

NW., Washington, DC. Because of controlled access restrictions, attendees are not admitted beyond the lobby of the Internal Revenue Building until 9:30 a.m. The IRS will prepare an agenda showing the scheduling of the speakers after the outlines are received from the persons testifying and make copies available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Procedure & Administration).

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-208199-91]

RIN 1545-BC55

Suspension of Running of Period of Limitations During a Proceeding To Enforce or Quash a Designated or Related Summons

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations regarding the use of designated summonses and related summonses and the effect on the period of limitations on assessment when a case is brought with respect to a designated or related summons. These proposed regulations reflect changes to section 6503 of the Internal Revenue Code of 1986 made by the Omnibus Budget Reconciliation Act of 1990 and the Small Business Job Protection Act of 1996. This regulation affects corporate taxpayers that are examined under the coordinated issue case (CIC) program and are served with designated or related summonses. This regulation also affects third parties that are served with designated or related summonses for information pertaining to the corporate examination.

DATES: Written or electronic comments and requests for a public hearing must be received by October 29, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG-208199-91), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG-208199-91), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Taxpayers may also

submit electronic comments directly to the IRS Internet site at www.irs.gov/regs.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Rawlins, (202) 622-3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 6503 of the Internal Revenue Code of 1986. Section 11311 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, 104 Stat. 1388) (1990 Act) amended section 6503(k) to suspend the period of limitations on assessment when a case is brought with respect to a designated or related summons. Section 6503(k) was redesignated as section 6503(j) by section 1702(h)(17)(A) of the Small Business Job Protection Act of 1996 (Public Law 104-188, 110 Stat. 1874).

Explanation of Provisions

These proposed regulations generally provide that the period of limitations on assessment provided for in section 6501 is suspended with respect to any return of tax by a corporation that is the subject of a designated or related summons if a court proceeding to enforce or quash is instituted with respect to that summons.

Designated Summonses and Related Summonses

A designated summons is a summons issued to determine the amount of any internal revenue tax of a corporation for which a return was filed if certain additional requirements are satisfied. A designated summons may only be issued to a corporation (or any other person to whom such corporation has transferred records) if the corporation is being examined under the IRS' coordinated examination program "or any successor program." The existing successor program to the coordinated examination program is the coordinated issue case (CIC) program.

Section 6503(j)(2)(A)(i) requires that the issuance of the summons be preceded by a review by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted. Because the prior regional structure of the IRS no longer exists, these proposed regulations provide that the review must be completed by the Division Commissioner and the Division Counsel of the Office of Chief Counsel for the organizations that have jurisdiction over the corporation whose liability is the subject of the summons. The summons also must be issued at least 60 days

before the day on which the statute of limitations on assessment under section 6501 would otherwise expire. Finally, the summonses must clearly state that it is a designated summons for purposes of section 6503(j).

A related summons is any other summons that is issued with respect to the same tax return of the corporation as a designated summons and is issued during the 30-day period that begins on the date the designated summons is issued.

Suspension of Period of Limitations on Assessment

Section 6503(j)(1) suspends the period of limitations on assessment under section 6501 for the applicable tax period when a court proceeding is brought with respect to a designated or related summons. For purposes of these proposed regulations, a court proceeding is a proceeding brought in a United States district court either to quash a designated or related summons under section 7609(b)(2) or to enforce a designated or related summons under section 7604. The court proceeding must be brought within the otherwise applicable period of limitations in order to suspend that period under section 6503(j).

The proposed regulations provide that the suspension begins on the day that a court proceeding is brought and continues until there is a final resolution as to the summoned party's response to the summons (discussed in the next section), plus an additional 120 days if the court requires any compliance with the summons at issue. If the court does not require any compliance, then the period of limitations on assessment resumes running on the day following the date of the final resolution and in no event shall expire before the 60th day following the date of final resolution.

Final Resolution of a Summoned Party's Response to a Summons

Under section 6503(j)(3)(B), the length of the suspension under section 6503(j) depends on when "final resolution" of a summoned party's response to the designated or related summons occurs. The term "final resolution" is not defined in the statute. The legislative history to the 1990 Act states that the term "final resolution" has the same meaning it has under section 7609(e)(2)(B), relating to third-party summonses. H.R. Conf. Rep. No. 101-964 (1990). Specifically, the conference report to the 1990 Act states that final resolution means that no court proceeding remains pending and that the summoned party has complied with