

airspace extending upward from 1,200 feet above the surface from the 7-mile radius to 9 miles northwest of the airport clockwise from V120 to V344 and from the 7-mile radius to the 19-mile radius east of the airport clockwise from V344 to V120.

* * * * *

Issued in Des Plaines, Illinois on October 14, 1995.

Maureen Woods,

Acting Manager, Air Traffic Division.

[FR Doc. 95-26763 Filed 10-27-95; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[IA-4-92]

RIN 1545-AQ49

Authority of the Federal Crop Insurance Corporation To Require Employer Identification Numbers From Policyholders and Reinsured Companies for Purposes of the Federal Crop Insurance Act

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking published in the Federal Register on August 31, 1992, that relates to the authority of the Federal Crop Insurance Corporation (FCIC) to require policyholders and reinsured companies to furnish employer identification numbers for purposes of administering the Federal Crop Insurance Act.

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1992, the IRS published proposed regulations (IA-4-92) in the Federal Register (57 FR 39379) under section 6109 of the Internal Revenue Code, relating to the authority of the FCIC to collect employer identification numbers. Although written comments and requests for a public hearing were solicited, no written or oral comments were received and no public hearing was requested or held. Because the proposed regulations merely restate the rules in section 6109, the IRS has decided, in the interest of simplification, to withdraw those proposed regulations.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking that was published in the Federal Register on August 31, 1992, (57 FR 39379) is withdrawn.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95-26884 Filed 10-27-95; 8:45 am]

BILLING CODE 4830-01-U

26 CFR Part 301

[PS-34-92]

RIN 1545-AS09

Selection of Tax Matters Partner for Limited Liability Companies

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the designation or selection of a tax matters partner for limited liability companies classified as partnerships. This document also amends current proposed regulations to consolidate certain guidance necessary to determine the tax matters partner for partnerships. **DATES:** Written comments and requests for a public hearing must be received by January 29, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (PS-34-92), 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 8:00 a.m. and 5:00 p.m. to: CC:DOM:CORP:T:R (PS-34-92), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: D. Lindsay Russell, (202) 622-3050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), adjustments attributable to the tax items of a partnership were made at the partner level. Section 402 of TEFRA added sections 6221 through 6231 to the Internal Revenue Code of 1986, as amended, to allow for

consolidated administrative and judicial proceedings to determine the tax treatment of partnership items at the partnership level. Under this consolidated proceeding, the tax matters partner of a partnership represents the partnership before the IRS in all tax matters for a specific taxable year.

Section 6231(a)(7) provides that the tax matters partner of a partnership is the general partner designated as the tax matters partner as provided in regulations or, if no general partner is designated, the general partner having the largest profits interest in the partnership at the close of the taxable year involved (largest-profits-interest rule). Section 6231(a)(7) also provides that, if no general partner is designated and the Commissioner determines that it is impracticable to apply the largest-profits-interest rule, the partner selected by the Commissioner is treated as the tax matters partner.

Proposed regulations under sections 6221 through 6231 and section 6233 were published in the Federal Register (51 FR 13231) on April 18, 1986. Several comments on the proposed regulations were received, but no public hearing was requested and none was held. Temporary regulations identical to the proposed regulations were published in the Federal Register (52 FR 6779) on March 5, 1987. The temporary and proposed regulations remain outstanding.

On February 29, 1988, the IRS published Rev. Proc. 88-16, 1988-1 C.B. 691. This revenue procedure describes circumstances under which the IRS will determine that it is impracticable to apply the largest-profits-interest rule and describes the criteria the IRS will consider in selecting a tax matters partner for the partnership.

Since the enactment of TEFRA, virtually all states and several foreign jurisdictions have enacted laws providing for the formation of limited liability companies (LLCs). Although local law varies as to the requirements for establishing an LLC, the common denominator is that none of the members are liable for the debts and obligations of the LLC beyond their contributions (absent an express assumption of liability by a member if authorized under the applicable LLC statute). In addition, under local law, LLCs may be generally managed by elected or designated "managers," who may be members of the LLC. In most jurisdictions, however, LLCs need not be managed by elected or designated managers. In those cases, all members of the LLC have management authority.

LLCs in most jurisdictions may be classified for Federal tax purposes either

as partnerships or associations that are taxable as corporations, depending on the characteristics of the LLC. See, e.g., Rev. Rul. 88-76, 1988-2 C.B. 360; Rev. Rul. 93-38, 1993-1 C.B. 233. For LLCs that are classified as partnerships for Federal tax purposes, it is necessary to determine the tax matters partner for the LLC.

Explanation of Provisions

A. Tax Matters Partner for LLCs

The proposed regulations provide that a "member-manager" of an LLC will be treated as a general partner for purposes of determining the tax matters partner of the LLC. Any member of an LLC that is not a member-manager is treated as a partner other than a general partner. The proposed regulations define a member-manager as a member of the LLC who, alone or together with others, is vested with the continuing exclusive authority to make the management decisions necessary to conduct the business for which the organization was formed. This approach is adopted because, if a member of the LLC has such continuing exclusive management authority, the member should have the necessary authority and access to partnership records needed to function as a tax matters partner. The proposed regulations also provide that if there are no elected or designated member-managers (as described above), each member will be treated as a member-manager.

The proposed regulations define an LLC as an organization formed under a law that allows the limitation of the liability of all members for the organization's debts and other obligations and classified as a partnership for Federal tax purposes.

B. Amending Proposed Regulations to Incorporate the Provisions of Rev. Proc. 88-16

The current proposed regulations under §301.6231(a)(7)-1 provide certain guidance concerning the designation of a tax matters partner under the largest-profits-interest rule of section 6231(a)(7)(B). However, the current proposed regulations do not describe circumstances under which the Commissioner will determine that it is impracticable to apply the largest-profits-interest rule and do not describe how the Commissioner will select a tax matters partner when it is impracticable to apply the largest-profits-interest rule. This additional guidance is provided in Rev. Proc. 88-16.

For administrative simplicity, the provisions in this notice of proposed rulemaking amend the current proposed

regulations to include the rules of Rev. Proc. 88-16. As a result, the complete guidance necessary for determining the tax matters partner for a partnership and an LLC will be contained in the proposed regulations under section 6231(a)(7).

As amended, the proposed regulations incorporate the provisions of Rev. Proc. 88-16 with one substantive change. Under sections 3.05 and 3.06 of Rev. Proc. 88-16, if each general partner is deemed to have no profits interest under section 3.03(2) or 3.03(3), the IRS will select a limited partner as the tax matters partner. Some partnerships, such as a general partnership or a foreign LLC in which all members are member-managers, do not have limited partners. To permit the Commissioner to select a tax matters partner in these situations, the proposed regulations allow the Commissioner to select any partner (including either a general or limited partner) as the tax matters partner.

Proposed Effective Date

Sections 301.6231(a)(7)-1 and 301.6231(a)(7)-2 are proposed to be effective for all designations, selections, and terminations of a tax matters partner occurring on or after the date final regulations are published in the Federal Register. Any other reasonable designation or selection of a tax matters partner of an LLC is binding for periods prior to the effective date of this regulation.

Effect on Other Documents

Rev. Proc. 88-16 is obsolete as of the date final regulations are published in the Federal Register.

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) 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 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) that are submitted timely 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 D. Lindsay Russell, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and 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 is amended by adding entries in numerical order to read as follows:

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

Section 301.6231(a)(7)-1 also issued under 26 U.S.C. 6230 (i) and (k). * * *

Section 301.6231(a)(7)-2 also issued under 26 U.S.C. 6230 (i) and (k). * * *

Par. 2. Section 301.6231(a)(7)-1 (as proposed to be added in the Federal Register for April 18, 1986 (51 FR 13245)) is amended by:

1. Revising the section heading.
2. Adding a new sentence at the end of paragraph (a).
3. Removing the heading for paragraph (c)(1) and redesignating paragraph (c)(1) as paragraph (c).
4. Removing paragraph (c)(2).
5. Adding a sentence at the end of paragraph (m)(2).
6. Adding paragraphs (n), (o), (p), (q), (r), and (s). The additions and revisions read as follows:

§ 301.6231(a)(7)-1 Designation or selection of tax matters partner.

(a) * * * If a partnership does not designate a general partner as the tax matters partner for a specific taxable year, or if the designation is terminated without the partnership designating

another general partner as the tax matters partner, the tax matters partner is the partner determined under this section.

* * * * *

(m) * * *

(2) * * * For purposes of this paragraph (m)(2), the general partner with the largest profits interest is determined based on the year-end profits interests reported on the Schedules K-1 filed with the partnership income tax return for the taxable year for which the determination is being made.

* * * * *

(n) *Selection of tax matters partner by Commissioner when impracticable to apply the largest-profits-interest rule.* If the partnership has not designated a tax matters partner under this section for the taxable year and it is impracticable (as determined under paragraph (o) of this section) to apply the largest-profits-interest rule of paragraph (m)(2) of this section, the Commissioner will select a tax matters partner as described in paragraph (p) of this section.

(o) *Impracticability of largest-profits-interest rule.* It is impracticable to apply the largest-profits-interest rule of paragraph (m)(2) of this section if, on the date the rule is applied, any one of the following three conditions is met:

(1) *General partner with the largest profits interest is not apparent.* The general partner with the largest profits interest is not apparent from the Schedules K-1 and is not otherwise readily determinable.

(2) *Each general partner is deemed to have no profits interest in the partnership.* Each general partner is deemed to have no profits interest in the partnership under paragraph (m)(3) of this section (concerning termination of a designation under the largest-profits-interest rule) because of the occurrence of one or more of the events described in paragraphs (l)(1) through (4) of this section (involving death, adjudication of incompetency, liquidation, and conversion of partnership items to nonpartnership items).

(3) *General partner with the largest profits interest is disqualified.* The general partner with the largest profits interest determined under paragraph (m)(2) of this section—

- (i) Has been notified of suspension from practice before the Internal Revenue Service;
- (ii) Is incarcerated;
- (iii) Is residing outside the United States, its possessions, or territories; or
- (iv) Cannot be located or cannot perform the functions of a tax matters partner for any reason, except that lack

of cooperation with the Internal Revenue Service by the general partner with the largest profits interest is not a basis for finding that the partner cannot perform the functions of a tax matters partner.

(p) *Commissioner's selection of the tax matters partner—(1) When the general partner with the largest profits interest is not apparent.* If it is impracticable under paragraph (o)(1) of this section to apply the largest-profits interest rule of paragraph (m)(2) of this section, the Commissioner will select (in accordance with the notification procedures set forth in paragraph (r) of this section) as the tax matters partner any person who was a general partner at any time during the taxable year under examination.

(2) *When each general partner is deemed to have no profits interest in the partnership.* If it is impracticable under paragraph (o)(2) of this section to apply the largest-profits-interest rule of paragraph (m)(2) of this section, the Commissioner will select a partner (including a general or limited partner) as the tax matters partner in accordance with the criteria set forth in paragraph (q) of this section. The Commissioner will notify both the partner selected and the partnership of the selection, effective as of the date specified in the notice.

(3) *When the general partner with the largest profits interest is disqualified—*

(i) *In general.* Except as otherwise provided in paragraph (p)(3)(ii) of this section, if it is impracticable under paragraph (o)(3) of this section to apply the largest-profits-interest rule of paragraph (m)(2) of this section, the Commissioner will treat each general partner who fits the criteria contained in paragraph (o)(3) of this section as having no profits interest in the partnership for the taxable year and will select (in accordance with the notification procedures set forth in paragraph (r) of this section) a tax matters partner from the remaining persons who were general partners at any time during the taxable year.

(ii) *Partner selected if no general partner may be selected.* If all general partners during the taxable year either are treated as having no profits interest in the partnership for the taxable year under paragraph (m)(3) of this section (concerning termination of a designation under the largest-profits-interest rule) or are described in paragraph (o)(3) of this section (general partner with the largest profits interest is disqualified), the Commissioner will select a partner (including a general or limited partner) as the tax matters partner in accordance with the criteria set forth in paragraph

(q) of this section. The Commissioner will notify both the partner selected and the partnership of the selection, effective as of the date specified in the notice.

(q) *Criteria for selecting a partner as tax matters partner—(1) In general.* The Commissioner will select a partner as the tax matters partner under paragraph (p)(2) or (3)(i) of this section only if the partner was a partner in the partnership at the close of the taxable year under examination.

(2) *Criteria to be considered.* The Commissioner may consider the following criteria in selecting a partner as the tax matters partner:

(i) The general knowledge of the partner in tax matters and the administrative operation of the partnership.

(ii) The partner's access to the books and records of the partnership.

(iii) The profits interest held by the partner.

(iv) The views of the partners having a majority interest in the partnership regarding the selection.

(v) Whether the partner is a partner of the partnership at the time the tax-matters-partner selection is made.

(vi) Whether the partner is a United States person (within the meaning of section 7701(a)(30)).

(3) *Limited restriction on subsequent designation of a tax matters partner by the partnership.* For purposes of paragraphs (p)(2) and (3)(ii) of this section, the partnership cannot designate a partner who is not a general partner to serve as tax matters partner in lieu of a partner selected by the Commissioner.

(r) *Notification of partnership—(1) In general.* If the Commissioner selects a tax matters partner under the provisions of paragraph (p)(1) or (3)(i) of this section, the Commissioner will notify both the partner selected and the partnership of the selection, effective as of the date specified in the notice.

(2) *Limited opportunity for partnership to designate the tax matters partner.* (i) Before the Commissioner selects a tax matters partner under paragraphs (p)(1) and (3)(i) of this section, the Commissioner will notify the partnership by mail that, after 30 days from the date of the notice, the Commissioner will make a determination that it is impracticable to apply the largest-profits-interest rule of paragraph (m)(2) of this section and will select the tax matters partner unless a prior designation is made by the partnership. This delay in making the determination will permit the partnership to designate a tax matters partner under paragraph (e) (designation

by general partners with a majority interest) or (f) of this section (designation by partners with a majority interest under certain circumstances), thereby avoiding a selection made by the Commissioner.

(ii) During the 30-day period and prior to a tax-matters-partner designation by the partnership, the Commissioner will communicate with the partnership by sending all correspondence or notices to "The Tax Matters Partner" in care of the partnership at the partnership's address.

(iii) Any subsequent designation of a tax matters partner by the partnership after the 30-day period will become effective as provided under paragraph (k)(2) of this section (concerning designations made after a notice of beginning of administrative proceeding is mailed).

(s) *Effective date.* This section applies to all designations, selections, and terminations of a tax matters partner occurring on or after the date final regulations are published in the Federal Register.

Par. 3. Section 301.6231(a)(7)-2 is added to read as follows:

§ 301.6231(a)(7)-2 Designation or selection of tax matters partner for a limited liability company (LLC).

(a) *In general.* Solely for purposes of applying section 6231(a)(7) and § 301.6231(a)(7)-1 to an LLC, only a member-manager of an LLC is treated as a general partner, and a member of an LLC who is not a member-manager is treated as a partner other than a general partner.

(b) *Definitions*—(1) *LLC.* Solely for purposes of this section, *LLC* means an organization:

(i) Formed under a law that allows the limitation of the liability of all members for the organization's debts and other obligations within the meaning of § 301.7701-2(d); and

(ii) Classified as a partnership for Federal tax purposes.

(2) *Member.* Solely for purposes of this section, member means any person who owns an interest in an LLC.

(3) *Member-manager.* Solely for purposes of this section, *member-manager* means a member of an LLC who, alone or together with others, is vested with the continuing exclusive authority to make the management decisions necessary to conduct the business for which the organization was formed. Generally, an LLC statute may permit the LLC to choose management by one or more managers (whether or not members) or by all of the members. If there are no elected or designated member-managers (as so defined in this

paragraph (b)(3) of the LLC, each member will be treated as a member-manager for purposes of this section.

(c) *Effective date.* This section applies to all designations, selections, and terminations of a tax matters partner of an LLC occurring on or after the date final regulations are published in the Federal Register. Any other reasonable designation or selection of a tax matters partner of an LLC is binding for periods prior to the effective date of this section. Margaret Milner Richardson,
Commissioner of Internal Revenue.

[FR Doc. 95-26738 Filed 10-27-95; 8:45 am]

BILLING CODE 4830-01-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH83-1-6991b; AD-FRL-5299-7]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Ohio to correct its Rule 3745-35-07 that underlies its federally enforceable State operating permits (FESOP) program. The USEPA proposes further to conclude that Ohio has satisfied the condition established in USEPA's conditional approval of Ohio's FESOP program, as published on October 25, 1994, at 59 FR 53586. In the Final Rules section of this Federal Register, USEPA is fully approving the State's SIP revision as a direct final rule without prior proposal, because the USEPA views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to these actions, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received on or before November 29, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR-

18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of its are available for inspection at: Regulation Development Section, Regulation Development Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Regulation Development Branch (AR-18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6067.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section for this Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 5, 1995.

Michelle D. Jordan,

Acting Regional Administrator.

[FR Doc. 95-26590 Filed 10-27-95; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 70

[AD-FRL-5321-9]

Clean Air Act Proposed Interim Approval of Operating Permits Program; Maryland

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes interim approval of the operating permits program submitted by Maryland. This program was submitted by Maryland for the purpose of complying with federal requirements which mandated that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

DATES: Comments on this proposed action must be received in writing by November 29, 1995.

ADDRESSES: Comments should be addressed to Enid Gerena, (3AT23), Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

Copies of Maryland's submittal and other supporting information used in developing the proposed interim approval are available for inspection during normal business hours at the following location: Air, Radiation, and