

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of public hearing on proposed rulemaking regarding the definition of an “interest in a limited partnership as a limited partner” for purposes of determining whether a taxpayer materially participates in an activity under section 469 of the Internal Revenue Code. These proposed regulations affect individuals who are partners in partnerships.

**DATES:** The public hearing is being held on Monday, April 30, 2012, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by April 9, 2012.

**ADDRESSES:** The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Mail outlines to CC:PA:LPD:PR (REG–109369–10), Room 5205, Internal Revenue Service, POB 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–109369–10), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC or sent electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS–REG–109369–10).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Michala Irons, (202) 622–3050; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Funmi Taylor at (202) 622–7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG–109369–10) that was published in the *Federal Register* on Monday, November 28, 2011 (76 FR 72875). The notice also announced that a hearing will be scheduled if requested by the public in writing by February 27, 2012.

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

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline has passed, persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be

discussed and the amount of time to be devoted to each topic (a signed original and four copies) by April 9, 2012.

The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available free of charge, at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**LaNita Van Dyke,**

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

[FR Doc. 2012–6068 Filed 3–13–12; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG–135491–10]

RIN 1545–BK02

#### Updating of Employer Identification Numbers

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations that provide rules requiring any person assigned an employer identification number (EIN) to provide updated information to the IRS in the manner and frequency prescribed by forms, instructions, or other appropriate guidance. These proposed regulations affect persons with EINs and will enhance the IRS’s ability to maintain accurate information as to persons assigned EINs.

**DATES:** Written or electronic comments and request for a public hearing must be received by June 12, 2012.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–135491–10), room 5205, 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–135491–10), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov) (IRS REG–135491–10).

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Gregory T. Armstrong, (202) 622–4940; concerning submissions of comments and requests for a public hearing, Oluwafunmilayo (Funmi) Taylor of the Publications and Regulation Branch at (202) 622–7180 (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 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, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by May 14, 2012. 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;

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 proposed § 301.6109–1(d)(2)(ii)(A). This information is necessary to allow the IRS to gather correct ownership information with respect to persons that have an EIN. The respondents are persons that have an EIN.

*Estimated total annual reporting burden:* 403,177 hours.

*Estimated average annual burden per respondent:* varies from 10 to 20 minutes with an estimated average of 15 minutes.

*Estimated number of respondents:*  
1,612,708.

*Estimated frequency of responses:* On occasion.

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 section 6103 of the Internal Revenue Code.

### **Background and Explanation of Provisions**

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR Part 301) under section 6109 relating to identifying numbers. In general, section 6109(a)(1) provides that persons shall include taxpayer identifying numbers on returns, statements, or other documents filed with the IRS. Additionally, section 6109(c) authorizes the Secretary to require such information as may be necessary to assign an identifying number to any person.

One of the principal types of taxpayer identifying numbers used to identify taxpayers is an employer identification number (EIN), which takes the form 00-0000000. See Treas. Reg. § 301.6109-1(a)(1); Treas. Reg. § 301.7701-12. In general, the IRS assigns an EIN for use by employers, sole proprietors, corporations, partnerships, non-profit associations, trusts, estates, government agencies, certain individuals, and other business entities for tax filing and reporting purposes.

Section 301.6109-1(d)(2)(i) provides that any person required to furnish an EIN must apply for one with the IRS on a Form SS-4, Application for Employer Identification Number. The IRS accepts applications for EINs electronically and by telephone, facsimile, or mail.

With increasing frequency, EIN applicants authorize certain individuals (sometimes referred to as “nominees”) to act on the EIN applicants’ behalf. These nominees are listed on the EIN application as principal officers, general partners, grantors, owners, and trustees. The authority of these nominees to act on behalf of the EIN applicant is often temporary and expires after the application is processed. The listing of a nominee prevents the IRS from gathering correct ownership information with respect to the EIN applicant once

the nominee is no longer authorized to act on behalf of the EIN applicant. In response to concern with this practice and the need for accurate records, effective January 2010, the IRS revised line 7a on the Form SS-4 requiring disclosure of the name of the EIN applicant’s “responsible party” and the responsible party’s Social Security Number, Individual Taxpayer Identification Number, or EIN.

The Instructions for Form SS-4 provide a definition for “responsible party.” For entities with shares or interests traded on a public exchange, or which are registered with the Securities and Exchange Commission, the instructions currently provide that a “responsible party” is (a) a principal officer, if the business is a corporation, (b) a general partner, if a partnership, (c) the owner of an entity that is disregarded as separate from its owner (disregarded entities owned by a corporation enter the corporation’s name and EIN), or (d) a grantor, owner, or trustee, if a trust.

For all other entities, the “responsible party” is the person who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds and assets. The ability to fund the entity or the entitlement to the property of the entity alone, however, without any corresponding authority to control, manage, or direct the entity (such as in the case of a minor child beneficiary), does not cause the individual to be a responsible party.

These proposed regulations require any person issued an EIN to provide updated information to the IRS in the manner and frequency required by forms, instructions, or other appropriate guidance, which the IRS will issue in the near future. This requirement includes updated application information regarding the name and taxpayer identifying number of the responsible party. This requirement covers those persons who previously applied for an EIN by listing a person other than the applicant’s responsible party. This updated information will allow the IRS to ascertain correct ownership details for persons who have an EIN. In turn, the IRS can use that knowledge to contact the correct persons when resolving a tax matter related to a business with an EIN and to help combat schemes that abuse the tax system through the use of nominees.

### **Proposed Effective/Applicability Date**

These regulations are proposed to apply to all persons possessing an EIN

after the date the Treasury decision adopting these rules as final regulations is published in the **Federal Register**.

### **Special Analyses**

It has been determined that these proposed regulations are not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. 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.

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6), requires the agency to “prepare and make available for public comment an initial regulatory flexibility analysis” that will “describe the impact of the proposed rule on small entities.” (5 U.S.C. 603(a)). Section 605 of the RFA provides an exception to this requirement if the agency certifies that the proposed rulemaking will not have a significant economic impact on a substantial number of small entities.

The proposed rules affect entities that have an EIN and the IRS has determined that these proposed rules will have an impact on a substantial number of small entities. The IRS has determined, however, that the impact on entities affected by the proposed rule will not be significant. The current Form SS-4 already requires entities to disclose the name of the EIN applicant’s “responsible party” and the responsible party’s Social Security Number, Individual Taxpayer Identification Number, or EIN. The amount of time necessary to submit the updated information required in these proposed regulations, therefore, should be minimal for these entities.

Based on these facts, the IRS hereby certifies that the collection of information contained in this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required.

Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### **Comments and Requests for a 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. Treasury and the IRS request comments on all aspects of the proposed rules. All comments submitted by the public will be made available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits 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 authors of these regulations are Tammie A. Geier and Gregory T. Armstrong of the Office of the Associate Chief Counsel (Procedure and 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 301.6109–1 is amended by adding paragraphs (d)(2)(ii)(A) and (d)(2)(ii)(B) to read as follows:

#### § 301.6109–1. Identifying numbers.

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(A) *Requirement to update.* Persons issued employer identification numbers in accordance with the application process set forth in paragraph (d)(2)(i) of this section shall provide to the Internal Revenue Service any updated application information in the manner and frequency required by forms, instructions, or other appropriate guidance.

(B) *Effective/applicability date.* Paragraph (d)(2)(ii)(A) of this section applies to all persons possessing an employer identification number after the date of publication of the Treasury

decision adopting these rules as final regulations in the **Federal Register**.

\* \* \* \* \*

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2012–6072 Filed 3–13–12; 8:45 am]

**BILLING CODE 4830–01–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG–2012–0070]

RIN 1625–AA08

#### Special Local Regulations; Third Annual Space Coast Super Boat Grand Prix, Atlantic Ocean, Cocoa Beach, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish special local regulations on the waters of the Atlantic Ocean east of Cocoa Beach, Florida during the Third Annual Space Coast Super Boat Grand Prix, a series of high-speed boat races. The event is scheduled to take place on Sunday, May 20, 2012. Approximately 30 high-speed race boats are anticipated to participate in the races, and approximately 200 spectator vessels are expected to attend the event. These special local regulations are necessary to provide for the safety of life on navigable waters of the United States during the races. The special local regulations would consist of the following areas: (1) A race area, where all persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting, anchoring, or remaining; and (2) a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, are prohibited from entering, transiting, anchoring, or remaining.

**DATES:** Comments and related material must be received by the Coast Guard on or before April 3, 2012. Requests for public meetings must be received by the Coast Guard on or before March 26, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG–2012–0070 using any one of the following methods:

- (1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- (2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Lieutenant Commander Robert Butts, Sector Jacksonville Office of Waterways Management, Coast Guard; telephone (904) 564–7563, email [Robert.S.Butts@uscg.mil](mailto:Robert.S.Butts@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0070), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact