Federal employees.

Unfunded Mandates Reform Act of 1995

This rule change will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the

economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulation contains no additional information collection or record keeping requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 5 CFR Part 2430

Administrative practice and procedure, Equal access to justice, Government employees, Labor-management relations.

For the reasons stated in the preamble, the FLRA amends 5 CFR part 2430 as follows:

PART 2430—AWARDS OF ATTORNEY FEES AND OTHER EXPENSES

1. The authority citation for part 2430 is revised to read as follows:

Authority: 5 U.S.C. 504.

2. Revise § 2430.4(a) to read as follows:

§ 2430.4 Allowable fees and expenses.

(a)(1)(i) No award for the fee of an attorney or agent under these rules may exceed \$125.00 per hour, or for adversary adjudications commenced prior to March 29, 1996, \$75.00 per hour, indexed to reflect cost of living increases as follows:

$$\frac{\text{CPI-U-Year of Service}}{\text{CPI-U-Base Year}} \times \$125 \text{ (or } \$75) / \text{hr} = \text{Adjusted Rate}$$

(ii) The cost of living index to be used is the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (CPI-U). If legal services are provided during more than one year, each year shall be calculated separately. If an annual average CPI-U for a particular year is not yet available, the prior year's annual average CPI-U shall be used.

(2) No award to compensate an expert witness may exceed the highest rate that the Authority pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily

charges clients separately for such expenses.

* * * * *

3. Revise § 2430.5 to read as follows:

§ 2430.5 Rulemaking on maximum rates for attorney fees.

If warranted by special factors, attorney fees may be awarded at a rate higher than that established in § 2430.4. Any such increase in the rate for attorney fees shall be made only upon a petition submitted by the applicant, pursuant to § 2430.6. Determinations regarding fee adjustments are subject to Authority review as specified in § 2430.13.

Dated: November 23, 1999.

Solly Thomas,

Executive Director.

[FR Doc. 99–30897 Filed 11–26–99; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Ch. I

[Docket No. OST–1996–1880]

Nondiscrimination on the Basis of Handicap in Air Travel

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of postponement of meeting.

SUMMARY: In a document published in the **Federal Register**, the Department announced its intention to convene a public meeting on November 30, 1999, to discuss the possibility of commencing a rulemaking to require certain additional accommodations for deaf and hard-of-hearing air travelers under the Air Carrier Access Act of 1986. This notice announces the postponement of that meeting until January 18, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590, by phone at (202) 366-9310 (voice) or (202) 755-7687 (TTY), or email at bob.ashby@ost.dot.gov.

SUPPLEMENTARY INFORMATION: The Department finds it necessary at this time to postpone the meeting it announced in its November 19, 1999, **Federal Register** notice. 64 FR 63279, November 19, 1999. Some key participants informed us that they would be better able to make informed presentations at a later date, and others were unavailable on the originally scheduled date. The Department continues to place the highest priority on making air travel accessible to deaf and hard-of-hearing persons. The Department has rescheduled the meeting for January 18, 2000.

Issued in Washington, DC, on November 23, 1999.

Robert C. Ashby,

Deputy Assistant General Counsel for Regulation and Enforcement.

[FR Doc. 99-31080 Filed 11-26-99; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-105162-97]

RIN 1545-AV16

Special Basis Rules for Transfer of Property by a Partnership to a Corporation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of proposed regulations.

SUMMARY: This document partially withdraws certain proposed regulations

relating to special basis adjustments under section 743. The withdrawal is in response to the publication of subsequent proposed regulations (REG-209682-94) addressing the same subject matter.

FOR FURTHER INFORMATION CONTACT: Daniel Carmody at (202) 622-3080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1997, the IRS published in the **Federal Register** (62 FR 55768) proposed regulations under section 743 of the Internal Revenue Code (the proposed regulations). Section 1.743-2 of the proposed regulations addresses the effect of the special basis adjustment under section 743 for partnerships that participate in section 351 exchanges. This issue is addressed in the proposed regulations published in the **Federal Register** on January 29, 1998 (63 FR 4408), which contain general guidance on basis adjustments under section 743. Therefore, this document withdraws § 1.743-2 of the proposed regulations published in the **Federal Register** on October 28, 1997 (62 FR 55768).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, proposed amendments to 26 CFR part 1 relating to § 1.743-2 are withdrawn.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99-30506 Filed 11-26-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-110385-99]

RIN-1545-AX39

Changes in Entity Classification: Special Rule for Certain Foreign Eligible Entities

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations addressing certain transactions that occur within a

specified period of time before or after a change in entity classification. The proposed regulations prevent, in limited circumstances, the use of changes in entity classification to alter a taxpayer's Federal tax consequences. Under these regulations, a change in classification by a foreign eligible entity that was originally classified as an association taxable as a corporation (and, but for this regulation, would be classified as an entity disregarded as an entity separate from its owner) will be invalidated in certain limited circumstances. This document also contains a notice of public hearing on these proposed regulations.

DATES: Written comments must be received by February 28, 2000. Requests to speak (with outlines of oral comments) at the public hearing scheduled for January 31, 2000, must be submitted by January 10, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-110385-99), 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-110385-99), 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 of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax_regs/reglist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Mark D. Harris, (202) 622-3860 (not a toll-free number); concerning submissions and the hearing, LaNita VanDyke, (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document proposes to amend the current Procedure and Administration Regulations (26 CFR Part 301) relating to the classification of entities for Federal tax purposes. On December 18, 1996, the IRS and the Treasury Department published final regulations (61 FR 66584) relating to the classification of business organizations under section 7701. The regulations (the check-the-box regulations) replaced the increasingly formalistic entity classification rules with a simpler, elective regime. The new rules were