

[4830-01-p]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

REG-142270-05

RIN 1545-BE90

Railroad Track Maintenance Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations under section 45G of the Internal Revenue Code relating to the railroad track maintenance credit determined for qualified railroad track maintenance expenditures paid or incurred by a Class II or Class III railroad and other eligible taxpayers during the taxable year. The temporary regulations reflect changes to the law made by the American Jobs Creation Act of 2004 and the Gulf Opportunity Zone Act of 2005. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by December 7, 2006.

Outlines of topics to be discussed at the public hearing scheduled for Tuesday, January 9, 2007, at 10 a.m. must be received by December 8, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-142270-05), room 5203,

Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Alternatively, submissions may be sent electronically, via the IRS Internet site at <http://www.irs.gov.regs> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-142270-05). The public hearing will be held in the auditorium of the New Carrollton Federal Building, 5000 Ellin Road, Lanham, MD 20706.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Winston H. Douglas, (202) 622-3110; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Kelly D. Banks, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

#### **Paperwork Reduction Act**

The collections of information contained in this notice of proposed rulemaking have 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 collections of information should be sent to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the 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 November 7, 2006. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, 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 collections of information in this notice of proposed rule making are in §1.45G-1T(d). This information is required to verify the assignments of railroad track miles made under section 45G(b). This information will be used by the Service for examination purposes. The collection of information is required to obtain a benefit. The likely respondents are business or other for-profit institutions .

Estimated total annual reporting: 1,375 hours.

The estimated annual burden per respondent varies from 1 hour to 4 hours, depending on individual circumstances, with an estimated average of 2.5 hours.

Estimated number of respondents: 550.

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 the collection of information displays a valid OMB control number.

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.

### **Background**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1 relating to section 45G of the Internal Revenue Code (Code). The temporary regulations contain rules for claiming the railroad track maintenance credit for qualified railroad track maintenance expenditures paid or incurred by a Class II or Class III railroad and other eligible taxpayers during the taxable year. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these 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. It also has 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 on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not

apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has 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 comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Tuesday, January 9, 2007, beginning at 10 a.m. in the auditorium of the New Carrollton Federal Building, 5000 Ellin Road, Lanham, MD 20706. Due to building security procedures, visitors must enter at the main front 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 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 December 8, 2006. A period of 10 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 Winston H. Douglas, Office of the Associate Chief Counsel (Passthroughs and Special Industries).

### **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 as follows:

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

Par. 2. Section 1.45G-0 is added to read as follows:

#### **§1.45G-0 Table of contents for the railroad track maintenance credit rules.**

[The text of this proposed section is the same as the text of §1.45G-0T published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.45G-1 is added to read as follows:

§1.45G-1 Railroad track maintenance credit.

[The text of this proposed section is the same as the text of §1.45G-1T published elsewhere in this issue of the **Federal Register**].

Mark E. Matthews  
Deputy Commissioner for Services and Enforcement.