

represents risk margin, all of the margin required by the exchange, clearing organization, or other futures commission merchant or entity for that account, shall be treated as risk margin.

\* \* \* \* \*

(e)(1) \* \* \*

(ii) For a futures commission merchant or applicant therefor, 175 percent of the amount required by paragraph (a)(1)(i)(B) of this section;

\* \* \* \* \*

(h)(2)(vi)(C) \* \* \*

(1) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(iii)(A) of this section;

(2) For a futures commission merchant or applicant therefor, 175 percent of the amount required by paragraph (a)(1)(i)(B) of this section;

\* \* \* \* \*

(h)(2)(vii)(A) \* \* \*

(1) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(iii)(A) of this section;

(2) For a futures commission merchant or applicant therefor, 175 percent of the amount required by paragraph (a)(1)(i)(B) of this section;

\* \* \* \* \*

(h)(2)(B) \* \* \*

(1) 200 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(iii)(A) of this section;

(2) For a futures commission merchant or applicant therefor, 250 percent of the amount required by paragraph (a)(1)(i)(B) of this section;

\* \* \* \* \*

(h)(2)(viii)(A) \* \* \*

(1) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(iii)(A) of this section;

(2) For a futures commission merchant or applicant therefor, 150 percent of the amount required by paragraph (a)(1)(i)(B) of this section;

\* \* \* \* \*

(h)(3)(ii) \* \* \*

(A) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(iii)(A) of this section;

(B) For a futures commission merchant or applicant therefor, 150 percent of the amount required by paragraph (a)(1)(i)(B) of this section;

\* \* \* \* \*

(h)(v) \* \* \*

(A) 120 percent of the appropriate minimum dollar amount required by paragraphs (a)(1)(i)(A) or (a)(1)(iii)(A) of this section;

(B) For a futures commission merchant or applicant therefor, 175 percent of the amount required by paragraph (a)(1)(i)(B) of this section;

\* \* \* \* \*

(vii) *Subordination agreements that incorporate adjusted net capital requirements in effect prior to* [The Effective Date of the Rule Amendment].

Any subordination agreement that incorporates the adjusted net capital requirements in paragraphs (h)(2)(vi)(C)(2), (h)(2)(vii)(A)(2) and (B)(2), (h)(2)(viii)(A)(2), (h)(3)(ii)(B), and (h)(3)(v)(B) of this section as in effect prior to [The Effective Date of the Rule Amendment] and which has been deemed to be satisfactorily subordinated pursuant to this section prior to [The Effective Date of the Rule Amendment] shall continue to be deemed a satisfactory subordination agreement until the maturity of such agreement. In the event, however, that such agreement is amended or renewed for any reason, then such agreement shall not be deemed a satisfactory subordination agreement unless the amended or renewed agreement meets the requirements of this section.

6. Section 1.18 is proposed to be amended by revising paragraph (b) to read as follows:

**§ 1.18 Records for and relating to financial reporting and monthly computation by futures commission merchants and introducing brokers.**

\* \* \* \* \*

(b)(1) Each applicant or registrant must make and keep as a record in accordance with § 1.31 formal computations of its adjusted net capital and of its minimum financial requirements pursuant to § 1.17 or the requirements of the designated self-regulatory organization to which it is subject as of the close of business each month. Such computations must be completed and made available for inspection by any representative of the National Futures Association, in the case of an applicant, or of the Commission or designated self-regulatory organization, if any, in the case of a registrant, within 17 business days after the date for which the computations are made, commencing the first month end after the date the application for registration is filed.

(2) An applicant or registrant that has filed a Form 1-FR or Statement of Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA (FOCUS report) in accordance with the requirements of § 1.10 will be deemed to have satisfied

the requirements of paragraph (b)(1) of this section.

Issued in Washington, DC, on July 1, 2003 by the Commission.

Jean A. Webb,

Secretary of the Commission.

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG-143679-02]

RIN 1545-BB68

**Effect of Elections in Certain Multi-Step Transactions**

**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 that give effect to section 338(h)(10) elections made in certain multi-step transactions. The text of the temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments must be received by October 7, 2003.

**ADDRESSES:** Send submissions to: CC:PA:RU (REG-143679-02), room 5226, Internal Revenue Service, POB 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:RU (REG-143679-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, 20044. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at <http://www.irs.gov/reg>.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Daniel Heins, Mary Goode or Reginald Mombrun at (202) 622-7930; concerning submissions of comments, Guy Traynor at (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of

the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 338. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations contains a full explanation of the reasons underlying the issues of the 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. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. The number of corporations affected is limited because section 338(h)(10) elections are made only in extraordinary circumstances, the sale of a business. Furthermore, these regulations only affect transactions in which the stock of the acquiring corporation is a significant part of the consideration. Accordingly, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight copies) that are submitted timely to the IRS. Alternatively, taxpayers may submit comments electronically via the Internet directly to the IRS Internet site at [www.irs.gov/reg](http://www.irs.gov/reg). The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

### Drafting Information

The principal authors of these regulations are Daniel Heins and Mary Goode, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.338(h)(10)–1 is also issued under 26 U.S.C. 337(d), 338 and 1502.

2. § 1.338(h)(10)–1 is amended as follows:

1. Paragraph (c)(2) is revised
2. Paragraph (e) *Examples 11* through *14* are added.

The revision and additions read as follows:

#### § 1.338(h)(10)–1 Deemed asset sale and liquidation.

\* \* \* \* \*

(c) \* \* \*

(2) [The text of the proposed amendment to § 1.338(h)(10)–1(c)(2) is the same as the text of § 1.338(h)(10)–1T(c)(2) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(e) \* \* \*

*Examples 11* through *14* [The text of the proposed amendments to § 1.338(h)(10)–1(e) *Examples 11* through *14* is the same as the text of § 1.338(h)(10)–1T(e) *Examples 11* through *14* published elsewhere in the **Federal Register**.]

**Robert E. Wenzel,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 03–17227 Filed 7–8–03; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG–142538–02]

RIN 1545–BB21

### Authority To Charge Fees for Furnishing Copies of Exempt Organizations' Material Open to Public Inspection

**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 relating to fees for copies of exempt organizations' material available to the public under section 6104 of the Internal Revenue Code (Code). The text of the temporary regulations also serves as the text of the proposed regulations.

**DATES:** Written and electronic comments and requests for a public hearing must be received by October 7, 2003.

**ADDRESSES:** Send submissions to CC:PA:RU (REG–142538–02), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:PA:RU (REG–142538–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at: <http://www.irs.gov/reg>.

**FOR FURTHER INFORMATION CONTACT:** Sarah Tate, 202–622–4590 (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### Background

The IRS' obligation under section 6104 of the Code to make certain information open to public inspection is satisfied by making the information available to the public at such times and places as the IRS shall reasonably prescribe. The existing regulations provide that copies of the information that the IRS must make open to public inspection shall be available to members of the public upon written request. Currently, § 301.6104(a)–6(d) provides that the IRS will charge a "fee" for copies of material available to the public under section 6104(a)(1) of the Code, including approved applications for recognition of tax-exempt status and supporting papers. Currently, § 301.6104(b)–1(d)(4) provides that the Commissioner of Internal Revenue (Commissioner) may prescribe a "reasonable fee" for copies of material available to the public under section 6104(b) of the Code, including certain information furnished on exempt organization annual information returns.

This notice of proposed rulemaking amends the existing regulations to clarify that any fee assessed by the IRS in the exercise of its discretion, whether in the case of requests for photocopies,