

**Drafting Information**

The principal author of the proposed regulations is Micah A. Levy, Office of the Associate Chief Counsel (Procedure & Administration).

**List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

**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 as follows:

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

**Par. 2.** Section 301.6402–2 is amended by revising paragraphs (a)(2), (b)(2), (c), and (d) and adding paragraph (g) to read as follows:

**§ 301.6402–2 Claims for credit or refund.**

(a) \* \* \*

(2) Except as provided in paragraph (b) of § 301.6091–1 (relating to hand-carried documents), the claim, together with appropriate supporting evidence, generally must be filed with the service center at which the taxpayer currently would be required to file a tax return for the type of tax to which the claim relates. Notwithstanding the preceding sentence, if a taxpayer is required to file a claim for credit or refund on a particular form, then the claim must be filed in a manner consistent with such form and form instructions. If a taxpayer is filing a claim in response to an IRS notice or correspondence, then the claim must be filed in accordance with the specific instructions contained in the notice or correspondence regarding the proper address for filing. As to interest in the case of credits or refunds, see section 6611. See section 7502 for provisions treating timely mailing as timely filing, and section 7503 for the time for filing a claim when the last day falls on Saturday, Sunday, or a legal holiday.

(b) \* \* \*

(2) The IRS does not have the authority to refund on equitable grounds penalties or other amounts legally collected.

(c) *Form for filing claim.* Unless the IRS otherwise has prescribed a particular form on which the claim must be filed, in which case the claim shall be made on such other form, all claims by taxpayers for the refunding of taxes,

interest, penalties, and additions to tax shall be made on Form 843, “Claim for Refund and Request for Abatement.” For special rules applicable to income taxes, see § 301.6402–3. For provisions relating to credits and refunds of taxes other than income tax, see the regulations relating to the particular tax.

(d) *Separate claims for separate taxable periods.* In the case of income and gift taxes, income tax withheld, taxes under the Federal Insurance Contributions Act, taxes under the Railroad Retirement Tax Act, and taxes under the Federal Unemployment Tax Act, a separate claim shall be made for each return for each taxable period.

\* \* \* \* \*

(g) *Effective/Applicability date.* This section is applicable on the date that the final regulations are published in the **Federal Register**.

**Par. 3.** Section 301.6402–3 is amended by revising paragraph (a) introductory text, removing paragraph (b), redesignating paragraphs (c), (d), (e) and (f), as (b), (c), (d) and (e), respectively, and revising paragraphs (b) and (e) to read as follows:

**§ 301.6402–3 Special rules applicable to income tax.**

(a) In the case of a claim for credit or refund of income tax—

\* \* \* \* \*

(b) The filing of a properly executed income tax return shall, in any case in which the taxpayer is not required to show the tax on the form (see section 6014 and the regulations), be treated as a claim for refund and such return shall constitute a claim for refund within the meaning of section 6402 and section 6511 for the amount of the overpayment shown by the computation of the tax made by the Secretary on the basis of the return. Whether such claim is timely filed within the limitations period prescribed by section 6511 will be governed by the date on which the return is considered filed, except that if the requirements of § 301.7502–1 (relating to timely mailing treated as timely filing) are met, the claim shall be considered to have been filed on the date of the postmark stamped on the cover in which the return was mailed.

\* \* \* \* \*

(e) *Effective/Applicability date.* This section is applicable on the date that the final regulations are published in the **Federal Register**, except that references in paragraph (d) of this section to Form 8805 or other statements required under § 1.1446–3(d)(2) shall apply to partnership taxable years beginning after April 29, 2008.

**Par. 4.** Section 301.6402–4 is revised to read as follows:

**§ 301.6402–4 Payments in excess of amounts shown on return.**

In certain cases, a taxpayer's payments in respect of a tax liability, made before the filing of the return, may exceed the amount of tax shown on the return. For example, such payments may arise in the case of income tax if the estimated tax payments or the credit for income tax withheld at the source on wages exceeds the amount of tax shown on the return, or if the installment payments based on a corporation's estimate of its tax liability on an application for an extension of time to file its return exceeds the tax liability shown on the return subsequently filed. In any case in which the Secretary determines that the payments by the taxpayer (made within the period prescribed for payment and before the filing of the return) are in excess of the amount of tax shown on the return, the Secretary may make credit or refund of such overpayment without awaiting examination of the completed return and without awaiting filing of a claim for refund. The provisions of §§ 301.6402–2 and 301.6402–3 are applicable to such overpayment, and taxpayers should submit claims for refund (if the income tax return is not itself a claim for refund, as provided in § 301.6402–3) to protect themselves in the event the Secretary fails to make such determination and credit or refund. The provisions of section 6405 (relating to reports of refunds in excess of the statutorily prescribed threshold referral amount to the Joint Committee on Taxation) are not applicable to the overpayments described in this section caused by timely payments of tax which exceed the amount of tax shown on a timely filed return.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2011–14465 Filed 6–9–11; 8:45 am]

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

**[REG–101352–11]**

**RIN 1545–BK00**

**Requirements for Taxpayers Filing Form 5472**

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

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

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the Treasury Department and the IRS are issuing temporary regulations that remove the duplicate filing requirement for Form 5472, "Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business." Under this requirement, certain corporations that must file Form 5472 must also file a duplicate Form 5472 (including attachments and schedules) with the Internal Revenue Service Center in Philadelphia, PA. Because the IRS has determined that duplicate filing is no longer necessary, the requirement is being removed by the temporary regulations. The text of those temporary 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 8, 2011.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-101352-11), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-101352-11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS—REG-101352-11).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations Gregory A. Spring, (202) 435-5265; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo (Funmi) P. Taylor, (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION

##### Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1. The temporary regulations remove the requirement contained in § 1.6038A-2(d) and § 1.6038A-2(e) that a duplicate Form 5472 must be filed with the Internal Revenue Service Center in Philadelphia, PA. The text of the temporary regulations also serves as the text of these regulations. The preamble to the temporary regulations explains

the temporary regulations and these proposed regulations.

#### 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 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 rule does not impose a collection of information on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments on Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available at <http://www.regulations.gov> or upon request. A public hearing may be scheduled if requested by any person who timely submits 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 Gregory A. Spring of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is 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 CFR U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.6038A-1 is amended by revising paragraph (n)(2) to read as follows:

#### § 1.6038A-1 General requirements and definitions.

\* \* \* \* \*

(n) \* \* \*

(2) [The text of the proposed amendment to § 1.6038A-1(n)(2) is the same as the text of § 1.6038A-1T(n)(2) published elsewhere in this same issue of the **Federal Register**.]

\* \* \* \* \*

**Par. 3.** Section 1.6038A-2 is amended by revising paragraphs (d) and (e) to read as follows:

#### § 1.6038A-2 Requirement of return.

\* \* \* \* \*

(d) [The text of the proposed amendment to § 1.6038A-2(d) is the same as the text of § 1.6038A-2T(d) published elsewhere in this issue of the **Federal Register**.]

(e) [The text of the proposed amendment to § 1.6038A-2(e) is the same as the text of § 1.6038A-2T(e) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2009-0881; FRL-9309-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Requirements for Major Sources Locating in or Impacting a Nonattainment Area in Allegheny County

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP) which was submitted on November 16, 2006 by the Pennsylvania Department of Environmental Protection (PADEP). This change to Allegheny County's Air Pollution Control Rules and Regulations amends the existing requirements for sources locating in or impacting a nonattainment area in Allegheny County by incorporating