

estimated tax payments. For others, it will reduce the likelihood that they will face penalties for underpayment of tax at the time of tax filing.

H.R. Rep. No. 826, 103d Cong., 2d Sess., pt.1, at 170-171 (1994).

5. *Proposed regulations.* The proposed regulations implement the withholding method prescribed by section 3402(r). They also permit additional withholding by agreement between the tribal member and the tribe.

6. *Comments and final regulations.* The IRS received only two written comments on the proposed regulations. After consideration of both comments, the proposed regulations are adopted with no substantive changes.

No comments were received from the Chief Counsel for Advocacy of the Small Business Administration.

Special Analyses

It has been determined that this Treasury decision 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, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information. The principal author of the regulations is Rebecca Wilson, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 is amended by removing the entry for section 31.3402(r)-1T and adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 31.3402(r)-1 also issued under 26 U.S.C. 3402(p) and (r), * * *

Par. 2. Section 31.3402(r)-1 is added to read as follows:

§ 31.3402(r)-1 Withholding on distributions of Indian gaming profits to tribal members.

(a) (1) *General rule.* Section 3402(r)(1) requires every person, including an Indian tribe, making a payment to a member of an Indian tribe from the net revenues of any class II or class III gaming activity, as defined in 25 U.S.C. 2703, conducted or licensed by such tribe to deduct and withhold from such payment a tax in an amount equal to such payment's proportionate share of the annualized tax, as that term is defined in section 3402(r)(3).

(2) *Withholding tables.* Except as provided in paragraph (a)(4) of this section, the amount of a payment's proportionate share of the annualized tax shall be determined under the applicable table provided by the Commissioner.

(3) *Annualized amount of payment.* Section 3402(r)(5) provides that payments shall be placed on an annualized basis under regulations prescribed by the Secretary. A payment may be placed on an annualized basis by multiplying the amount of the payment by the total number of payments to be made in a calendar year. For example, a monthly payment may be annualized by multiplying the amount of the payment by 12. Similarly, a quarterly payment may be annualized by multiplying the amount of the payment by 4.

(4) *Alternate withholding procedures—(i) In general.* Any procedure for determining the amount to be deducted and withheld under section 3402(r) may be used, provided that the amount of tax deducted and withheld is substantially the same as it would be using the tables provided by the Commissioner under paragraph (a)(2) of this section. At the election of an Indian tribe, the amount to be deducted and withheld under section 3402(r) shall be determined in accordance with this alternate procedure.

(ii) *Method of election.* It is sufficient for purposes of making an election under this paragraph (a)(4) that an Indian tribe evidence the election in any reasonable way, including use of a particular method. Thus, no written election is required.

(5) *Additional withholding permitted.* Consistent with the provisions of section 3402(p), a tribal member and a tribe may enter into an agreement to

provide for the deduction and withholding of additional amounts from payments in order to satisfy the anticipated tax liability of the tribal member. The agreement may be made in a manner similar to that described in § 31.3402(p)-1 (with respect to voluntary withholding agreements between employees and employers).

(b) *Effective date.* This section applies to payments made after December 31, 1994.

§ 31.3402(r)-1T [Removed]

Par. 3. Section 31.3402(r)-1T is removed.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: November 28, 1995.

Leslie Samuels,

Assistant Secretary of the Treasury.

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POSTAL SERVICE

39 CFR Part 20

Interim Rule Amending International Mail Manual Subchapter 790, Items Mailed Abroad by or on Behalf of Senders in the U.S. and Certain Other Countries

AGENCY: Postal Service.

ACTION: Interim rule.

SUMMARY: On March 10, 1994, the Postal Service published in the Federal Register (59 FR 11188-11193) amendments to certain rules in International Mail Manual (IMM) subchapter 790 to clarify when a mailing in a foreign country is by or on behalf of a resident of the United States for the purposes of collecting U.S. domestic postage; and to authorize the collection of U.S. domestic postage on certain mail posted in a foreign country by or on behalf of a person who is not a resident of that foreign country. This document amends IMM subchapter 790 to remove the threshold of 1,000 pieces mailed abroad in a 30-day period by a U.S. resident and to remove the standards relative to the collection of U.S. domestic postage on "A-B-C remail". The basis for the amended rules is contained in article 25, Posting Abroad of Letter-Post Items, of the Universal Postal Convention (Washington, 1989).

DATES: The interim rule is effective January 1, 1996. Comments must be received on or before January 18, 1996.

ADDRESSES: Written comments should be mailed or delivered to the Manager,

International Pricing, U.S. Postal Service, 475 L'Enfant Plaza SW RM 4400-EB, Washington, DC 20260-6500. Copies of all written comments will be available at the above address for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John F. Alepa, (202) 268-4071.

SUPPLEMENTARY INFORMATION: In 1994, the Universal Postal Union (UPU) met in Congress in Seoul, Korea, to amend and adopt the Acts of the Universal Postal Union. The Acts come into force on January 1, 1996. The United States is a member of the UPU. By virtue of that membership, the U.S. Postal Service must adhere to the Agreements of the UPU to which it is a signatory.

The UPU adopted revisions to the Acts of the Universal Postal Union, including article 25 of the Universal Postal Convention. Article 25 no longer contains a provision permitting the Postal Service to collect U.S. domestic postage from a resident of the United States when mailings made abroad for that resident exceed 1,000 pieces in a 30-day period without regard to whether the postage paid in the foreign country is less than the applicable U.S. domestic postage. In addition, article 25 no longer grants authority to the Postal Service to collect U.S. domestic postage for items for delivery in the United States from a mailer who posts, or causes to be posted, such items in a country other than the country of that mailer's residence. Rather, any charge will be due from the dispatching postal administration.

As a result of the revisions to article 25, the Postal Service is amending IMM subchapter 790 to remove the threshold of 1,000 pieces mailed abroad in a 30-day period by a U.S. resident and to remove the standards relative to the collection of U.S. domestic postage on "A-B-C remail" (that is, a method of mailing in which a person or firm mails from a country other than the one of which it is a resident to a third country in order to benefit from lower international postage rates in the country of mailing).

Specifically, the 1994 Congress amended article 25, Posting Abroad of Letter-Post Items, which contains four paragraphs. Paragraphs 1 through 3 relate to items mailed from abroad back into the country of residence of the sender. Paragraph 4 relates to items mailed by residents of one country from a second country for delivery in a third country. This method of mailing (as discussed above) is commonly referred to as "A-B-C remail."

Paragraph 1 was amended to remove the provision that permitted postal administrations to invoke action against a person or firm mailing to that person's or firm's country of residence from another country solely on the basis of the number of items mailed. Article 25, paragraph 1, requires that the mailing be made "with the object of profiting by more favorable rate conditions there." To comply with this revision, the Postal Service is removing from IMM subchapter 790 the provision that provides that applicable U.S. domestic postage is due when "1,000 or more such items are mailed in a 30-day period regardless of whether the foreign postage is lower than the comparable U.S. postage."

Paragraph 4 regulates "A-B-C remail." This method of mailing occurs when a resident of country A mails from country B mail destined in country C. This method is generally economically feasible because of differences in the terminal dues system provided by the Universal Postal Convention. Most developing countries (which generally originate small volumes of outgoing international mail) are assigned a lower terminal dues rate than developed countries (which generally originate large volumes of outgoing international mail).

Under the current terminal dues system, for example, two countries each annually exchanging more than 150 tons of mail would pay terminal dues equivalent to 25 cents for a 1/2-ounce item. By contrast, two countries each annually exchanging 150 tons or less of mail would pay terminal dues equivalent to only 6 cents for the same 1/2-ounce item.

When "A-B-C remail" is used, that mailing method harms both country A (because it loses revenue and mail volume) and country C (because it receives less in terminal dues from country B than it would receive from country A). This lower rate of terminal dues generally does not compensate the delivering country for the actual cost of handling such mail.

To correct this situation, the 1994 Universal Postal Congress adopted a new terminal dues system and introduced a separate rate for "bulk mail," regardless of where that mail originates. The delivering country will be able to collect the same rate in terminal dues without regard to the country originating the mail. This revised system should reduce considerably the volume of mail migrating from developed countries to developing countries solely to take advantage of lower international rates

made possible from different terminal dues rates.

In some cases, the 1994 Congress recognized that even this "bulk mail" rate of terminal dues would not provide full compensation to the delivering postal administration and that migration of mail might continue. Accordingly, article 25, paragraph 4, allows the delivering postal administration to collect the equivalent of "bulk mail" terminal dues from the dispatching postal administration if the delivering administration is not receiving appropriate remuneration. However, the delivering administration will no longer be able to collect extra compensation from the sender of the items. Remuneration is strictly between the dispatching and delivering postal administrations. Therefore, the Postal Service is eliminating its rules in IMM subchapter 790 concerning the collection of U.S. domestic postage from the sender of so-called "A-B-C remail."

Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding rulemaking (5 U.S.C. 553), the Postal Service invites public comment.

The Postal Service adopts on an interim basis, pending receipt and consideration of public comment, the following amendments to subchapter 790 of the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, Incorporation by reference, International postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. The International Mail Manual is amended by revising subchapter 790, Items Mailed Abroad by or on Behalf of Senders in the U.S. and Certain Other Countries, to read as follows:

790 Items Mailed Abroad by or on Behalf of Senders in the United States

791 Postage Payment Required

Payment of U.S. postage is required to secure delivery of mail when the mailing is by or on behalf of a person or firm that is a resident of the United States and the foreign postage rate applied to such items is lower than the comparable U.S. domestic postage rate.

792 Definition of Terms**792.1 Resident**

A resident of the United States includes any firm that has a place of business in the United States or is incorporated or otherwise organized in the United States, its territories, or its possessions.

792.2 By or on Behalf

A mailing is made by or on behalf of a person or firm that is a resident of the United States if such a resident seeks or expects to derive economic benefit or advantage from that mailing.

792.3 Place of Business

A place of business in the United States is any location in the United States, its territories, or its possessions where a firm's employees or agents regularly have personal contact with other individuals for conducting the firm's business. For the purposes of this section, a firm whose employees or agents have personal contact with others for conducting the firm's business in different places in the United States for short periods (for example, at hotels in different cities for 1 or 2 days at a time) is considered to have a place of business in the United States if the aggregate amount of time spent in the United States is 180 days or more within 12 consecutive months.

792.4 Agent

The use of a nonexclusive agent in the United States for the sole purpose of accepting orders and remissions for transmission to a firm in another country or for the sole purpose of distributing merchandise manufactured in another country and shipped to the United States in bulk does not by itself establish a place of business in the United States.

793 Advance Payment Required**793.1 Sample Mailpiece**

A sender affected by the provisions in 791 must submit a sample mailpiece (envelope and contents) from the proposed mailing; a statement about the number of items to be mailed, the date of mailing, and the place of mailing; and a check, made payable to the U.S. Postal Service, to cover the amount of the applicable U.S. postage. The sample mailpiece, statement, and check must be sent to: Manager, International Pricing, U.S. Postal Service, 475 L'Enfant Plz. SW., Washington, DC 20260-6500.

793.2 Headquarters Notification

Headquarters provides notification of postage acceptance and approval of the mailing to the sender and to the

receiving U.S. exchange office. This notification permits the items in the mailing to go forward to the addressees without delay when the items reach the United States.

794 Advance Payment Not Made**794.1 Return or Disposal of Items**

Items may be returned to origin or disposed of in accordance with postal regulations if U.S. postage is not paid.

794.2 Mailings Without Advance Payment

A mailing subject to the provisions in 791 received without advance payment of U.S. domestic postage is held at the receiving U.S. exchange office. The exchange office reports the mailing to the manager of International Pricing, USPS Headquarters. (The exchange office is advised to release the mail when the applicable postage is paid.) The report must contain the following information:

- Title and/or nature of the items.
- Identity of the sender.
- Number of items detained.
- Weight of a single item.
- Foreign postage paid per item.
- Country of mailing.

795 Report of Mailings

The receiving U.S. exchange office must report any mail appearing to be subject to the provisions of this subchapter to the manager of International Pricing, USPS Headquarters.

Stanley F. Mires,
Chief Counsel, Legislative.

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ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 52

[MA44-1-7167a; A-1-FRL-5314-6]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Best Available Controls for Consumer and Commercial Products (Including Architectural and Industrial Maintenance Coatings)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes and requires VOC emission standards

for architectural and industrial maintenance coatings and 10 categories of consumer products. The intended effect of this action is to approve a revision to Massachusetts SIP which reduces VOC emissions from architectural and industrial maintenance coatings and 10 categories of consumer products. This action is being taken in accordance with Section 183(e) of the Clean Air Act.

DATES: This action is effective February 20, 1996, unless notice is received by January 18, 1996, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE-131), Washington, D.C. 20460; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Jeanne Cosgrove, (617) 565-3246.

SUPPLEMENTARY INFORMATION: Under the Clean Air Act, EPA is required to (1) study emissions of VOCs from consumer and commercial products; (2) list those categories of products that account for at least 80 percent of the total VOC emissions from consumer and commercial products in areas of the country that fail to meet the national air quality standards set for ground-level ozone; and (3) divide the list into four groups, and regulate one group every two years using best available controls, as defined by the Clean Air Act.

In March 1995, EPA issued a report to Congress, *Study of Volatile Organic Compound Emissions from Consumer and Commercial Products*, which evaluated the contribution of VOC emissions from consumer and commercial products on ground-level ozone levels, and established criteria and a schedule for regulating these products under the Clean Air Act. Architectural coatings and consumer and commercial products (24 categories of household products) are in the first