

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to establish two low altitude RNAV routes in the St. Louis, MO, terminal area. The routes, designated as T-251 and T-272, would be depicted on the appropriate IFR En Route Low Altitude charts. These T-routes are only intended for use by GPS/GNSS equipped aircraft and are being proposed to enhance safety, and to facilitate the more flexible and efficient use of the navigable airspace for en route IFR operations transitioning through and around the St. Louis Class B airspace area.

Low altitude RNAV routes are published in paragraph 6011 of FAA Order 7400.9R signed August 15, 2007 and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The low altitude RNAV routes listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not

warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes low altitude Area Navigation routes (T-routes) at St. Louis, MO.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a, 311b, and 311k. This

airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.R, Airspace Designations and Reporting Points, signed August 15, 2006 and effective September 15, 2007, is amended as follows:

Paragraph 6011—Area Navigation Routes.

\* \* \* \* \*

T-251 Farmington, MO to RIVRS, IL [New]

FARMINGTON, MO (FAM) .....
FORISTELL, MO (FTZ) .....
RIVRS, IL .....

VORTAC .....
VORTAC .....
INT .....

(Lat. 37°40'24" N., long. 90°14'03" W.)
(Lat. 38°41'40" N., long. 90°58'17" W.)
(Lat. 39°25'21" N., long. 90°55'56" W.)

\* \* \* \* \*

T-272 Hallsville, MO to Vandalia, IL [New]

HALLSVILLE, MO (HLV) .....
VANDALIA, IL (VLA) .....

VORTAC .....
VORTAC .....

(Lat. 39°06'49" N., long. 92°07'42" W.)
(Lat. 39°05'37" N., long. 89°09'45" W.)

\* \* \* \* \*

Issued in Washington, DC, on November 23, 2007.
Paul Gallant,
Acting Manager, Airspace and Rules Group.
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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-155669-04]

RIN 1545-BE73

Information Reporting for Lump-Sum Timber Sales

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance regarding the information reporting requirements contained in section 6045(e) of the Internal Revenue Code (Code) on sales or exchanges of standing timber for lump-sum (outright) payments. The proposed regulations amend § 1.6045-4 of the Income Tax Regulations to require real estate reporting persons, as defined in section 6045(e)(2) of the Code, to report lump-sum payments received by sellers (landowners) for sales or exchanges of standing timber. This action is being

taken to make the reporting requirements for lump-sum sales of standing timber consistent with the reporting requirements applicable to pay-as-cut timber sales. The proposed regulations do not change the information reporting requirements that currently apply to sales or exchanges of standing timber for pay-as-cut (contingent) payments under section 6050N of the Code.

**DATES:** Written or electronic comments and requests for a public hearing must be received by February 27, 2008.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-155669-04), room 5203, Internal Revenue Service, PO Box 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:LPD:PR (REG-155669-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-155669-04).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulation, Julie Hanlon-Bolton of the Office of Chief Counsel (Procedure and Administration), at (202) 622-7028; for questions concerning submissions of comments, contact Kelly Banks at (202) 622-7180.

**SUPPLEMENTARY INFORMATION:**

**Background**

This document contains a proposed amendment to the Income Tax Regulations under section 6045(e). The amendment imposes information reporting requirements on sales or exchanges of standing timber for lump-sum payments, commonly referred to as lump-sum or outright timber sales. A lump-sum contract provides for a preset, fixed, and non-contingent payment in exchange for the right to cut and remove designated trees. In these transactions, sellers of standing timber receive fixed payments that are not based on the amount of the timber actually cut. The sellers do not retain any economic interest in the timber and bear no risk of loss upon execution of the sales contract.

Sales or exchanges of standing timber for contingent payments, commonly referred to as pay-as-cut timber sales, allow purchasers to cut designated trees in exchange for a payment that is based on a specified rate for each unit of timber actually cut and measured. In these transactions, sellers of standing timber receive payments that are contingent on the amount of timber

actually cut. The sellers retain an economic interest in the timber and continue to bear economic risk associated with the sales contract until the timber is actually cut and removed.

Because the sellers of standing timber who enter into pay-as-cut transactions retain an economic interest until the timber is actually cut and removed, the payments are characterized as timber royalties reportable under section 6050N on Form 1099-S, "Proceeds from Real Estate Transactions." See Announcement 90-129, 1990-48 IRB 10.

However, currently, no information reporting obligation applies to a sale or exchange of standing timber for a lump-sum payment. The information reporting requirements of section 6050N do not apply to a sale or exchange of timber for a lump-sum payment because the seller retains no economic interest and bears no economic risk of loss in the timber upon execution of the sales contract.

Recognizing the disparate treatment in the reporting of timber sale and exchange transactions, the Treasury Department has reconsidered the information reporting requirements under section 6045(e) as they apply to lump-sum sales or exchanges of standing timber and has decided to amend the regulations to require information reporting for these transactions.

Currently, section 6045(e) requires a "real estate reporting person," as defined in section 6045(e)(2), to make an information return and furnish a statement to the transferor with respect to a real estate transaction that consists in whole or in part of the sale or exchange of "reportable real estate." Section 1.6045-4(b)(2) defines "reportable real estate" as, among other things, any present or future ownership interest in land. Section 1.6045-4(c)(2)(i) provides that no return of information is required with respect to a sale or exchange of an interest in timber, provided that the sale or exchange of such property is not related to the sale or exchange of reportable real estate.

The preamble to § 1.6045-4 provides background information concerning the exception for timber sales in § 1.6045-4(c)(2)(i), stating in pertinent part as follows:

The proposed regulations provided an exception from the reporting requirements for transactions involving natural resources, including standing timber. Section 6050N of the Code requires reporting for certain royalty payments, including timber royalties, but not for other transactions involving timber. The IRS believes that the disparity in

the reporting requirements for different forms of timber transactions may be inappropriate. However, this issue was not addressed in the public comments and was not considered at the public hearing. Accordingly, the final regulations contain the exception for natural resource transactions, including standing timber. The IRS will open a new regulations project to consider the expansion of the reporting requirements to include sales and exchanges of standing timber. Any requirements for the reporting of standing timber will apply only to transactions occurring after the issuance of such requirements. See 55 FR 51282, TD 8323.

The IRS has found that some taxpayers are underreporting income from lump-sum or outright sales of timber, resulting in a loss of tax revenue. Additionally, the Treasury Department and the IRS do not think that the disparate treatment of lump-sum and pay-as-cut timber transactions for information reporting purposes is in the interests of sound tax administration. Based on considerations of tax policy and sound tax administration, the Treasury Department has decided to amend the regulations under section 6045(e) to require information reporting for sales or exchanges of standing timber for lump-sum payments.

This amendment provides that sales or exchanges of standing timber for lump-sum payments are "reportable real estate" transactions under § 1.6045-4(b)(2) and, thus, shall be reported as provided in section 6045(e) and the regulations.

**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 of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by February 27, 2008. The Treasury Department is interested in comments on the following:

Whether the proposed collection of information is necessary for the proper performance of the function of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information affected by this proposed regulation is described in § 1.6045-4. The collection of information is mandatory. The likely respondents are for-profit corporations and small business entities.

*Estimated total annual reporting burden:* 10,000 hours.

*Estimated average annual burden hours per respondent:* .5 hours.

*Estimated number of respondents:* 20,000.

*Estimated frequency of responses:* annually.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue Law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### Proposed Effective Date

These amendments shall apply to sales or exchanges of standing timber for lump-sum payments completed on or after the date of publication of a Treasury decision adopting these rules as final regulations 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 Executive Order 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) does not apply to these regulations. It is hereby certified that collection of information in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact

that the collection of information burden imposed by these regulations flows directly from section 6045(e) of the Code. Moreover, requiring information reporting as described in the preamble with regard to sales or exchanges of standing timber for lump-sum payments imposes minimal burden in time or expense. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required. The IRS invites comments on the accuracy of this certification. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Request for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the 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 by any person who timely submits 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 Julie A. Hanlon-Bolton of the Office of Associate Chief Counsel (Procedure and Administration). However, other personnel from the IRS and the 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

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

**Par. 2.** Section 1.6045-4 is amended by:

1. Redesignating paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), and (b)(2)(iv) as paragraphs (b)(2)(i)(A), (b)(2)(i)(B), (b)(2)(i)(C), and (b)(2)(i)(D), respectively.

2. Adding paragraph (b)(2)(i)(E).

3. Redesignating paragraph (b)(2) introductory text as (b)(2)(i) introductory text.

4. Designating the undesignated text as paragraph (b)(2)(ii).

5. Adding a new last sentence at the end of newly designated paragraph (b)(2)(ii).

6. Revising paragraph (c)(2)(i) and paragraph (s).

The revisions and additions read as follows:

#### § 1.6045-4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \* (i) \* \* \*

(E) Any non-contingent interest in standing timber.

(ii) \* \* \* Further, the term *ownership interest* includes any contractual interest in a sale or exchange of standing timber for a lump-sum payment that is fixed and not contingent.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) An interest in surface or subsurface natural resources (for example, water, ores, and other natural deposits) or crops, whether or not such natural resources or crops are severed from the land. For purposes of this section, the terms “natural resources” and “crops” do not include standing timber.

\* \* \* \* \*

(s) *Effective/applicability date.* This section applies for real estate transactions with dates of closing (as determined under paragraph (h)(2)(ii) of this section) that occur on or after January 1, 1991. The amendments to paragraphs (b)(2)(i)(e), (b)(2)(ii) and (c)(2)(i) of this section shall apply to sales or exchanges of standing timber for lump-sum payments completed after the date specified in the final regulations.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

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