

Also, if the indemnification or insurance is to pay chapter 42 tax, it will be an act of self-dealing unless the amounts are treated as compensation.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in EO 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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of these proposed regulations will be 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 that are submitted timely (preferably a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying. A public hearing may 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 hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Terri Harris, Office of the Assistant Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, personnel from other offices of the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 53 is proposed to be amended as follows:

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Paragraph 1. The authority for part 53 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 2. Section 53.4941(d)-2 is amended as follows:

1. Paragraphs (f)(1) and (3) are revised.
 2. Paragraph (f)(4) is redesignated as paragraph (f)(5).
 3. New paragraph (f)(4) is added.
- The additions and revisions read as follows:

§ 53.4941(d)-2 Specific acts of self-dealing.

* * * * *

(f) *Transfer or use of the income or assets of a private foundation—(1) In general.* The transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation shall constitute an act of self-dealing. For purposes of the preceding sentence, the payment by a private foundation of any tax imposed on a foundation manager by chapter 42 shall be treated as a transfer of the income or assets of a private foundation for the benefit of a disqualified person unless such payment is treated as part of the compensation to such manager. Similarly, the payment by a private foundation of the premiums for an insurance policy providing liability insurance to a foundation manager for chapter 42 taxes shall be an act of self-dealing under this paragraph unless such premiums are treated as part of the compensation paid to such manager.

* * * * *

(3) *Indemnification of foundation managers against liability for defense in civil proceedings.* Except as provided in § 53.4941(d)-3(c), section 4941(d)(1) shall not apply to the indemnification by a private foundation of a foundation manager, with respect to the manager's defense in any civil judicial or civil administrative proceeding arising out of the manager's performance of services on behalf of the foundation, against all expenses (other than taxes, penalties, or expenses of correction) including attorneys' fees, if—

- (i) Such expenses are reasonably incurred by the manager in connection with such proceeding; and
 - (ii) The manager has not acted willfully and without reasonable cause with respect to the act or failure to act which led to such proceeding or to liability for tax under chapter 42.
- Similarly, except as provided in § 53.4941(d)-3(c), section 4941(d)(1) shall not apply to premiums for insurance to reimburse a foundation for an indemnification payment allowed pursuant to this paragraph (f)(3)(ii). Neither shall such indemnification or payment of insurance be treated as part of the compensation paid to such manager. Thus, a private foundation

shall not be engaged in an act of self-dealing if the foundation purchases a single insurance policy to provide its managers both the noncompensatory and the compensatory coverage discussed in this paragraph (f), provided that the total insurance premium is allocated to include, in each manager's compensation, that manager's portion of the premium attributable to the compensatory coverage, which is the coverage for the amount of penalty, tax, expense of correction, judgment or expense, that is owed by the manager.

(4) *Indemnification.* For purposes of this paragraph (f), the term *indemnification* shall include not only reimbursement by the foundation for losses and expenses that the foundation manager has already incurred but also direct payment by the foundation of such expenses as the expenses arise.

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Margaret Milner Richardson,

Commissioner of Internal Revenue.

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26 CFR Part 301

[GL-0038-93]

RIN 1545-AS61

Seals of Office

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document contains a proposed regulatory amendment relating to the authority contained within section 7514 of the Internal Revenue Code to prescribe or modify seals of office for the district directors, service center directors, and compliance center directors (directors) and other officers or employees of the Treasury Department to whom any of the functions of the Secretary of the Treasury are or may be delegated. The proposed regulations provide an additional or alternative uniform seal to various Internal Revenue offices throughout the country. This amendment is intended to eliminate the need to publish facsimiles of seals in the **Federal Register** as new internal revenue offices are established or relocated or as replacement of existing seals becomes necessary.

DATES: Written comments and requests for a public hearing must be received by March 6, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (GL-0038-93), room 5228, Internal Revenue Service, P.O.B.

7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (GL-0038-93), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert A. Walker, (202) 622-4208 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations that amend the Procedure and Administration Regulations (26 CFR 301) under section 7514 of the Internal Revenue Code (Code) and is issued under the authority contained in section 7805 (68A Stat. 917; 26 U.S.C. 7805). Section 7514 was enacted by section 91 of the Technical Amendments Act of 1958 (Pub. L. 85-866, 72 Stat. 1667) and amended by section 1906(b)(13)(A), (M) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1834, 1835). The IRS desired to streamline the process by which documents to be presented as evidence in court could be authenticated. Authentication is a process by which documents under seal can be admitted in court as evidence of the act, transaction, or occurrence it represents without laying an evidentiary foundation that often may have involved costly expert witnesses and courtroom time. Prior to passage of section 7514, documents needing a seal for authentication were mailed to the Internal Revenue headquarters in Washington, DC, in a cumbersome process that was not only time consuming, but also subjected important original documents to the possibility of being lost or misplaced. The statute provided that courts could take judicial notice of official seals, facsimiles of which had been duly published in the **Federal Register**. This last requirement itself has become a cumbersome process.

Explanation of Provisions

Section 301.7514-1 currently provides for several different seals of office for various offices of internal revenue throughout the country. The proposed amendment to the regulations

would permit these Internal Revenue offices to keep the official seal currently in use, but would provide for a uniform Internal Revenue Service seal for use when replacement of the current seal becomes necessary, or for other reasons such as the establishment of a new office or the relocation of an office to a new geographic area. By providing a uniform seal, it would no longer be necessary to amend the Treasury regulations to name the specific office each time an office is established or relocated or an existing office needs a new seal. The uniform seal could be used by all internal revenue offices throughout the country.

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 has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. 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 Request for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Robert A. Walker of the General Litigation Division, Office of

Chief Counsel, Internal Revenue Service. 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 301.7514-1 is amended as follows:

- a. Paragraphs (a)(2) through (7) are redesignated (a)(3) through (8).
- b. New paragraph (a)(2) is added. The addition reads as follows:

§ 301.7514-1 Seals of office.

(a) * * *

(2) *Establishment of uniform seal.* In addition to the seals of office prescribed for those offices set forth in paragraphs (a)(3) through (a)(8) of this section, a uniform seal for use by any office of internal revenue is established. This uniform seal may be used by any office of internal revenue set forth in paragraphs (a)(3) through (8) of this section, as well as by any other office of the internal revenue designated to use a seal by the Commissioner. The uniform seal is described and illustrated below as follows: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield with a dark background. Exterior to this circle and within a circumscribed circle forming the exterior of the seal shall appear words describing the specific office of internal revenue authorized to use the seal under this § 301.7514-1. This paragraph (a)(2) is effective on date of publication of Final Regulations in the **Federal Register**.

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Margaret Milner Richardson,

Commissioner of Internal Revenue.

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DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Parts 200, 201, 203, and 212

Title I—Helping Disadvantaged Children Meet High Standards

AGENCY: Department of Education.

ACTION: Notice of meetings to conduct a negotiated rulemaking process.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) of the U.S. Department of Education (Department) will convene a negotiating group—including Federal, State, and local education administrators, parents, teachers, and members of local boards of education—to participate in a negotiated rulemaking process prior to publishing proposed regulations to implement the programs under Title I (formerly Chapter 1 of Title I), of the Elementary and Secondary Education Act of 1965, as recently amended. Programs under Title I are designed to help disadvantaged children meet high academic standards and include programs operated by local educational

agencies in high-poverty schools (Part A), Even Start family literacy programs (Part B), programs for migratory children (Part C), and prevention and intervention programs for children and youth who are neglected, delinquent, or at risk of dropping out (Part D). The group will review draft proposed regulations developed on selected issues involving a minimum of two key provisions of the statute—"schoolwide programs" and "standards and assessment."

DATES: The meetings of the negotiating group are scheduled for January 11-13 and January 18-19, 1995.

ADDRESSES: The meetings will be held at the Sheraton City Centre, 1143 New Hampshire Avenue, N.W., Washington, D.C. 20047. Other meetings may be recommended and called by the Department, if necessary. The meetings are open to the public for individuals who wish to observe the process.

FOR FURTHER INFORMATION CONTACT: Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue S.W., Portals Building, room 4400, Washington, D.C. 20202-6132. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

On October 20, 1994, the President signed into law Pub. L. 103-382, the Improving America's Schools Act of 1994 (IASA), amending the Elementary and Secondary Education Act of 1965 (ESEA). The IASA reauthorizes—for a five-year period—programs currently under Chapter 1 of Title I of the ESEA.

Section 1601 of Title I of the ESEA requires that, before publishing any proposed regulations to implement programs under Title I, the Assistant Secretary establish a negotiated rulemaking process on issues involving a minimum of two key provisions in the statute—"schoolwide programs" and "standards and assessment." The regulatory negotiation process is to be conducted in a timely manner to ensure that final regulations are issued by the Secretary of Education not later than July 1, 1995. In accordance with section 1601(b)(4)(B) of the ESEA, the process is not subject to the Federal Advisory Committee Act, but will otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 *et seq.*).

On October 28, 1994, the Assistant Secretary published a notice in the **Federal Register** (59 FR 54372) requesting advice and recommendations on regulatory issues under Title I of the ESEA. The Assistant Secretary has selected individuals to participate in the negotiated rulemaking sessions from among the individuals and groups