

such acts as are required of an employer under those provisions of the Internal Revenue Code and regulations thereunder that apply. All provisions of law (including penalties) and the regulations prescribed in pursuance of law applicable to employers in respect of such acts are applicable to LLCA. Thus, for example, LLCA is liable for income tax withholding, Federal Insurance Contributions Act (FICA) taxes, and Federal Unemployment Tax Act (FUTA) taxes. See sections 3402 and 3403 (relating to income tax withholding); 3102(b) and 3111 (relating to FICA taxes), and 3301 (relating to FUTA taxes). In addition, LLCA must file under its name and EIN the applicable Forms in the 94X series, for example, Form 941, "Employer's Quarterly Employment Tax Return," Form 940, "Employer's Annual Federal Unemployment Tax Return;" file with the Social Security Administration and furnish to LLCA's employees statements on Forms W-2, "Wage and Tax Statement;" and make timely employment tax deposits. See §§ 31.6011(a)-1, 31.6011(a)-3, 31.6051-1, 31.6051-2, and 31.6302-1 of this chapter.

(iii) A is self-employed for purposes of subtitle A, chapter 2, Tax on Self-Employment Income, of the Internal Revenue Code. Thus, A is subject to tax under section 1401 on A's net earnings from self-employment with respect to LLCA's activities. A is not an employee of LLCA for purposes of subtitle C of the Internal Revenue Code. Because LLCA is treated as a sole proprietorship of A for income tax purposes, A is entitled to deduct trade or business expenses paid or incurred with respect to activities carried on through LLCA, including the employer's share of employment taxes imposed under sections 3111 and 3301, on A's Form 1040, Schedule C, "Profit or Loss for Business (Sole Proprietorship)."

(v) *Special rule for certain excise tax purposes*—(A) *In general.* Paragraph (c)(2)(i) of this section (relating to certain wholly owned entities) does not apply for purposes of—

(1) Federal tax liabilities imposed by Chapters 31, 32 (other than section 4181), 33, 34, 35, 36 (other than section 4461), and 38 of the Internal Revenue Code, or any floor stocks tax imposed on articles subject to any of these taxes;

(2) Collection of tax imposed by Chapter 33 of the Internal Revenue Code;

(3) Registration under sections 4101, 4222, and 4412; and

(4) Claims of a credit (other than a credit under section 34), refund, or payment related to a tax described in paragraph (c)(2)(v)(A)(1) of this section or under section 6426 or 6427.

(B) *Example.* The following example illustrates the provisions of this paragraph (c)(2)(v):

*Example.* (i) LLCB is an eligible entity that has a single owner, B. LLCB is generally disregarded as an entity separate from its owner. However, under paragraph (c)(2)(v) of this section, LLCB is treated as an entity separate from its owner for certain purposes relating to excise taxes.

(ii) LLCB mines coal from a coal mine located in the United States. Section 4121 of chapter 32 of the Internal Revenue Code imposes a tax on the producer's sale of such coal. Section 48.4121-1(a) of this chapter defines a "producer" generally as the person in whom is vested ownership of the coal under state law immediately after the coal is severed from the ground. LLCB is the person that owns the coal under state law immediately after it is severed from the ground. Under paragraph (c)(2)(v)(A)(1) of this section, LLCB is the producer of the coal and is liable for tax on its sale of such coal under chapter 32 of the Internal Revenue Code. LLCB must report and pay tax on Form 720, "Quarterly Federal Excise Tax Return," under its own name and taxpayer identification number.

(iii) LLCB uses undyed diesel fuel in an earthmover that is not registered or required to be registered for highway use. Such use is an off-highway business use of the fuel. Under section 6427(l), the ultimate purchaser is allowed to claim an income tax credit or payment related to the tax imposed on diesel fuel used in an off-highway business use. Under paragraph (c)(2)(v) of this section, for purposes of the credit or payment allowed under section 6427(l), LLCB is the person that could claim the amount on its Form 720 or on a Form 8849, "Claim for Refund of Excise Taxes." Alternatively, if LLCB did not claim a payment during the time prescribed in section 6427(i)(2) for making a claim under section 6427, § 1.34-1 of this chapter provides that B, the owner of LLCB, could claim the income tax credit allowed under section 34 for the nontaxable use of diesel fuel by LLCB.

\* \* \* \* \*

(e) \* \* \*

(5) Paragraph (c)(2)(iv) of this section applies with respect to wages paid on or after January 1, 2009.

(6) Paragraph (c)(2)(v) of this section applies to liabilities imposed and actions first required or permitted in periods beginning on or after January 1, 2008.

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 25, 2007.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. E7-16078 Filed 8-15-07; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 53 and 54

[TD 9334]

RIN 1545-BG20

#### Requirement of Return and Time for Filing; Correction

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

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to final and temporary regulations (TD 9334) that were published in the **Federal Register** on Friday, July 6, 2007 (72 FR 36871) providing guidance relating to the requirement of a return to accompany payment of excise taxes under section 4965 of the Internal Revenue Code and the time for filing that return.

**DATES:** The corrections are effective August 16, 2007.

**FOR FURTHER INFORMATION CONTACT:** Galina Kolomietz, (202) 622-6070, Michael Blumenfeld, (202) 622-1124, or Dana Barry, (202) 622-6060 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final and temporary regulations that are the subject of this correction are under section 4965 of the Internal Revenue Code.

##### Need for Correction

As published, final and temporary regulations (TD 9334) contain errors that may prove to be misleading and are in need of clarification.

##### List of Subjects

###### 26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

###### 26 CFR Part 54

Excise Taxes, Pensions, Reporting and recordkeeping requirements.

##### Correction of Publication

■ Accordingly, 26 CFR parts 53 and 54 are corrected by making the following correcting amendments:

#### PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 53 continues to read, in part, as follows:

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

■ **Par. 2.** Section 53.6071–1T is amended by revising paragraph (h)(2) to read as follows:

**§ 53.6071–1T Time for filing returns (temporary).**

\* \* \* \* \*

(h) \* \* \*

(2) *Expiration date.* Paragraph (g) of this section will expire on July 6, 2010.

**PART 54—PENSION EXCISE TAXES**

■ **Par. 3.** The authority citation for part 54 continues to read, in part, as follows:

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

■ **Par. 4.** Section 54.6011–1T is amended by revising paragraph (d)(2) to read as follows:

**§ 54.6011–1T General requirement of return, statement or list (temporary).**

\* \* \* \* \*

(d) \* \* \*

(2) *Expiration date.* Paragraph (c) of this section will expire on July 6, 2010.

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E7–16075 Filed 8–15–07; 8:45 am]

**BILLING CODE 4830–01–P**

**OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

**32 CFR Chapter XVII**

**Freedom of Information Act Regulation**

**AGENCY:** Office of the Director of National Intelligence.

**ACTION:** Final rule.

**SUMMARY:** This final regulation provides the Office of the Director of National Intelligence's rules implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552. The regulation addresses all aspects of FOIA processing, including how and where to submit FOIA requests, fees for record services, procedures for handling business information, requests for expedited processing, and the right to appeal denials of information.

**EFFECTIVE DATE:** August 16, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. John F. Hackett, (703) 482–1707.

**SUPPLEMENTARY INFORMATION:** The Office of the Director of National Intelligence (ODNI) was created by the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–458, 118 Stat. 3638. The ODNI began operations on April 22, 2005, the day after the first Director of National Intelligence took office.

Because the majority of documents held by the ODNI at its inception were previously maintained by the Central Intelligence Agency (CIA) and the ODNI did not have a FOIA staff upon stand-up, the CIA agreed to handle the administrative aspects of the ODNI's FOIA processing. Through this arrangement, the ODNI makes all legal decisions regarding the handling of FOIA requests for ODNI records and the CIA assists with the administrative tasks associated with processing FOIA requests, including the intake and tracking of requests, as well as drafting correspondence to requesters. We are currently working toward having our own FOIA office handle all aspects of ODNI's FOIA processing.

On June 4, 2007, the ODNI submitted a proposed regulation implementing the FOIA for public comment. The ODNI received two submissions with comments on the proposed regulation. The ODNI has reviewed and carefully considered all of the comments that were submitted and has made the following changes to the regulation:

(1) The definitions of educational institution and noncommercial scientific institution have been changed and are in accordance with the definition in the Office of Management and Budget's guidelines, 52 Fed. Reg. 10,012 (Mar. 27, 1987).

(2) We have changed the fee portion of the regulation so that a FOIA request will be considered a commitment to pay up to \$25.00 unless the requester asks for a waiver of fees.

(3) The term “reasonably described record” has been removed from the definitional section of the regulation. A more detailed explanation of the type of information the ODNI needs in order to locate records responsive to a particular request has been added in a separate section.

(4) We have decided to accept FOIA requests electronically and have added the email address to the regulation. Although the FOIA does not require this, it is a growing trend within the federal government and we believe it will provide better customer service to our FOIA requesters.

(5) The expedited processing section and other sections have been clarified.

(6) Certain superfluous words in the definitional section and a paragraph regarding allocation of resources have been removed.

**List of Subjects in 32 CFR Part 1700**

Freedom of information.

■ Therefore, as discussed in the preamble, and under the authority of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–

458, 118 Stat. 3638, the Office of the Director of National Intelligence establishes 32 CFR Chapter XVII and adds part 1700 to read as follows:

**Chapter XVII—Office of the Director of National Intelligence**

**PART 1700—PROCEDURES FOR DISCLOSURE OF RECORDS PURSUANT TO THE FREEDOM OF INFORMATION ACT**

Sec.

1700.1 Authority and purpose.

1700.2 Definitions.

1700.3 Contact for general information and requests.

1700.4 Preliminary information.

1700.5 Requirements as to form and content.

1700.6 Fees for records services.

1700.7 Processing of requests for records.

1700.8 Action on the request.

1700.9 Payment of fees, notification of decision, and right of appeal.

1700.10 Procedures for business information.

1700.11 Procedures for information concerning other persons.

1700.12 Requests for expedited processing.

1700.13 Right to appeal and appeal procedures.

1700.14 Action by appeals authority.

*Authority:* 5 U.S.C. 552, 50 U.S.C. 401–442; Pub. L. 108–458, 118 Stat. 3638.

**§ 1700.1 Authority and purpose.**

(a) *Authority.* This Part is issued under the authority of and in order to implement the Freedom of Information Act, as amended, 5 U.S.C. 552; the National Security Act of 1947, as amended, 50 U.S.C. 401–442; and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–458, 118 Stat. 3638.

(b) *Purpose in general.* This Part prescribes procedures for:

(1) ODNI administration of the FOIA;

(2) Requesting records pursuant to the FOIA; and

(3) Filing an administrative appeal of an initial adverse decision under the FOIA.

**§ 1700.2 Definitions.**

For purposes of this Part, the following terms have the meanings indicated:

(a) *Days* means calendar days when ODNI is operating and specifically excludes Saturdays, Sundays, and legal public holidays;

(b) *Direct costs* means those expenditures which ODNI actually incurs in the processing of a FOIA request; it does not include overhead factors such as space;

(c) *Pages* means paper copies of standard office size or the dollar value equivalent in other media;