



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-132075-14]

RIN 1545-BM49

Extension of Time to File Certain Information Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that will remove the automatic extension of time to file information returns on forms in the W-2 series (except Form W-2G). The temporary regulations will allow only a single 30-day non-automatic extension of time to file these information returns. In addition, the temporary regulations will update the list of information returns subject to the rules regarding extensions of time to file. These proposed regulations incorporate the temporary regulations with respect to extensions of time to file information returns on forms in the W-2 series (except Form W-2G). In addition, these proposed regulations

would remove the automatic 30-day extension of time to file all information returns listed in the temporary regulation.

DATES: Written or electronic comments and requests for a public hearing must be received by [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-132075-14), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-132075-14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-132075-14).

FOR FURTHER INFORMATION CONTACT: Concerning these proposed regulations, Jonathan R. Black, (202) 317-6845; concerning submissions of comments and/or requests for a hearing, Regina Johnson (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations § 1.6081-8T in the Rules and Regulations section of this issue of the **Federal Register** will amend 26 CFR part 1 by removing the automatic extension of time

to file information returns on forms in the W-2 series (except Form W-2G), effective for filing season 2017. The temporary regulations will allow only a single 30-day non-automatic extension of time to file these information returns that the IRS may, in its discretion, grant if the IRS determines that an extension of time to file is warranted based on the filer's or transmitter's explanation attached to a Form 8809, "Application for Extension of Time to File Information Returns," signed under penalties of perjury. The temporary regulations will also add Forms 3921, 3922, 1094-C, and forms in the 1097 series to the list of information returns covered by § 1.6081-8T(a) and clarify that Forms 1095-B and 1095-C, but not Form 1095-A, are covered by the rules in § 1.6081-8T(a).

These proposed regulations would remove the automatic 30-day extension of time to file the information returns listed in § 1.6081-8T(a) and allow only a single non-automatic extension of time to file all information returns listed in § 1.6081-8T.

The IRS anticipates that, as described in the temporary regulations with respect to forms in the W-2 series (other than Forms W-2G), under the proposed regulations, the IRS will grant the non-automatic 30-day extension of time to file information returns listed in § 1.6081-8(a) only in limited cases where the

filer's or transmitter's explanation demonstrates that an extension of time to file is needed as a result of extraordinary circumstances or catastrophe, such as a natural disaster or fire destroying the books and records a filer needs for filing the information returns.

Treasury and the IRS request comments on the appropriate timing of the removal of the automatic 30-day extension of time to file information returns covered by these proposed regulations, such as Form 1042-S, including whether special transitional considerations should be given for any category or categories of forms or filers relative to other forms or filers. Although these regulations are proposed to be effective for requests for extensions of time to file information returns due on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**, removal of the automatic 30-day extension of time to file will not apply to information returns (other than forms in the W-2 series except Forms W-2G) due any earlier than January 1, 2018. Please follow the instructions in the "Comments and Requests for Public Hearing" portion of this preamble.

The temporary regulations affect taxpayers who are required

to file information returns on forms in the W-2 series (except Forms W-2G) and need an extension of time to file. These proposed regulations also affect taxpayers who need an extension of time to file any of the information returns listed in § 1.6081-8T(a).

The substance of the temporary regulations is incorporated in these proposed regulations. The preamble to the temporary regulations explains these amendments. These proposed regulations would also expand the rules in § 1.6081-8T(b) to the other information returns, which are listed in § 1.6081-8T(a).

Proposed Effective/Applicability Date

The regulations, as proposed, would apply to requests for extensions of time to file information returns due on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed 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 proposed regulations.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. As stated in this preamble, the proposed regulations would remove the automatic 30-day extension of time to file certain information returns (Form W-2G, 1042-S, 1094-C, 1095-B, 1095-C, 1097 series, 1098 series, 1099 series, 3921, 3922, 5498 series, and 8027). Under the proposed regulations, filers and transmitters would be permitted to request only one 30-day extension of time to file these information returns by timely submitting a Form 8809, including an explanation of the reasons for requesting the extension and signed under penalty of perjury. Although the proposed regulation may potentially affect a substantial number of small entities, the economic impact on these entities is not expected to be significant because filers who are unable to timely file as a result of extraordinary circumstances or catastrophe may continue to obtain a 30-day extension through the Form 8809 process, which takes approximately 20 minutes to prepare and submit to the IRS. 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 and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in the preamble under the "Addresses" heading. Treasury and the IRS request comments on all aspects of the proposed regulations. All comments submitted will be made available at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written 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 author of these regulations is Jonathan R. Black of the Office of the Associate Chief Counsel (Procedure and Administration).

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 as follows:

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

Par. 2. Section 1.6081-8 is revised to read as follows:

§ 1.6081-8 Extension of time to file certain information returns.

(a) In general. Except as provided in paragraph (e) of this section, a person required to file an information return (the filer) on forms in the W-2 series (including Forms W-2, W-2AS, W-2G, W-2GU, and W-2VI), 1097 series, 1098 series, 1099 series, or 5498 series, or on Forms 1042-S, 1094-C, 1095-B, 1095-C, 3921, 3922, or 8027, or the person transmitting the information return for the filer (the transmitter), may only request one non-automatic 30-day extension of time to file the information return beyond the due date for filing it. To make such a request, the filer or transmitter must submit an application for an extension of time to file in accordance with paragraph (b) of this section. No additional extension of time to file will be allowed pursuant to § 1.6081-1 beyond the 30-day

extension of time to file provided by this paragraph.

(b) Requirements. To satisfy this paragraph (b), a filer or transmitter must--

(1) Submit a complete application on Form 8809, "Application for Extension of Time to File Information Returns," or in any other manner prescribed by the Commissioner, including a detailed explanation of why additional time is needed;

(2) File the application with the Internal Revenue Service in accordance with forms, instructions, or other appropriate guidance on or before the due date for filing the information return; and

(3) Sign the application under penalties of perjury.

(c) Penalties. See sections 6652, 6693, and 6721 through 6724 for failure to comply with information reporting requirements on information returns described in paragraph (a) of this section.

(d) No effect on time to furnish statements. An extension of time to file an information return under this section does not extend the time for furnishing a statement to the person with respect to whom the information is required to be reported.

(e) Form W-2 filed on expedited basis. This section does not apply to an information return on a form in the W-2 series

if the procedures authorized in Rev. Proc. 96-57 (1996-2 CB 389) (or a successor revenue procedure) allow an automatic extension of time to file the information return. See § 601.601(d)(2)(ii)(b) of this chapter.

(f) Effective/applicability date. This section applies to requests for extensions of time to file information returns due on or after January 1 of the calendar year immediately following the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

§ 1.6081-8T [Removed]

Par. 3. Section 1.6081-8T is removed.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

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