

Notice of Proposed Rulemaking and Notice of Public Hearing

IRS Adoption Taxpayer Identification Numbers

REG-103330-97

AGENCY : Internal Revenue Service (IRS), Treasury

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In T.D. 8739, page 8, the IRS is issuing temporary regulations under section 6109 relating to taxpayer identifying numbers. The temporary regulations provide rules for obtaining and using IRS adoption taxpayer identification numbers. The temporary regulations assist individuals who are in the process of adopting children and wish to claim certain tax benefits with respect to these children. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by February 23, 1998. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for March 4, 1998, at 10:00 a.m., must be received by February 11, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-103330-97), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-103330-97), Courier's Desk, Internal Revenue Service, 111 Constitution Avenue NW, Washington, DC.

Taxpayers may also submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html. The public hearing will be held in Room 2615, Internal Revenue Building,

111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Michael L. Gompertz, (202) 622-4910; concerning submissions and the hearing, Michael Slaughter (202) 622-7190 (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 for review 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, T:FP, Washington, DC 20224. Comments on the collection of information should be received by February 23, 1998. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the **Internal Revenue Service**, including whether the collection will have a practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

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 §301.6109-3T(c). This information is required by the IRS to assign IRS adoption taxpayer identification numbers (ATINs) to children

who are in the process of being adopted. Unless an ATIN is assigned to a prospective adoptive child, the prospective adoptive parent cannot claim a dependency exemption for the child under section 151, a dependent care credit for the child under section 21, or for taxable years beginning after December 31, 1997, a child tax credit under section 24. The collection of information in §301.6109-3T is thus required to obtain a benefit. The likely respondents are individuals.

The collection of information in §301.6109-3T is satisfied by including the required information on Form W-7A or other form as may be prescribed by the IRS to apply for an ATIN. The burden for this requirement is reflected in the burden estimate for Form W-7A.

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 26 U.S.C. 6103.

Background

Temporary regulations in T.D. 8739 amend the Regulations on Procedure and Administration (26 CFR part 301) relating to section 6109. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 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 regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply

Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday March 4, 1998, at 10:00 a.m. in Room 2615. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

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

Persons that wish to present oral comments at the hearing must submit written comments by February 23, 1998 and submit requests to speak and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by February 11, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Michael L. Gompertz, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

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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 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 301.6109-1 also issued under 26 U.S.C. 6109;

Section 301.6109-3 also issued under 26 U.S.C. 6109; * * *

Par. 2. Section 301.6109-1 is amended by revising paragraphs (a)(1)(i), (a)(1)(ii) introductory text, (a)(1)(ii)(A), and (a)(1)(ii)(B) to read as follows:

§301.6109-1 Identifying numbers.

(a) * * * (1) *Taxpayer identifying numbers*—(i) [The text of proposed paragraph (a)(1)(i) is the same as the text of §301.6109-1T(a)(1)(i) published in T.D. 8739.]

(ii) [The text of proposed paragraph (a)(1)(ii) introductory text is the same as the text of §301.6109-1T(a)(1)(ii) introductory text published in T.D. 8739.]

(A) and (B) [The text of proposed (a)(1)(ii)(A) and (B) are the same as the text of §301.6109-1T(a)(1)(ii)(A) and (B) published in T.D. 8739.]

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Par. 3. Section 301.6109-3 is added to read as follows:

§301.6109-3 IRS adoption taxpayer identification numbers.

[The text of this proposed section is the same as the text of §301.6109-3 published in T.D. 8739.]

Michael P. Dolan,
Acting Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on November 21, 1997, at 8:45 a.m., and published in the issue of the Federal Register for November 24, 1997, 62 FR 62538).
