

is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

### Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647-5527) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

**Cirrus Design Corporation:** Docket No. FAA-2007-28246; Directorate Identifier 2007-CE-048-AD.

### Comments Due Date

- (a) We must receive comments on this airworthiness directive (AD) action by August 20, 2007.

### Affected ADs

- (b) None.

### Applicability

- (c) This AD applies to Model SR20 airplanes, serial numbers (SN) 1005 through 1796, and Model SR22 airplanes, SN 0002 through 2333, SN 2335 through 2419, and SN 2421 through 2437, that are certificated in any category.

### Unsafe Condition

- (d) This AD results from an on-the-ground jamming of the aileron and rudder controls on a Model SR20 airplane. We are issuing this AD to prevent the possibility of jamming of the rudder-aileron interconnect system, which may result in loss of rudder and aileron flight controls.

### Compliance

- (e) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
Inspect and, as necessary, adjust the aileron and rudder rigging and modify, inspect, and, as necessary, adjust the rudder-aileron interconnect system.	Within the next 25 hours time-in-service (TIS) after the effective date of this AD or within the next 3 months after the effective date of this AD, whichever occurs first.	Follow Cirrus Service Bulletin No. SB 2X-27-14 R1, Issued: May 9, 2007, Revised: May 24, 2007.

**Note:** Temporary revisions to the airplane maintenance manuals (AMM), SR20 AMM Temporary Revision No. 27-1 and SR22 AMM Temporary Revision No. 27-1, both dated May 9, 2007, contain information pertaining to this subject.

(f) Compliance will be acceptable if the above actions are done by following the procedures described in Cirrus Service Bulletin No. SB 2X-27-14, Issued: May 9, 2007. You may take "unless already done" credit, and no further action per this AD is necessary.

### Alternative Methods of Compliance (AMOCs)

(g) The Manager, Chicago Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Wess Rouse, Aerospace Engineer, FAA, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294-8113; fax: (847) 297-7834. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

### Related Information

(h) To get copies of the service information referenced in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727-2737; Internet address: <http://www.cirrusdesign.com>. To view the AD docket, go to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at <http://dms.dot.gov>. The docket number is Docket No. FAA-2007-28246; Directorate Identifier 2007-CE-048-AD.

Issued in Kansas City, Missouri, on June 14, 2007.

### Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-12006 Filed 6-20-07; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 301

[REG-149036-04]

RIN 1545-BG75

### Application of Section 6404(g) of the Internal Revenue Code Suspension Provisions

**AGENCY:** Internal Revenue Service (IRS), Treasury.

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

**SUMMARY:** This document proposes regulations for the suspension of interest, penalties, additions to tax, or additional amounts under section 6404(g) of the Internal Revenue Code (Code) that explain the general rules for suspension as well as exceptions to those general rules. The proposed regulations reflect changes to the law made by the Internal Revenue Service

Restructuring and Reform Act of 1998, the American Jobs Creation Act of 2004, the Gulf Opportunity Zone Act of 2005, and the Tax Relief and Health Care Act of 2006. The proposed regulations affect individual taxpayers who file timely income tax returns with respect to whom the IRS does not timely provide a notice specifically stating an additional tax liability and the basis for that liability. This document also provides a notice of public hearing on the proposed regulations.

**DATES:** Written or electronic comments must be received by September 19, 2007. Outlines of topics to be discussed at the public hearing scheduled for October 11, 2007, at 10 a.m. must be received by September 20, 2007.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-149036-04), 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-149036-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-149036-04). The public hearing will be held in the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Stuart Spielman, (202) 622-7950; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, Richard Hurst, (202) 622-7180 (not toll-free numbers) or [Richard.A.Hurst@irs.counsel.treas.gov](mailto:Richard.A.Hurst@irs.counsel.treas.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document amends the Procedure and Administration Regulations (26 CFR part 301) by adding rules relating to the suspension of interest, penalties, additions to tax, or additional amounts under section 6404(g). Section 6404(g) was added to the Code by section 3305 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206 (112 Stat. 685, 743) (RRA 98), effective for taxable years ending after July 22, 1998. Section 6404(g) was amended by section 903(c) of the American Jobs Creation Act of 2004, Public Law 108-357 (118 Stat. 1418, 1652) (AJCA), enacted on October 22, 2004; by section 303 of the Gulf Opportunity Zone Act of 2005, Public Law 109-135 (119 Stat. 2577, 2608-09)

(GOZA), enacted on December 21, 2005; by section 426(b) of the Tax Relief and Health Care Act of 2006, Public Law 109-432 (120 Stat. 2922, 2975), enacted on December 20, 2006; and by section 8242 of the Small Business and Work Opportunity Tax Act of 2007, Public Law 110-28 (121 Stat. 112, 200), enacted on May 25, 2007. The Treasury Department and the Internal Revenue Service are aware that questions have been raised regarding the effective date of the changes made by the Small Business and Work Opportunity Act of 2007 and are considering further guidance. These regulations are prescribed under section 7805.

**Explanation of Provisions**

*General Rule*

If an individual taxpayer files a Federal income tax return on or before the due date for that return (including extensions), and if the IRS does not timely provide a notice to that taxpayer specifically stating the taxpayer's liability and the basis for that liability, then the IRS must suspend any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return that is computed by reference to the period of time the failure continues and that is properly allocable to the suspension period. A notice is timely if provided before the close of the eighteen-month period (thirty-six month period, in the case of notices provided after November 25, 2007) beginning on the later of the date on which the return is filed or the due date of the return without regard to extensions. The suspension period begins on the day after the close of the eighteen-month period (or thirty-six month period) and ends twenty-one days after the IRS provides the notice. This suspension rule applies separately with respect to each item or adjustment.

*Amended Returns*

The proposed regulations provide guidance on applying section 6404(g) to amended returns and other signed documents that show an increased tax liability, as well as to amended returns that show a decreased tax liability. If, on or after December 21, 2005, a taxpayer provides to the IRS an amended return or other signed written document showing an additional tax liability, then the eighteen-month period (or thirty-six month period) does not begin to run with respect to the items that gave rise to the additional tax liability until that return or other signed written document is provided to the IRS. This rule is mandated by GOZA section 303(b). Except as provided in GOZA section

303(b), the filing of an amended return has no effect on the running of the eighteen-month period (or thirty-six month period) under section 6404(g). Accordingly, if a taxpayer files an amended return or other signed written document showing a decrease in tax liability and the IRS at any time proposes to adjust the changed item or items, any interest, penalty, addition to tax, or additional amount with respect to the changed item or items on the amended return or other signed written document will not be suspended. If married taxpayers file a return claiming a change in filing status to married filing jointly, the general rule authorizing suspension will not apply unless each spouse's separate return, if required to be filed, was timely. An amended return or other written document is provided to the IRS for purposes of these proposed regulations when it is received by the IRS.

*Notice of Liability and the Basis for Liability*

Notice to the taxpayer must be in writing and specifically state the amount of the liability and the basis for the liability. The notice must provide the taxpayer with sufficient information to identify which items of income, deduction, loss, or credit the IRS has adjusted or proposes to adjust, and the reason for that adjustment. Administrative proceedings pertaining to adjustments to partnership items of partnerships subject to the unified audit and litigation procedures of Subchapter C of Chapter 63 of Subtitle F of the Internal Revenue Code (TEFRA) occur at the partnership level. Each partner has the right to participate in partnership-level administrative proceedings. The tax matters partner (TMP) of a TEFRA partnership has a fiduciary relationship to the partners and must provide the partners with information concerning significant administrative proceedings and actions within 30 days of the action or the receipt of information concerning the partnership matter. TEFRA partnership administrative proceedings at the partnership level concern the treatment of partnership items and the partners' allocable shares of those items rather than the specific tax liability of each partner attributable to the partnership items. Partners can, however, compute the specific tax attributable to adjustments to partnership items based on their interests in the partnership, so notice to the TMP concerning the treatment of partnership items constitutes notice to the partners under section 6404(g).

### Exceptions to the General Rule for Suspension

The general rule for suspension does not apply to (1) Any penalty imposed by section 6651 for failing to file a tax return or for failing to pay tax; (2) any interest, penalty, addition to tax, or additional amount in a case involving fraud; (3) any interest, penalty, addition to tax, or additional amount with respect to any tax liability shown on a return; (4) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; (5) any interest, penalty, addition to tax, or additional amount with respect to any reportable transaction not meeting the disclosure requirement of section 6664(d)(2)(A) or any listed transaction as defined in section 6707A(c); and (6) any criminal penalty.

The proposed regulations limit the exception pertaining to a case involving fraud to the taxpayer and the taxable year in issue. The proposed regulations also provide that the exception in section 6404(g) for "a case involving fraud" means that fraud on the return with respect to any item will preclude suspension under section 6404(g) with respect to all items on the return.

AJCA section 903(b) added subparagraph (D), pertaining to gross misstatements, to section 6404(g)(2), effective for taxable years beginning after December 31, 2003. The proposed regulations define "gross misstatement" as the reporting of any item on the original or any amended return if that item is attributable to a gross valuation misstatement as defined in section 6662(h), a substantial omission of income as described in section 6501(e)(1) or section 6229(c), or a frivolous position or a desire to delay or impede the administration of the Federal income tax laws as described in section 6702.

### Special Rules

Section 6404(g)(2)(C) provides that interest suspension does not apply to any tax liability shown on a return. Consistent with this exception, any interest, penalty, addition to tax, or additional amount with respect to an erroneous tentative carryback or refund adjustment will not be suspended because the disallowance of the erroneous tentative carryback or refund adjustment does not change the tax liability originally shown on the taxpayer's return. An election under section 183(e) to defer the determination as to whether the presumption applies that an activity is engaged in for profit tolls the notification period and the suspension period described in section

6404(g)(1), in that the election calls for the IRS to defer proposing adjustments regarding the activity.

### Proposed Effective Date

The regulations, as proposed, apply as of 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, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Comments and 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 Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be made available for public inspection and copying.

A public hearing has been scheduled for October 11, 2007, beginning at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments on September 19, 2007, and an outline of the topics to be discussed, and the time to be devoted to each topic

(signed original and eight (8) copies) by September 20, 2007. A period of ten minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### Drafting Information

The principal author of these regulations is Stuart Spielman of the Office of Associate Chief Counsel (Procedure and Administration).

### 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 continues to read in part as follows:

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

**Par. 2.** Section 301.6404–0 is amended as follows:

1. The introductory text is revised.
2. Entries are added for § 301.6404–4. The addition reads as follows:

#### § 301.6404–0 Table of contents.

This section lists the paragraphs contained in §§ 301.6404–1 through 301.6404–4.

\* \* \* \* \*

§ 301.6404–4 *Suspension of interest and certain penalties where the Internal Revenue Service does not contact the taxpayer.*

- (a) Suspension.
  - (1) In general.
  - (2) Treatment of amended returns and other documents.
    - (i) Amended returns filed on or after December 21, 2005, that show an increase in tax liability.
    - (ii) Amended returns that show a decrease in tax liability.
    - (iii) Amended return and other documents as notice.
    - (iv) Joint return after filing separate return.
  - (3) Separate application.
  - (4) Duration of suspension period.
  - (5) Example.
  - (6) Notice of liability and the basis for the liability.
    - (i) In general.
    - (ii) Tax attributable to TEFRA partnership items.
    - (iii) Examples.
  - (7) Providing notice by the IRS.

- (i) In general.
- (ii) Providing notice in TEFRA partnership proceedings.
  - (b) Exceptions.
    - (1) Failure to file tax return or to pay tax.
    - (2) Fraud.
    - (3) Tax shown on return.
    - (4) Gross misstatement.
  - (i) Description.
  - (5) [Reserved].
- (c) Special rules.
  - (1) Tentative carryback and refund adjustments.
  - (2) Election under section 183(e).
  - (d) Effective/applicability date.

**Par. 3.** Section 301.6404–4 is added to read as follows:

**§ 301.6404–4 Suspension of interest and certain penalties where the Internal Revenue Service does not contact the taxpayer.**

(a) *Suspension*—(1) *In general.* Except as provided in paragraph (b) of this section, if an individual taxpayer files a return of tax imposed by subtitle A on or before the due date for the return (including extensions) and the Internal Revenue Service (IRS) does not timely provide the taxpayer with a notice specifically stating the amount of any increased liability and the basis for that liability, then the IRS must suspend any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return. This suspension is computed by reference to the period of time the failure continues to exist. The notice described in this paragraph (a)(1) is timely if provided before the close of the eighteen-month period (thirty-six month period in the case of notices provided after November 25, 2007) beginning on the later of the date on which the return is filed or the due date of the return without regard to extensions.

(2) *Treatment of amended returns and other documents*—(i) *Amended returns filed on or after December 21, 2005, that show an increase in tax liability.* If a taxpayer, on or after December 21, 2005, provides to the IRS an amended return or one or more other signed written documents showing an increase in tax liability, the date on which the return was filed will, for purposes of this paragraph (a), be the date on which the last of the documents was provided. Documents described in this paragraph (a)(2)(i) are provided on the date that they are received by the IRS.

(ii) *Amended returns that show a decrease in tax liability.* If a taxpayer provides to the IRS an amended return or other signed written document that shows a decrease in tax liability, any interest, penalty, addition to tax, or additional amount will not be suspended if the IRS at any time

proposes to adjust the changed item or items on the amended return or other signed written document.

(iii) *Amended return and other documents as notice.* As to the items reported, an amended return or one or more other signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year serves as the notice described in paragraph (a)(1) of this section.

(iv) *Joint return after filing separate return.* A joint return filed under section 6013(b) is subject to the rules for amended returns described in this paragraph (a)(2). The IRS will not suspend any interest, penalty, addition to tax, or additional amount on a joint return filed under section 6013(b) unless each spouse, if required to file a return, filed a timely separate return.

(3) *Separate application.* This paragraph (a) shall be applied separately with respect to each item or adjustment.

(4) *Duration of suspension period.* The suspension period described in paragraph (a)(1) of this section begins the day after the close of the eighteen-month period (thirty-six month period, in the case of notices provided after November 25, 2007) beginning on the later of the date on which the return is filed or the due date of the return without regard to extensions. The suspension period ends twenty-one days after the earlier of the date on which the IRS mails the required notice to the taxpayer's last known address, the date on which the required notice is hand-delivered to the taxpayer, or the date on which the IRS receives an amended return or other signed written document showing an increased liability.

(5) *Example.* The following example illustrates the rules of this paragraph (a):

*Example.* An individual taxpayer timely files an income tax return for taxable year 2004 on the due date of the return, April 15, 2005. On December 11, 2006, the taxpayer mails to the IRS an amended return reporting an additional item of income and an increased tax liability for taxable year 2004. The IRS receives the amended return on December 13, 2006. On January 16, 2007, the IRS provides the taxpayer with a notice stating that the taxpayer has an additional tax liability based on the disallowance of a deduction the taxpayer claimed on his original return and did not change on his amended return. The date the amended return was received substitutes for the date that the original return was filed with respect to the additional item of tax liability reported on the amended return. Thus, the IRS will not suspend interest, penalties, additions to tax, or additional amounts with respect to the additional item of income and the increased tax liability reported on the amended return. The suspension period for the additional tax liability based on the IRS' disallowance of

the deduction begins on October 15, 2006, so the IRS will suspend interest, penalties, additions to tax, and additional amounts with respect to the disallowed deduction and additional tax liability from that date through February 6, 2007, which is twenty-one days after the IRS provided notice of the additional tax liability and the basis for that liability.

(6) *Notice of liability and the basis for the liability*—(i) *In general.* Notice to the taxpayer must be in writing and specifically state the amount of the liability and the basis for the liability. The notice must provide the taxpayer with sufficient information to identify which items of income, deduction, loss, or credit the IRS has adjusted or proposes to adjust, and the reason for that adjustment. Notice of the reason for the adjustment does not require a detailed explanation or a citation to any Internal Revenue Code section or other legal authority. The IRS does not have to incorporate all the information necessary to satisfy the notice requirement within a single document or provide all the information at the same time. Documents that may contain information sufficient to qualify as notice, either alone or in conjunction with other documents, include, but are not limited to, statutory notices of deficiency, examination reports (for example, Forms 4549 "Income Tax Examination Changes," Forms 886–A "Explanation of Items"), Forms 870 "Waiver of Restrictions on Assessments and Collection of Deficiency in Tax and Acceptance of Overassessment," notices of proposed deficiency that allow the taxpayer an opportunity for review in the Office of Appeals (30-day letters), notices pursuant to section 6213(b) (mathematical or clerical errors), and notice and demand for payment of a jeopardy assessment under section 6861.

(ii) *Tax attributable to TEFRA partnership items.* Notice to the partner or the tax matters partner (TMP) of a partnership subject to the Unified Audit and Litigation Procedures of subchapter C of chapter 63 of subtitle F of the Internal Revenue Code (TEFRA) that provides specific information about the basis for the adjustments to partnership items is sufficient notice if a partner could reasonably compute the specific tax attributable to the partnership item based on the proposed adjustments as applied to the partner's individual tax situation. Documents provided by the IRS during a TEFRA partnership proceeding that may contain information sufficient to satisfy the notice requirements include, but are not limited to, a Notice of Final Partnership Administrative Adjustment,

examination reports (for example, Forms 4549, Forms 886-A), or a letter that allows the partners an opportunity for review in the Office of Appeals (60-day letter).

(iii) *Examples.* The following examples illustrate the rules of this paragraph (a)(6).

*Example 1.* During an audit of Taxpayer A's 2005 taxable year return, the IRS questions a charitable deduction claimed on the return. The IRS provides A with a "30-day letter" that proposes a deficiency of \$1,000 based on the disallowance of the charitable deduction and informs A that A may file a written protest of the proposed deficiency to the Office of Appeals within 30 days. The letter includes as an attachment a copy of the revenue agent's report that states that "It has not been established that the amount shown on your return as a charitable contribution was paid during the tax year. Therefore, this deduction is not allowable." The information in the 30-day letter and attachment provides A with notice of the specific amount of the liability and the basis for that liability as described in this paragraph (a).

*Example 2.* Taxpayer B is a partner in partnership P, a TEFRA partnership for taxable year 2005. B claims a distributive share of partnership income on B's Federal income tax return for 2005 filed on April 17, 2006. On October 1, 2007, during the course of a partnership audit of P for taxable year 2005, the IRS provides P's TMP a "60-day letter" proposing to adjust P's income by \$10,000. The IRS had previously provided the TMP with a copy of the examination report explaining that the adjustment was based on \$10,000 of unreported net income. On October 31, 2007, P's TMP informs B of the proposed adjustment as required by § 301.6223(g)-1(b). By accounting for B's distributive share of the \$10,000 of unreported income from P with B's other income tax items, B can determine B's tax attributable to the \$10,000 partnership adjustment. The information in the 60-day letter and the examination report allows B to compute the specific amount of the liability attributable to the adjustment to the partnership item and the basis for that adjustment and therefore satisfies the notice requirement of paragraph (a). Because the IRS provided that notice to the TMP, B's agent under the TEFRA partnership provisions, within eighteen months of the April 17, 2006, filing date of B's return, any interest, penalty, addition to tax, or additional amount with respect to B's tax liability attributable to B's distributive share of the \$10,000 of unreported partnership income will not be suspended under section 6404(g).

(7) *Providing notice by the IRS—(i) In general.* The IRS may provide notice by mail or in person to the taxpayer or the taxpayer's representative. If the IRS mails the notice, it must be sent to the taxpayer's last known address under rules similar to section 6212(b), except that certified or registered mail is not required. Notice is considered provided

as of the date of mailing or delivery in person.

(ii) *Providing notice in TEFRA partnership proceedings.* In the case of TEFRA partnership proceedings, the IRS must provide notice of final partnership administrative adjustments (FPAA) by mail to those partners specified in section 6223. Within 60 days of an FPAA being mailed, the TMP is required to forward notice of the FPAA to those partners not entitled to direct notice from the IRS under section 6223. Certain partners with small interests in partnerships with more than 100 partners may form a Notice Group and designate a partner to receive the FPAA on their behalf. The IRS may provide other information after the beginning of the partnership administrative proceeding to the TMP who, in turn, must provide that information to the partners specified in § 301.6223(g)-1 within 30 days of receipt. Pass-thru partners who receive notices and other information from the IRS or the TMP must forward that notice or information within 30 days to those holding an interest through the pass-thru partner. Information provided by the IRS to the TMP is deemed to be notice for purposes of this section to those partners specified in § 301.6223(g)-1 as of the date the IRS provides that notice to the TMP. A similar rule applies to notice provided to the designated partner of a Notice Group, and to notice provided to a pass-thru partner. In the foregoing situations, the TMP, designated partner, and pass-thru partner are agents for direct and indirect partners. Consequently, notice to these agents is deemed to be notice to the partners for whom they act.

(b) *Exceptions—(1) Failure to file tax return or to pay tax.* Paragraph (a) of this section does not apply and interest will not be suspended with respect to any penalty imposed by section 6651.

(2) *Fraud.* Paragraph (a) of this section does not apply and interest will not be suspended with respect to any interest, penalty, addition to tax, or additional amount in a case involving fraud. Fraud has the same meaning in this paragraph (b) as in section 6501(c)(1) and is not attributed from one taxpayer to another taxpayer. If a taxpayer files a fraudulent return for one year, paragraph (a) of this section may apply to any other tax year of the taxpayer that does not involve fraud. Fraud affecting one item on a return precludes paragraph (a) of this section from applying to any other items on that return.

(3) *Tax shown on return.* Paragraph (a) of this section does not apply and interest will not be suspended with respect to any interest, penalty, addition

to tax, or additional amount with respect to any tax liability shown on a return.

(4) *Gross misstatement—(i) Description.* Paragraph (a) of this section does not apply and interest will not be suspended with respect to any interest, penalty, addition to tax, or additional amount with respect to a gross misstatement. A gross misstatement for purposes of this paragraph (b) means—

(A) A substantial omission of income as described in section 6501(e)(1) or section 6229(c)(2);

(B) A gross valuation misstatement within the meaning of section 6662(h); or

(C) A misstatement to which the penalty under section 6702(a) applies.

(ii) If a gross misstatement occurs, then interest will not be suspended with respect to any items of income omitted from the return and with respect to overstated deductions, even though one or more of the omitted items would not constitute a substantial omission, gross valuation misstatement, or misstatement to which section 6702(a) applies.

(5) [Reserved].

(c) *Special rules—(1) Tentative carryback and refund adjustments.* If an amount applied, credited, or refunded under section 6411 exceeds the overassessment properly attributable to a tentative carryback or refund adjustment, any interest, penalty, addition to tax, or additional amount with respect to the excess will not be suspended.

(2) *Election under section 183(e).* If a taxpayer elects under section 183(e) to defer the determination as to whether the presumption applies that an activity is engaged in for profit, the 18-month (or 36-month) notification period described in paragraph (a)(1) of this section or, if that period has passed as of the date the election is made, the suspension period described in paragraph (a)(4) of this section will be tolled for the period to which the election applies. Tolling will begin on the date the election is made and end on the later of the date the return for the last taxable year to which the election applies is filed or is due without regard to extensions.

(d) *Effective/applicability date.* The rules of this section apply as of the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E7-12082 Filed 6-20-07; 8:45 am]

**BILLING CODE 4830-01-P**