

[4830-01-u]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8835]

RIN 1545-AX27

Furnishing Identifying Number of Income Tax Return Preparer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations that allow income tax return preparers to elect an alternative to their social security number (SSN) for purposes of identifying themselves on returns they prepare. The regulations are needed to implement changes made to the applicable law by the Internal Revenue Service Restructuring and Reform Act of 1998. The regulations affect individual preparers who elect to identify themselves using a number other than their SSN. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: Effective Date: These regulations are effective August 12, 1999.

Applicability Date: For dates of applicability of these regulations, see §§1.6109-2(d) and 1.6109-2T(d).

FOR FURTHER INFORMATION CONTACT: Andrew J. Keyso, (202) 622-4910 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 6109(a)(4) of the Internal Revenue Code provides that any return or claim for refund prepared by an income tax return preparer must bear the identifying number of the preparer as required by regulations prescribed by the Secretary. Prior to its amendment by the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206, 112 Stat. 685 (RRA '98)), section 6109(a) provided that the identifying number of an individual preparer was that preparer's social security number (SSN).

Section 3710 of RRA '98 amended section 6109(a) by removing the requirement that an individual preparer's identifying number be the preparer's SSN. Instead, the Secretary may prescribe alternatives to the SSN for purposes of identifying individual preparers.

Explanation of Provisions

On December 21, 1998, the IRS published Notice 98-63, 1998-51 IRB 15, to inform preparers of the IRS's intention to develop a system of alternative identifying numbers. This document contains amendments to the Income Tax Regulations (26 CFR part 1) to allow individual preparers to either use their SSN or elect an alternative identifying number for purposes of identifying themselves on returns they prepare. The IRS will develop a form on which preparers may apply for an alternative identifying number.

Special Analyses

It has been determined that this Treasury decision 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 a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble of the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Andrew J. Keyso, Office of Assistant Chief Counsel (Income Tax & Accounting). 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.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is 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 1.6109-2 is amended by:

1. Revising the first sentence of paragraph (a) introductory text;
2. Adding paragraph (d).

The revision and addition read as follows:

§1.6109-2 Furnishing identifying number of income tax return preparer.

(a) Furnishing identifying number. For returns or claims for refund filed prior to January 1, 2000, each return of tax under subtitle A of the Internal Revenue Code or claim for refund of tax under subtitle A of the Internal Revenue Code prepared by one or more income tax return preparers must bear the identifying number of the preparer required by §1.6695-1(b) to sign the return or claim for refund. * * *

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(d) Effective date. Paragraph (a) of this section and this paragraph (d) apply to returns or claims for refund filed prior to January 1, 2000. For returns or claims for refund filed after December 31, 1999, see §1.6109-2T(a).

Par. 3. Section 1.6109-2T is added to read as follows:

§1.6109-2T Furnishing identifying number of income tax return preparer (temporary).

(a) Furnishing identifying number. (1) Each return of tax, or claim for refund of tax, under subtitle A of the Internal Revenue Code prepared by one or more income tax return preparers must include the identifying number of the preparer required by §1.6695-1(b) to sign the return or claim for refund. In addition, if there is a partnership or employment arrangement between two or more preparers, the identifying number of the partnership or employer must also appear on the return or claim for refund. For the definition of the term income tax return preparer (or preparer) see section 7701(a)(36) and §301.7701-15 of this chapter.

(2) The identifying number of a preparer who is an individual (not described in paragraph (a)(3) of this section) is that individual's social security account number, or such alternative number as may be prescribed by the Internal Revenue Service in forms, instructions, or other appropriate guidance.

(3) The identifying number of a preparer (whether an individual, corporation, or partnership) who employs or engages one or more persons to prepare the return or claim for refund (other than for the preparer) is that preparer's employer identification number.

(b) and (c) [Reserved]. For further guidance, see §1.6109-2(b) and (c).

(d) Effective date. Paragraph (a) of this section and this paragraph (d) apply to returns or claims for refund filed after December 31, 1999. For returns or claims for refund filed prior

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to January 1, 2000, see §1.6109-2(a).

/s/ Robert E. Wenzel

Deputy Commissioner of Internal Revenue

Approved: August 3, 1999

/s/ Donald C. Lubick

Assistant Secretary of the Treasury