

[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-116614-08]

RIN 1545-BH90

Disregarded Entities and Excise Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations clarifying that a single-owner eligible entity that is disregarded as an entity separate from its owner for any purpose, but regarded as a separate entity for certain excise tax purposes, is treated as a corporation for tax administration purposes related to those excise taxes. Those regulations also make conforming changes to the tax liability rule for disregarded entities and the treatment of entity rule for disregarded entities with respect to employment taxes. The regulations affect disregarded entities in general and, in particular, disregarded entities that pay or pay over certain federal excise taxes or that are required to be registered by the IRS. The text of those temporary regulations also serves as the text of these proposed regulations.

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

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-116614-08), room 5203, Internal Revenue Service, PO 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-116614-08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-116614-08).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Michael H. Beker, (202) 622-3070; concerning the submissions of comments and requests for a public hearing, Richard Hurst, (202) 622-2949 (TDD telephone) (not toll-free numbers) and his e-mail address is Richard.A.Hurst@irsounsel.treas.gov.

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 301. The temporary regulations clarify that a single-owner eligible entity that is disregarded as an entity separate from its owner for any purpose, but regarded as a separate entity for certain excise tax purposes, is treated as a corporation for tax administrative purposes related to those excise taxes (that is, excise taxes reported on Form 720,

“Quarterly Federal Excise Tax Return;” Form 730, “Monthly Tax Return for Wagers;” Form 2290, “Heavy Highway Vehicle Use Tax Return;” and Form 11-C, “Occupation Tax and Registration Return for Wagering;” excise tax refunds or payments claimed on Form 8849, “Claim for Refund of Excise Taxes;” and excise tax registrations on Form 637, “Application for Registration (For Certain Excise Tax Activities).” The temporary regulations also make conforming changes to the tax liability rule for disregarded entities in §301.7701-2(c)(2)(iii) and the treatment of entity rule for disregarded entities with respect to employment taxes in §301.7701-2(c)(2)(iv)(B). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations 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 has also 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 these 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 regulation 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 a 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 the Treasury Department specifically request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person who 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 author of these regulations is Michael H. Beker, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

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 in part as follows:

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

Par. 2. Section 301.7701-2 is amended by:

1. Revising paragraphs (c)(2)(iii) and (c)(2)(iv)(B).
2. Redesignating paragraph (c)(2)(v)(B) as paragraph (c)(2)(v)(C) and adding new paragraph (c)(2)(v)(B).
3. In newly-designated paragraph (c)(2)(v)(C), Example (iv) is added.
4. Revising paragraphs (e)(2), (e)(5) and (e)(6).

The additions and revisions read as follows:

§301.7701-2 Business entities; definitions.

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(c) * * *

(2) * * *

(iii) [The text of this proposed amendment to §301.7701-2(c)(2)(iii) is the same as the text of §301.7701-2T(c)(2)(iii) published elsewhere in this issue of the **Federal Register**].

(iv) * * *

(B) [The text of this proposed amendment to §301.7701-2(c)(2)(iv)(B) is the same as the text of §301.7701-2T(c)(2)(iv)(B) published elsewhere in this issue of the **Federal Register**].

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(v) * * *

(B) [The text of this proposed amendment to §301.7701-2(c)(2)(v)(B) is the same as the text of §301.7701-2T(c)(2)(v)(B) published elsewhere in this issue of the **Federal Register**].

(C) * * * (iv) [The text of this proposed amendment to §301.7701-2(c)(2)(v)(C) Example (iv) is the same as the text of §301.7701-2T(c)(2)(v)(C) Example (iv) published elsewhere in this issue of the **Federal Register**].

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(e) * * *

(2) [The text of this proposed amendment to §301.7701-2(e)(2) is the same as the text of §301.7701-2T(e)(2) published elsewhere in this issue of the **Federal Register**].

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(5) [The text of this proposed amendment to §301.7701-2(e)(5) is the same as the text of §301.7701-2T(e)(5) published elsewhere in this issue of the **Federal Register**].

(6) [The text of this proposed amendment to §301.7701-2(e)(6) is the same as the text of §301.7701-2T(e)(6) published elsewhere in this issue of the **Federal Register**].

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L.E. Stiff
Deputy Commissioner for Services and Enforcement.

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