

# Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations

## Deemed IRAs in Governmental Plans/Qualified Nonbank Trustee Rules

### REG-101447-04

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: In this issue of the Bulletin, the IRS is issuing temporary regulations (T.D. 9142) relating to qualification of governmental units as qualified nonbank trustees for deemed IRAs under section 408(q). The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments must be received by October 20, 2004.

ADDRESSES: The public may submit comments in three ways. Send submissions to: CC:PA:LPD:PR (REG-101447-04), room 5203, Internal Revenue Service, PO 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-101447-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or send electronically, via the IRS Internet site at [www.irs.gov/reg](http://www.irs.gov/reg) or via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (indicate IRS and REG-101447-04).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Linda L. Conway, (202)

622-6090; concerning submissions of comments, Treena Garrett, (202) 622-3401 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

The temporary regulations in this issue of the Bulletin amend 26 CFR part 1 relating to section 408(a). The temporary regulations set forth special rules for a governmental unit that maintains a plan qualified under section 401(a), 403(a), 403(b) or 457 to qualify as a nonbank trustee for deemed IRAs under section 408(q). The text of those regulations also serves as the text of these proposed regulations. The preamble of the temporary regulations explains the amendments 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 proposed regulations do not impose a collection of information by 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 will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their 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 written comments (a signed original and eight (8) copies) or electronic comments that are submitted

timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying. 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 Linda L. Conway, Office of Assistant Chief Counsel (Tax Exempt & Government Entities). 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 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 U.S.C. 7805 \* \* \*

Par. 2. In § 1.408-2(e)(8)T is added to read as follows:

*§1.408-2 - Special rules for governmental entities.*

[The text of proposed §1.408-2 paragraph (e)(8) is the same as the text of §1.408-2(e)(8)T published elsewhere in this issue of the Bulletin].

Mark E. Matthews,  
*Deputy Commissioner for Services and Enforcement.*