

the taxpayer receives goods or services in consideration for its payment and some or all of the matching payment, those goods or services will be treated as provided in consideration for the taxpayer's payment and not in consideration for the matching payment.

(ii) *Example.* The following example illustrates the rules of this paragraph (f)(15).

Example. Taxpayer makes a \$400 payment to Charity L, a donee organization. Pursuant to a matching payment plan, Taxpayer's employer matches Taxpayer's \$400 payment with an additional payment of \$400. In consideration for the combined payments of \$800, L gives Taxpayer an item that it estimates has a fair market value of \$100. L does not give the employer any goods or services in consideration for its contribution. The contemporaneous written acknowledgment provided to the employer must include a statement that no goods or services were provided in consideration for the employer's \$400 payment. The contemporaneous written acknowledgment provided to Taxpayer must include the amount of Taxpayer's payment, a description of the item received by Taxpayer, and a statement that L's good faith estimate of the value of the item received by Taxpayer is \$100.

(16) *Effective date.* This paragraph (f) applies to contributions made on or after the date that these regulations are published in the **Federal Register** as final regulations. However, taxpayers may rely on the rules of this paragraph (f) for contributions made on or after January 1, 1994.

Par. 4. Section 1.6115-1 is added under the undesignated centerheading "Miscellaneous Provisions" to read as follows:

§ 1.6115-1 Disclosure requirements for quid pro quo contributions.

(a) *Good faith estimate defined*—(1) *In general.* A good faith estimate of the value of goods or services provided by an organization described in section 170(c) in consideration for a taxpayer's payment to that organization is an estimate of the fair market value, within the meaning of § 1.170A-1(c)(2), of the goods or services. The organization may use any reasonable methodology in making a good faith estimate, provided it applies the methodology in good faith. If the organization fails to apply the methodology in good faith, the organization will be treated as not having met the requirements of section 6115. See section 6714 for the penalties that apply for failure to meet the requirements of section 6115.

(2) *Good faith estimate for goods or services that are not commercially available.* A good faith estimate of the value of goods or services that are not

generally available in a commercial transaction may be determined by reference to the fair market value of similar or comparable goods or services. Goods or services may be similar or comparable even though they do not have the unique qualities of the goods or services that are being valued.

(3) *Examples.* The following examples illustrate the rules of this paragraph (a).

Example 1. Facility not available on a commercial basis. Museum M, an organization described in section 170(c), is located in Community N. In return for a payment of \$50,000 or more, M allows a donor to hold a private event in a room located in M. No other private events are permitted to be held in M. In Community N, there are four hotels, O, P, Q, and R, that have ballrooms with the same capacity as the room in M. Of these hotels, only O and P have ballrooms that offer amenities and atmosphere that are similar to the amenities and atmosphere of the room in M (although O and P lack the unique collection of art that is displayed in the room of M). Because the capacity, amenities, and atmosphere of ballrooms in O and P are comparable to the capacity, amenities, and atmosphere of the room in M, a good faith estimate of the benefits received from M may be determined by reference to the cost of renting either the ballroom in O or the ballroom in P. The cost of renting the ballroom in O is \$2500 and, therefore, a good faith estimate of the fair market value of the right to host a private event in the room at M is \$2500. In this example, the ballrooms in O and P are considered similar and comparable facilities to the room in M for valuation purposes, notwithstanding the fact that the room in M displays a unique collection of art.

Example 2. Services available on a commercial basis. Charity S is an organization described in section 170(c). S offers to provide a one-hour tennis lesson with Tennis Professional T in return for the first payment of \$500 or more that it receives. T provides one-hour tennis lessons on a commercial basis for \$100. Taxpayer pays \$500 to S and in return receives the tennis lesson with T. A good faith estimate of the fair market value of the lesson provided in exchange for Taxpayer's payment is \$100.

Example 3. Celebrity presence. Charity U is an organization described in section 170(c). In return for the first payment of \$1000 or more that it receives, U will provide a dinner for two followed by an evening tour of Museum V conducted by Artist W, whose most recent works are on display at V. W does not provide tours of V on a commercial basis. Typically, tours of V are free to the public. Taxpayer pays \$1000 to U and in return receives a dinner valued at \$100 and an evening tour of V conducted by W. Because tours of V are typically free to the public, a good faith estimate of the value of the evening tour conducted by W is \$0. In this example, the fact that Taxpayer's tour of V is conducted by W rather than V's regular tour guides does not render the tours dissimilar or incomparable for valuation purposes.

(b) *Certain goods or services disregarded.* For purposes of section 6115, an organization described in section 170(c) may disregard goods or services described in § 1.170A-13(f)(8)(i).

(c) *Goods or services provided to employees of donors*—

(1) *Certain goods or services disregarded.* For purposes of section 6115, goods or services provided by an organization described in section 170(c) to a taxpayer's employees in return for a payment to the organization may be disregarded to the extent that the goods or services provided to each employee are the same as those described in § 1.170A-13(f)(8)(i).

(2) *Description permitted in lieu of good faith estimate for other goods or services.* If a taxpayer makes a quid pro quo contribution in excess of \$75 to an organization described in section 170(c) and, in return, the organization offers the taxpayer's employees goods or services other than those described in paragraph (c)(1) of this section, the organization's written disclosure statement required by section 6115 may include a description of the goods or services in lieu of a good faith estimate of the value of the goods or services, provided that the statement otherwise satisfies the requirements of section 6115.

(d) *Effective date.* This section applies to contributions made on or after the date that these regulations are published in the **Federal Register** as final regulations. However, taxpayers may rely on the rules of this section for contributions made on or after January 1, 1994.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

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26 CFR Part 1

[18-65-93]

RIN 1545-AS46

Exceptions to Passive Income Characterization for Certain Foreign Banks and Securities Dealers; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of date for public hearing on proposed regulations.

SUMMARY: This document changes the date of the public hearing on proposed regulations concerning the application of the exceptions to passive income contained in section 1296(b) for foreign banks, securities dealers and brokers.

DATES: The public hearing is changed to Monday, September 11, 1995, beginning at 10:00 a.m.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Submit requests to speak and outlines of oral comments to the CC:DOM:CORP:T:R [IL-65-93], room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Christina Vasquez of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-6803 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Friday, April 28, 1995 (60 FR 20922), announced that the Service would hold a public hearing on proposed regulations concerning the application of the exceptions to passive income contained in section 1296(b) for foreign banks, securities dealers and brokers on Thursday, August 31, 1995, beginning at 10:00 a.m. in the IRS Auditorium.

The date of the public hearing has changed. The hearing is scheduled for Monday, September 11, 1995, beginning at 10:00 a.m. The requests to speak and outlines of oral comments must be received by Thursday, August 10, 1995. Because of controlled access restrictions, attendees are not admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

The Service will prepare an agenda showing the scheduling of the speakers after the outlines are received from the persons testifying and make copies available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

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26 CFR Part 301

[PS-54-94]

RIN 1545-AT02

Environmental Settlement Funds—Classification

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the

classification of certain organizations as trusts for federal tax purposes. The proposed regulations would provide guidance to taxpayers on the proper classification of trusts formed to collect and disburse amounts for environmental remediation of an existing waste site to discharge taxpayers' liability or potential liability under applicable environmental laws.

DATES: Written comments must be received by October 5, 1995. Requests to speak (with outlines of oral comments) at a public hearing scheduled for October 26, 1995, at 10 a.m. must be submitted by October 5, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (PS-54-94), room 5228, Internal Revenue Service, POB 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 (PS-54-94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. The public hearing has been scheduled to be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, James A. Quinn, (202) 622-3060; 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 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: 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, PC:FP, Washington, DC 20224.

The collection of information is required by § 301.7701-4(e)(2). This information is required by the IRS to ensure the proper reporting of items of income and expense of an environmental remediation trust in which a portion of the trust is treated as owned by a grantor. This information will be used to ensure compliance with the proposed regulation. The likely respondents are businesses and other

for-profit institutions, including small businesses.

Estimated total annual reporting burden: 2,000 hours.

The estimated annual burden per respondent: 4 hours.

Estimated number of respondents: 500.

Estimated annual frequency of responses: 1.

Introduction

This document proposes to add § 301.7701-4(e) to the Procedure and Administration Regulations (26 CFR Part 301) relating to the classification of certain environmental remediation trusts as trusts for federal tax purposes.

Background

Unincorporated organizations may be classified as associations (which are taxable as corporations), partnerships, or trusts for federal tax purposes. The criteria for determining when an organization will be classified as a trust are set forth in § 301.7701-4. The proposed amendment to § 301.7701-4 provides that an environmental remediation trust will be classified as a trust for federal tax purposes.

A trust is an environmental remediation trust if (1) the primary purpose of the trust is collecting and disbursing amounts for environmental remediation of an existing waste site to resolve, satisfy, mitigate, address, or prevent the liability or potential liability of persons imposed by federal, state, or local environmental laws; (2) all contributors to the trust have potential liability or a reasonable expectation of liability under federal, state, or local environmental laws for environmental remediation of the waste site; and (3) the trust is not a qualified settlement fund within the meaning of § 1.468B-1(a). Environmental remediation trusts include trusts formed pursuant to an order of a governmental authority, as well as trusts formed by taxpayers to avoid future liability or potential liability under federal, state, or local environmental laws. An environmental remediation trust is classified as a trust, even though it may differ from the traditional trust in which trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate courts, because the purpose of an environmental remediation trust is to pay the costs of environmental remediation of an existing waste site as a result of liability or potential liability under federal, state, or local environmental laws, not to carry on a for-profit business.