

[4830-01-u]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 8939]

RIN 1545-AX13

Definition of Last Known Address

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations defining last known address in relation to the mailing of notices of deficiency and other notices, statements, and documents sent to a taxpayer's last known address. The final regulations affect taxpayers who receive notices of deficiency and other notices, statements, and documents sent to taxpayers' last known addresses.

DATES: Effective date: These regulations are effective January 12, 2001.

Applicability date: For dates of applicability, see §301.6212-2(d).

FOR FURTHER INFORMATION CONTACT: Charles A. Hall, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Regulations on Procedure and Administration (26 CFR part 301) under section 6212(b) relating to the sufficiency of a notice of deficiency if it is mailed to the last known address of a taxpayer. This

document also contains amendments to the Income Tax Regulations (26 CFR part 1) and the Regulations on Procedure and Administration (26 CFR part 301) to provide cross-references to the last known address rules under section 6212(b) in order to apply those rules to other notices, statements, and documents required to be sent to the last known address of a taxpayer.

A notice of proposed rulemaking (REG-104939-99) was published in the **Federal Register** (64 FR 63768) on November 22, 1999. No public hearing was requested or held. Three written comments were received. After consideration of the comments, the proposed regulations are adopted as modified by this Treasury decision. The comments are discussed below.

Explanation of Revisions

Under the proposed regulations, the IRS would have accessed the United States Postal Service (USPS) National Change of Address database (NCOA database) annually to update all taxpayer address records maintained in the IRS's automated masterfile for purposes of updating the IRS's mailing list. The IRS's mailing list contains the last known address for each taxpayer. In addition, prior to mailing correspondence to any particular taxpayer from an IRS Service Center, the IRS would have accessed the NCOA database to update the taxpayer's last known address. Employees mailing correspondence from one of the district offices would have accessed an updated address by virtue of the annual update of the entire masterfile. Except in the case of certain joint filers, the annual update was scheduled to occur in May

2000, November 2000, and every November thereafter. The update based on correspondence mailed from an IRS Service Center was scheduled to begin May 2000. All steps necessary to implement the proposed regulations were not completed by May 2000.

Therefore, the IRS delayed use of the NCOA database to update a taxpayer's last known address. See Announcement 2000-49 (2000-19 I.R.B. 998 (May 8, 2000)).

The procedures for updating taxpayer address records maintained in the IRS's automated masterfile are modified by these regulations. Implementing the proposed procedures for updating a taxpayer's last known address upon the mailing of correspondence from a Service Center required complicated programming that resulted in the delay in finalizing the proposed regulations. In addition, one commentator on the proposed regulations noted that the difference in treatment for Service Center mailings and district office mailings might cause confusion for taxpayers. The IRS, in conjunction with the USPS, has developed an improved system for updating taxpayer addresses that is intended to be easier to implement and operate and minimize confusion.

To gain access to the NCOA database, the IRS has become a limited licensee of the NCOA database. The NCOA database is a computerized record of changes of address maintained by the USPS. This database retains address changes for a thirty-six month period. As a limited licensee, the IRS will receive from the USPS a copy of the entire thirty-six month NCOA database. The IRS's

copy of the NCOA database will be retained at the Martinsburg Computing Center (MCC) in Martinsburg, West Virginia.

Additionally, the IRS will receive weekly updates to the NCOA database. The updates will contain the most recent changes of address submitted to the USPS. The IRS will update its copy of the full NCOA database with the most recent changes of address in the weekly update.

Beginning in January 2001, the IRS will access the NCOA database to update taxpayer address records maintained in the IRS's automated masterfile for purposes of updating the IRS's mailing list. The IRS plans to undertake two different procedures in order to assure the most comprehensive update of taxpayer addresses.

First, the IRS will compare taxpayer addresses in IRS's records to the most recent changes of address contained in the weekly updates to the NCOA database received from the USPS. To accomplish this, the IRS will use the USPS's FASTCheck system. The FASTCheck System works by comparing key elements of existing taxpayer address information maintained in IRS records to an extract of the same elements from the weekly updates to the NCOA. The key address elements used by IRS to detect possible matches include primary house number, secondary number, secondary designator, and nine digit zip code. If there is a match between the key address elements from IRS records and the key address elements from the weekly update to the NCOA database, the IRS will then compare the taxpayer's complete address information in

IRS records to the full NCOA database to determine if there is a change of address for a taxpayer. If the taxpayer's name and last known address in IRS records match the taxpayer's name and old mailing address contained in the NCOA database, the new address in the NCOA database is the taxpayer's last known address, unless the IRS is given clear and concise notification of a different address. A match will only be made if the taxpayer's name in IRS records is the same, within certain tolerances, as is found in the NCOA database. There may be a delay of up to two to three weeks from the date a taxpayer notifies the USPS that his or her change of address is effective and the time the new address is posted to the IRS's automated masterfile.

In addition, the IRS plans to annually compare all taxpayer address records maintained in the IRS's automated masterfile with the full thirty-six month NCOA database for purposes of updating the IRS's mailing list. The IRS will begin comparing all taxpayer address records with the full NCOA database for the first time in January 2001. If the taxpayer's name and last known address in IRS records match the taxpayer's name and old mailing address contained in the NCOA database, the new address in the NCOA database is the taxpayer's last known address, unless the IRS is given clear and concise notification of a different address. As with the weekly updates, the names must be the same, within certain tolerances, in both the IRS's records and the NCOA database. Matching all taxpayer address records to the full NCOA

database will take several months. The next annual update will be completed by September 30, 2002, and every September 30th thereafter if the IRS determines that subsequent annual updates are necessary in addition to the weekly updates.

For taxpayers who file joint income tax returns under section 6013, the IRS's automated masterfile is currently only able to retain one address. Beginning with the processing of tax year 2000 joint income tax returns, the IRS's automated masterfile will be able to retain a second address. Therefore, if the NCOA database contains change of address information for only one spouse from a joint return, the rules of this regulation will not apply to notices, statements, and other documents mailed before the processing of the taxpayers' tax year 2000 joint income tax return.

Summary of Comments

Commentators also suggested that these regulations refer to section 6672(b)(1) and section 4103. Because section 6672(b)(1) requires that the IRS mail notices to the taxpayer's last known address, a cross-reference under §301.6672-1 has been added to these regulations. However, because section 4103 does not require the IRS to mail notices to the taxpayer's last known address, no cross-reference is necessary.

A third commentator suggested that the IRS coordinate these regulations with Rev. Proc. 90-18 (1990-1 C.B. 491). Rev. Proc. 90-18 will be updated to incorporate changes made by these final regulations and to provide rules for oral notification of a

change of address, additional tax forms from which taxpayer addresses will be updated, and additional Internal Revenue Code sections that require a notice be sent to a taxpayer's last known address.

The commentator also asked what is the most recently filed return for purposes of §301.6212-2(a) of the regulations, i.e., whether different returns filed by the same taxpayer will update the taxpayer's last known address. The rules provided in these regulations do not in any way alter the existing rules for updating a taxpayer's last known address from a filed return. Section 5.01 of Rev. Proc. 90-18 provides which returns will update a taxpayer's last known address under a social security number or an employer identification number. Therefore, an amended return filed on a Form 1040X with a different address from that which appeared on the taxpayer's previously filed Form 1040 will update the taxpayer's last known address of record with the IRS. However, a Form 941 filed by a Schedule C business would not update the address for the taxpayer's individual income tax account as the Form 941 is filed with an employer identification number and the individual income tax account is associated with the taxpayer's social security number.

Finally, as mentioned above, the commentator noted that accessing the NCOA database for IRS Service Center mailings but not for district office mailings might cause confusion for taxpayers. As the procedures for updating taxpayer addresses are modified by these final regulations, there is no longer any

difference between Service Center and other field or area office mailings.

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. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Charles A. Hall of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes,

Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are 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. In §1.468A-5, paragraph (c)(1)(ii) is amended by adding a sentence at the end of the paragraph to read as follows:

§1.468A-5 Nuclear decommissioning fund qualification requirements; prohibitions against self-dealing; disqualification of nuclear decommissioning fund; termination of fund upon substantial completion of decommissioning.

* * * * *

(c) * * *

(1) * * *

(ii) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

* * * * *

Par. 3. In §1.503(a)-1, paragraph (c) concluding text is amended by adding a sentence at the end of the paragraph to read as follows:

§1.503(a)-1 Denial of exemption to certain organizations engaged in prohibited transactions.

* * * * *

(c) * * *

* * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

* * * * *

Par. 4. In §1.547-2, paragraph (b)(1)(v) is amended by adding a sentence after the third sentence of the paragraph to read as follows:

§1.547-2 Requirements for deficiency dividends.

* * * * *

(b) * * *

(1) * * *

(v) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter. * * *

* * * * *

Par. 5. In §1.856-6, paragraph (g)(5) is amended by adding a sentence after the first sentence of the paragraph to read as follows:

§1.856-6 Foreclosure property.

* * * * *

(g) * * *

(5) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter. * * *

* * * * *

Par. 6. In §1.860-2, paragraph (b)(1)(ii) is amended by adding a sentence after the fourth sentence of the paragraph to read as follows:

§1.860-2 Requirements for deficiency dividends.

* * * * *

(b) * * *

(1) * * *

(ii) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter. * * *

* * * * *

Par. 7. In §1.963-6, paragraph (c)(5) is amended by adding a sentence after the second sentence of the paragraph to read as follows:

§1.963-6 Deficiency distribution.

* * * * *

(c) * * *

(5) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter. * * *

* * * * *

Par. 8. In §1.992-3, paragraph (c)(3)(iv) is amended by adding a sentence after the third sentence of the paragraph to read as follows:

§1.992-3 Deficiency distributions to meet qualification requirements.

* * * * *

(c) * * *

(3) * * *

(iv) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter. * * *

* * * * *

Par. 9. In §1.6081-2, paragraph (f) is amended by adding a sentence at the end of the paragraph to read as follows:

§1.6081-2 Automatic extension of time to file partnership return of income.

* * * * *

(f) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

* * * * *

Par. 10. In §1.6081-3, paragraph (d) is amended by adding a sentence at the end of the paragraph to read as follows:

§1.6081-3 Automatic extension of time for filing corporation income tax returns.

* * * * *

(d) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

* * * * *

Par. 11. In §1.6081-4, paragraph (c) is amended by adding a sentence at the end of the paragraph to read as follows:

§1.6081-4 Automatic extension of time for filing individual income tax returns.

* * * * *

(c) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

* * * * *

Par. 12. In §1.6081-6, paragraph (d) is amended by adding

a sentence at the end of the paragraph to read as follows:

§1.6081-6 Automatic extension of time to file trust income tax return.

* * * * *

(d) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

* * * * *

Par. 13. In §1.6081-7, paragraph (d) is amended by adding a sentence at the end of the paragraph to read as follows:

§1.6081-7 Automatic extension of time to file Real Estate Mortgage Investment Conduit (REMIC) income tax return.

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(d) * * * For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

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PART 301--PROCEDURE AND ADMINISTRATION

Par. 14. The authority citation for part 301 continues to read in part as follows:

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

Par. 15. In §301.6110-4, paragraph (c)(3) is amended by adding a sentence at the end of the paragraph to read as follows:

§301.6110-4 Communications from third parties.

* * * * *

(c) * * *

(3) * * * For further guidance regarding the definition of last known address, see §301.6212-2.

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Par. 16. In §301.6110-5, paragraph (b)(4) is amended by adding a sentence at the end of the paragraph to read as follows:
§301.6110-5 Notice and time requirements; actions to restrain disclosure; actions to obtain additional disclosure.

* * * * *

(b) * * *

(4) * * * For further guidance regarding the definition of last known address, see §301.6212-2.

* * * * *

Par. 17. In §301.6110-6, paragraph (b)(2)(v) is amended by adding a sentence at the end of the paragraph to read as follows:
§301.6110-6 Written determinations issued in response to requests submitted before November 1, 1976.

* * * * *

(b) * * *

(2) * * *

(v) * * * For further guidance regarding the definition of last known address, see §301.6212-2.

* * * * *

Par. 18. Section 301.6212-2 is added to read as follows:
§301.6212-2 Definition of last known address.

(a) General rule. Except as provided in paragraph (b)(2) of this section, a taxpayer's last known address is the address that appears on the taxpayer's most recently filed and properly processed Federal tax return, unless the Internal Revenue Service

(IRS) is given clear and concise notification of a different address. Further information on what constitutes clear and concise notification of a different address and a properly processed Federal tax return can be found in Rev. Proc. 90-18 (1990-1 C.B. 491) or in procedures subsequently prescribed by the Commissioner.

(b) Address obtained from third party--(1) In general.

Except as provided in paragraph (b)(2) of this section, change of address information that a taxpayer provides to a third party, such as a payor or another government agency, is not clear and concise notification of a different address for purposes of determining a last known address under this section.

(2) Exception for address obtained from the United States Postal Service--(i) Updating taxpayer addresses. The IRS will update taxpayer addresses maintained in IRS records by referring to data accumulated and maintained in the United States Postal Service (USPS) National Change of Address database that retains change of address information for thirty-six months (NCOA database). Except as provided in paragraph (b)(2)(ii) of this section, if the taxpayer's name and last known address in IRS records match the taxpayer's name and old mailing address contained in the NCOA database, the new address in the NCOA database is the taxpayer's last known address, unless the IRS is given clear and concise notification of a different address.

(ii) Duration of address obtained from NCOA database. The address obtained from the NCOA database under paragraph (b)(2)(i)

of this section is the taxpayer's last known address until one of the following events occurs--

(A) The taxpayer files and the IRS properly processes a Federal tax return with an address different from the address obtained from the NCOA database; or

(B) The taxpayer provides the Internal Revenue Service with clear and concise notification of a change of address, as defined in procedures prescribed by the Commissioner, that is different from the address obtained from the NCOA database.

(3) Examples. The following examples illustrate the rules of paragraph (b)(2) of this section:

Example 1. (i) A is an unmarried taxpayer. The address on A's 1999 Form 1040, U.S. Individual Income Tax Return, filed on April 14, 2000, and 2000 Form 1040 filed on April 13, 2001, is 1234 Anyplace Street, Anytown, USA 43210. On May 15, 2001, A informs the USPS of a new permanent address (9876 Newplace Street, Newtown, USA 12345) using the USPS Form 3575, "Official Mail Forwarding Change of Address Form." The change of address is included in the weekly update of the USPS NCOA database. On May 29, 2001, A's address maintained in IRS records is changed to 9876 Newplace Street, Newtown, USA 12345.

(ii) In June 2001 the IRS determines a deficiency for A's 1999 tax year and prepares to issue a notice of deficiency. The IRS obtains A's address for the notice of deficiency from IRS records. On June 15, 2001, the Internal Revenue Service mails the notice of deficiency to A at 9876 Newplace Street, Newtown, USA 12345. For purposes of section 6212(b), the notice of deficiency mailed on June 15, 2001, is mailed to A's last known address.

Example 2. (i) The facts are the same as in Example 1, except that instead of determining a deficiency for A's 1999 tax year in June 2001, the IRS determines a deficiency for A's 1999 tax year in May 2001.

(ii) On May 21, 2001, the IRS prepares a notice of deficiency for A and obtains A's address from IRS records. Because A did not inform the USPS of the change of address in sufficient time for the IRS to process and post the new address

in Internal Revenue Service's records by May 21, 2001, the notice of deficiency is mailed to 1234 Anyplace Street, Anytown, USA 43210. For purposes of section 6212(b), the notice of deficiency mailed on May 21, 2001, is mailed to A's last known address.

Example 3. (i) C and D are married taxpayers. The address on C and D's 2000 Form 1040, U.S. Individual Income Tax Return, filed on April 13, 2001, and 2001 Form 1040 filed on April 15, 2002, is 2468 Spring Street, Little City, USA 97531. On August 15, 2002, D informs the USPS of a new permanent address (8642 Peachtree Street, Big City, USA 13579) using the USPS Form 3575, "Official Mail Forwarding Change of Address Form." The change of address is included in the weekly update of the USPS NCOA database. On August 29, 2002, D's address maintained in IRS records is changed to 8642 Peachtree Street, Big City, USA 13579.

(ii) In October 2002 the IRS determines a deficiency for C and D's 2000 tax year and prepares to issue a notice of deficiency. The Internal Revenue Service obtains C's address and D's address for the notice of deficiency from IRS records. On October 15, 2002, the IRS mails a copy of the notice of deficiency to C at 2468 Spring Street, Little City, USA 97531, and to D at 8642 Peachtree Street, Big City, USA 13579. For purposes of section 6212(b), the notices of deficiency mailed on October 15, 2002, are mailed to C and D's respective last known addresses.

(c) Last known address for all notices, statements, and documents. The rules in paragraphs (a) and (b) of this section apply for purposes of determining whether all notices, statements, or other documents are mailed to a taxpayer's last known address whenever the term last known address is used in the Internal Revenue Code or the regulations thereunder.

(d) Effective Date--(1) In general. Except as provided in paragraph (d)(2) of this section, this section is effective on January 29, 2001.

(2) Individual moves in the case of joint filers. In the case of taxpayers who file joint returns under section 6013, if the NCOA database contains change of address information for only

one spouse, paragraphs (b)(2) and (3) of this section will not apply to notices, statements, and other documents mailed before the processing of the taxpayers' 2000 joint return.

Par. 19. In §301.6303-1, paragraph (a) is amended by adding a sentence at the end of the paragraph to read as follows:

§301.6303-1 Notice and demand for tax.

* * * * *

(a) * * * For further guidance regarding the definition of last known address, see §301.6212-2.

* * * * *

Par. 20. In §301.6305-1, paragraph (b)(2)(ii) is revised to read as follows:

§301.6305-1 Assessment and collection of certain liability.

* * * * *

(b) * * *

(2) * * *

(ii) The name, social security number, and last known address of the individual owing the assessed amount. For further guidance regarding the definition of last known address, see §301.6212-2;

* * * * *

Par. 21. In §301.6320-1T, paragraph (a)(1) is amended by adding a sentence at the end of the paragraph to read as follows:

§301.6320-1T Notice and opportunity for hearing upon filing of notice of Federal tax lien (temporary).

(a) * * * (1) * * * For further guidance regarding the

definition of last known address, see §301.6212-2.

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Par. 22. In §301.6325-1, paragraph (f)(2)(ii)(a) is revised to read as follows:

§301.6325-1 Release of lien or discharge of property.

* * * * *

(f) * * *

(2) * * *

(ii) * * *

(a) Mailing notice of the revocation to the taxpayer at his last known address (see §301.6212-2 for further guidance regarding the definition of last known address); and

* * * * *

Par. 23. In §301.6330-1T, paragraph (a)(1) is amended by adding a sentence at the end of the paragraph to read as follows:

§301.6330-1T Notice and opportunity for hearing prior to levy (temporary).

(a) * * * (1) * * * For further guidance regarding the definition of last known address, see §301.6212-2.

* * * * *

Par. 24. In §301.6331-2, paragraph (a)(1) is amended by adding a sentence after the second sentence of the paragraph to read as follows:

§301.6331-2 Procedures and restrictions on levies.

(a) * * * (1) * * * For further guidance regarding the definition of last known address, see §301.6212-2. * * *

* * * * *

Par. 25. Section 301.6332-2 is amended as follows:

1. Paragraphs (b)(1) introductory text, (b)(1)(i), and (b)(1)(ii) are redesignated as paragraphs (b)(1)(i) introductory text, (b)(1)(i)(A), and (b)(1)(i)(B), respectively.

2. In newly designated paragraph (b)(1)(i)(B), the text beginning with the second sentence is redesignated as paragraph (b)(1)(ii).

3. Newly designated paragraph (b)(1)(ii) is amended by adding a sentence after the second sentence of the paragraph.

The addition reads as follows:

§301.6332-2 Surrender of property subject to levy in the case of life insurance and endowment contracts.

* * * * *

(b) * * * (1) In general.

(ii) * * * For further guidance regarding the definition of last known address, see §301.6212-2. * * *

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Par. 26. In §301.6335-1, paragraph (b)(1) is amended by adding a sentence after the third sentence of the paragraph to read as follows:

§301.6335-1 Sale of seized property.

* * * * *

(b) * * * (1) * * * For further guidance regarding the definition of last known address, see §301.6212-2. * * *

* * * * *

Par. 27. In §301.6503(c)-1, paragraph (a) is amended by adding a sentence at the end of the paragraph to read as follows:

§301.6503(c)-1 Suspension of running of period of limitation; location of property outside the United States or removal of property from the United States; taxpayer outside of United States.

(a) * * * For further guidance regarding the definition of last known address, see §301.6212-2.

* * * * *

Par. 28. Section 301.6672-1 is amended by adding a sentence at the end of the section to read as follows:

§301.6672-1 Failure to collect and pay over tax, or attempt to evade or defeat tax.

* * * For further guidance regarding the determination of the proper address for mailing the notice required under section 6672(b)(1), see §301.6212-2.

Par. 29. In §301.6903-1, paragraph (c) is amended by adding a sentence after the first sentence of the paragraph to read as follows:

§301.6903-1 Notice of fiduciary relationship.

* * * * *

(c) * * * For further guidance regarding the definition of last known address, see §301.6212-2. * * *

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Robert E. Wenzel

Deputy Commissioner of Internal Revenue

Approved: December 11, 2000

Jonathan Talisman

Acting Assistant Secretary of the Treasury