

DEPARTMENT OF THE TREASURY

31 CFR Subtitles A and B

Semiannual Agenda and Fiscal Year 2012 Regulatory Plan

AGENCY: Department of the Treasury.

ACTION: Semiannual regulatory agenda and annual regulatory plan.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act and Executive Order (EO) 12866 “Regulatory Planning and Review,” which require the publication by the Department of a semiannual agenda of regulations. EO 12866 also requires the publication by the Department of a regulatory plan for the upcoming fiscal year.

FOR FURTHER INFORMATION CONTACT: The Agency contact identified in the item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual regulatory agenda includes regulations that the Department has issued or expects to issue and rules

currently in effect that are under departmental or bureau review. For this edition of the regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** publication that includes the Unified Agenda.

Beginning with the fall 2007 edition, the Internet has been the primary medium for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov and www.regulations.gov, in a format that offers users an enhanced ability to obtain information from the Agenda database. Because publication in the **Federal Register** is mandated for the regulatory flexibility agenda required by the Regulatory Flexibility Act (5 U.S.C. 602), Treasury’s printed agenda entries include only:

(1) Rules that are in the regulatory flexibility agenda, in accordance with

the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that have been identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years.

The semiannual agenda and The Regulatory Plan of the Department of the Treasury conform to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

Dated: September 9, 2011.

Brian J. Sonfield,

Deputy Assistant General Counsel for General Law and Regulation.

FINANCIAL CRIMES ENFORCEMENT NETWORK—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
425	Amendment to the Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access.	1506–AB07

INTERNAL REVENUE SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
426	Return Preparer Competency Examination User Fee	1545–BK24
427	Special Rules Under the Additional Medicare Tax	1545–BK54

INTERNAL REVENUE SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
428	Indoor Tanning Services; Cosmetic Services Excise Taxes	1545–BJ40
429	Modification of Treasury Regulations Pursuant to Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 610 Review).	1545–BK27

INTERNAL REVENUE SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
430	User Fees Relating to Enrolled Agents and Enrolled Retirement Plan Agents	1545–BJ65

DEPARTMENT OF THE TREASURY (TREAS)

Financial Crimes Enforcement Network (FINCEN)

Completed Actions

425. Amendment to the Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access

Legal Authority: 12 U.S.C. 1829b; 12 U.S.C. 1951 to 1959; 31 U.S.C. 5311 to 5314; 31 U.S.C. 5316 to 5332

Abstract: The Financial Crimes Enforcement Network (FinCEN), a bureau of the Department of the Treasury (Treasury), is proposing to revise the Bank Secrecy Act (BSA) regulations applicable to Money Services Businesses to include stored value or prepaid access. In this proposed rulemaking, we are reviewing the stored value/prepaid access regulatory framework with a focus on developing appropriate BSA regulatory oversight without impeding continued development of the industry, as well as improving the ability of FinCEN, other regulators and law enforcement to safeguard the U.S. financial system from the abuses of terrorist financing, money laundering, and other financial crimes.

The proposed changes are intended to address regulatory gaps that have resulted from the proliferation of prepaid innovations over the last 10 years and their increasing use as an accepted payment method. If these gaps are not addressed, there is increased potential for the use of prepaid access as a means for furthering money laundering, terrorist financing, and other illicit transactions through the financial system. This would significantly undermine many of the efforts previously taken by government and industry to safeguard the financial system through the application of BSA requirements to other areas of the financial sector.

While seeking to address vulnerabilities existing currently in the prepaid industry, FinCEN also intends for this proposed rule to provide the necessary flexibility to address new developments in technology, markets, and consumer behavior. This is important, in order to avoid creating artificial limits on a mechanism that can be an avenue to meet the financial services needs of the unbanked and the underbanked.

This rule proposes to subject certain providers of prepaid access to a comprehensive BSA regime. To make BSA reports and records valuable and meaningful, the proposed changes impose obligations on the party within any given prepaid access transaction

chain with predominant oversight and control, as well as others in a unique position to provide meaningful information to regulators and law enforcement. More specifically, the proposed changes include the following: (1) Renaming “stored value” as “prepaid access” and defining that term; (2) deleting the terms “issuer and redeemer” of stored value; (3) imposing registration, suspicious activity reporting, and customer information recordkeeping requirements on providers of prepaid access, and new transactional recordkeeping requirements on both providers and sellers of prepaid access; and (4) exempting certain categories of prepaid access products and services posing lower risks of money laundering and terrorist financing from certain requirements.

FinCEN recognizes that the Credit CARD Act of 2009 mandated the increased regulation of prepaid access, as well as the consideration of the issue of international transport, and we will address these mandates, either through regulatory text or solicitation of comment in this rulemaking. In the course of our regulatory research into the operation of the prepaid industry, we have encountered a number of distinct issues, such as the appropriate obligations of payment networks and financial transparency at the borders, and we anticipate future rulemakings in these areas. We will seek to phase in any additional requirements, however, as the most prudent course of action for an evolving segment of the money services business (MSB) community.

Completed:

Reason	Date	FR Cite
Final Action	07/29/11	76 FR 45403
Final Action Effective.	09/27/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elizabeth Baltierra, Phone: 703 905–5132, Email: elizabeth.baltierra@fincen.gov.

Koko (Nettie) Ives, Phone: 202 354–6014, Email: koko.ives@fincen.gov.

RIN: 1506–AB07

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DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Proposed Rule Stage

426. • Return Preparer Competency Examination User Fee

Legal Authority: 26 U.S.C. 7805; 31 U.S.C. 9701

Abstract: This regulatory action proposes to establish a user fee to take the registered tax return preparer competency examination and a user fee to be fingerprinted based upon participation in the preparer tax identification number, acceptance agents, or authorized e-file provider programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Emily M. Lesniak, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Room 5137, Washington, DC 20224, Phone: 202 622–4570, Fax: 202 622–4500, Email: emily.m.lesniak@irs.counsel.treas.gov.

RIN: 1545–BK24

427. • Special Rules Under the Additional Medicare Tax

Legal Authority: 26 U.S.C. 3101; 26 U.S.C. 3102; 26 U.S.C. 6402; 26 U.S.C. 1401; 26 U.S.C. 6011; 26 U.S.C. 6205; 26 U.S.C. 6413; 26 U.S.C. 3111; 26 U.S.C. 3121; 26 U.S.C. 7805

Abstract: Proposed amendments of sections 31.3101, 31.3102, 31.3111, 31.3121, 1.1401, 31.6205, 31.6011, 31.6205, 31.6402, and 31.6413 of the Employment Tax Regulations provide guidance for employers and employees relating to the implementation of the Additional Medicare Tax, as enacted by the Affordable Care Act, and correction procedures for errors related to the Additional Medicare Tax.

Timetable:

Action	Date	FR Cite
NPRM	12/00/11	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sydney L. Gernstein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Room 4311, Washington, DC 20224, Phone: 202 622–8473, Fax: 202 622–5697, Email:

sydney.l.gernstein@irs.counsel.treas.gov.

Ligeia M. Donis, General Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Room 4312, Washington, DC 20224, Phone: 202 622-0047, Fax: 202 622-5697, Email: ligeia.m.donis@irs.counsel.treas.gov.
RIN: 1545-BK54

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Final Rule Stage

428. Indoor Tanning Services; Cosmetic Services Excise Taxes

Legal Authority: 26 U.S.C. 6302(c); 26 U.S.C. 5000B; 26 U.S.C. 7805

Abstract: Proposed regulations provide guidance on the indoor tanning services tax made by the Patient Protection and Affordable Care Act of 2010, affecting users and providers of indoor tanning services.

Timetable:

Action	Date	FR Cite
NPRM	06/15/10	75 FR 33740
NPRM Comment Period End.	09/13/10	
Public Hearing—10/11/2011.	03/03/11	76 FR 76677
Outlines of Topics Due.	09/28/11	
Final Action	06/00/12	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael H. Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Room 5314, Washington, DC 20224, Phone: 202 622-3130, Fax: 202 622-4537, Email: michael.h.beker@irs.counsel.treas.gov.
RIN: 1545-BJ40

429. • Modification of Treasury Regulations Pursuant to Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 610 Review)

Legal Authority: 26 U.S.C. 7805
Abstract: The proposed regulations modify Treasury regulations to remove any reference to, or requirements of reliance on, credit ratings in such regulations and substitute in their place other standards of creditworthiness that the Treasury determines to be appropriate for such regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/06/11	76 FR 39341
NPRM Comment Period End.	08/30/11	
Final Action	06/00/12	

Regulatory Flexibility Analysis Required: No.
Agency Contact: Arturo Estrada, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Phone: 202 622-3900.
RIN: 1545-BK27

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Completed Actions

430. User Fees Relating to Enrolled Agents and Enrolled Retirement Plan Agents

Legal Authority: 31 U.S.C. 9701

Abstract: These proposed regulations update and separate the user fees regarding enrolled agents and enrolled retirement plan agents. These regulations also impose user fees to take the competency examination to become a registered tax return preparer and to provide continuing education programs.

Completed:

Action	Date	FR Cite
Final Action Completed by TD 9523.	04/19/11	76 FR 21805

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Emily M. Lesniak, Phone: 202 622-4570, Fax: 202 622-4500, Email: emily.m.lesniak@irs.counsel.treas.gov.

RIN: 1545-BJ65

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Part XV

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