

[4830-01-p]

Published August 22, 2005

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

REG-122857-05

RIN 1545-BE65

Converting an IRA Annuity to a Roth IRA

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 under section 408A of the Internal Revenue Code (Code). The temporary regulations provide guidance concerning the tax consequences of converting a non-Roth IRA annuity to a Roth IRA. The temporary regulations affect individuals establishing Roth IRAs, beneficiaries under Roth IRAs, and trustees, custodians and issuers of Roth IRAs. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by November 21, 2005.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-122857-05), room 5203, 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:LPD:PR (REG-122857-05), Courier's Desk, Internal Revenue Service,

1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs) or the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS-REG-122857-05).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Cathy A. Vohs, 202-622-6060; concerning submissions and requests for a public hearing, contact Treena Garrett, 202-622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### **Background**

Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 408A. The temporary regulations (1.408A-4T) contain rules concerning the tax consequences of converting a traditional IRA annuity to a Roth IRA. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary and proposed regulations.

##### **Applicability Date**

These regulations are proposed to be applicable to any Roth IRA conversion where an annuity contract is distributed or treated as distributed from a traditional IRA on or after August 19, 2005. No implication is intended concerning whether or not a rule to be adopted in these regulations is applicable law for taxable years ending before that date.

##### **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 proposed 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 Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### **Comments and Requests for a 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. Comments are specifically requested regarding the proposed additional guidance discussed in the preamble to the Temporary Regulations under section 408A (i.e., §1.408A-4T). The IRS and Treasury Department also request comments regarding whether the method used to calculate the fair market value of an annuity contract that is converted to a Roth IRA should also apply for purposes of determining the fair market value of an annuity contract under sections 408(e) and 401(a)(9). All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the

date, time, and place for the public hearing will be published in the **Federal Register**.

### **Drafting Information**

The principal author of these proposed regulations is Cathy A. Vohs of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in the development of these regulations.

### **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 \* \* \*

' 1.408A-4 also issued under 26 U.S.C. 408A \* \* \*

Par. 2. Section 1.408A-4 is amended by adding, in numerical order, Q-14 and A-14, to read as follows:

#### §1. 408A-4 Converting amounts to Roth IRAs.

\* \* \* \* \*

Q-14. [The text of proposed regulation ' 1.408A-4, Q-14 is the same as the text of ' 1.408A-4T, Q-14 published elsewhere in this issue of the **Federal Register**].

A-14. [The text of proposed regulation §1.408A-4, A-14, is the same as the text of §1.408A-4T, A-14, published elsewhere in this issue of the **Federal Register**].

Deputy Commissioner for Services and Enforcement.  
Mark E. Matthews