

the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 338. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations contains a full explanation of the reasons underlying the issues of the 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. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. The number of corporations affected is limited because section 338(h)(10) elections are made only in extraordinary circumstances, the sale of a business. Furthermore, these regulations only affect transactions in which the stock of the acquiring corporation is a significant part of the consideration. Accordingly, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

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 copies) that are submitted timely to the IRS. Alternatively, taxpayers may submit comments electronically via the Internet directly to the IRS Internet site at www.irs.gov/regs. 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 available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are Daniel Heins and Mary Goode, Office of Associate Chief Counsel (Corporate). 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.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.338(h)(10)–1 is also issued under 26 U.S.C. 337(d), 338 and 1502.

2. § 1.338(h)(10)–1 is amended as follows:

1. Paragraph (c)(2) is revised

2. Paragraph (e) *Examples 11* through *14* are added.

The revision and additions read as follows:

§ 1.338(h)(10)–1 Deemed asset sale and liquidation.

* * * * *

(c) * * *

(2) [The text of the proposed amendment to § 1.338(h)(10)–1(c)(2) is the same as the text of § 1.338(h)(10)–1T(c)(2) published elsewhere in this issue of the **Federal Register**.]

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(e) * * *

Examples 11 through *14* [The text of the proposed amendments to § 1.338(h)(10)–1(e) *Examples 11* through *14* is the same as the text of § 1.338(h)(10)–1T(e) *Examples 11* through *14* published elsewhere in the **Federal Register**.]

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–142538–02]

RIN 1545–BB21

Authority To Charge Fees for Furnishing Copies of Exempt Organizations' Material Open to Public Inspection

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 relating to fees for copies of exempt organizations' material available to the public under section 6104 of the Internal Revenue Code (Code). The text of the temporary regulations also serves as the text of the proposed regulations.

DATES: Written and electronic comments and requests for a public hearing must be received by October 7, 2003.

ADDRESSES: Send submissions to CC:PA:RU (REG–142538–02), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:PA:RU (REG–142538–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at: <http://www.irs.gov/regs>.

FOR FURTHER INFORMATION CONTACT: Sarah Tate, 202–622–4590 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The IRS' obligation under section 6104 of the Code to make certain information open to public inspection is satisfied by making the information available to the public at such times and places as the IRS shall reasonably prescribe. The existing regulations provide that copies of the information that the IRS must make open to public inspection shall be available to members of the public upon written request. Currently, § 301.6104(a)–6(d) provides that the IRS will charge a “fee” for copies of material available to the public under section 6104(a)(1) of the Code, including approved applications for recognition of tax-exempt status and supporting papers. Currently, § 301.6104(b)–1(d)(4) provides that the Commissioner of Internal Revenue (Commissioner) may prescribe a “reasonable fee” for copies of material available to the public under section 6104(b) of the Code, including certain information furnished on exempt organization annual information returns.

This notice of proposed rulemaking amends the existing regulations to clarify that any fee assessed by the IRS in the exercise of its discretion, whether in the case of requests for photocopies,