

the summons to the extent required by the court.

Accordingly, the proposed regulations provide that final resolution occurs when the summoned party complies with a summons to the extent required by the court and all court proceedings and times for appeals applicable to those proceedings have terminated. If the summoned party has complied with the summons to the extent required by a court but there still remains time to appeal that order, final resolution occurs when the time for appeal has expired. (Were final resolution deemed to occur before that point, the period of limitations on assessment might resume running even though a later order after appeal might require additional compliance.) If all appeal periods have expired but the summoned party has not complied with the summons to the extent required by the court order, the proposed regulations provide that final resolution does not occur until the summoned party has complied with the summons to the extent required by the court order.

Whether a party has complied with the terms of the summons as enforced by the court cannot be determined until the completeness of the materials produced and the testimony given have been evaluated. In cases where the court wholly denies enforcement or orders that the summons in its entirety be quashed, the date of compliance with the court's order is treated as occurring on the date when all appeals are disposed of or when all appeal periods expire.

In cases where the court orders the summons enforced in whole or in part, the determination of whether the summoned party has complied with the order will be made by the Commissioner or his delegate (Commissioner). This determination will be made as soon as practicable after the summoned party has given testimony or produced books, papers, records, or other data as required by the court order. Notification of a favorable determination, and the date of such determination, will be made in writing and sent to the summoned party (and the taxpayer if the taxpayer is not the summoned party) within five days after the date the determination is made. If the period to appeal the court's order has already run, the date of the favorable determination shall be the date of final resolution for purposes of determining the length of the suspension under section 6503(j).

The proposed regulations provide that the Commissioner is not required to give notice that the court's order has not been complied with prior to instituting a collateral proceeding challenging

whether the testimony given or the production made by the summoned party fully satisfies the court order and requesting that sanctions be imposed against the summoned party for a failure to testify or produce. The proposed regulations further provide that if such a collateral proceeding is instituted, then the collateral proceeding shall be treated as a continuation of the original proceeding.

#### *Statement of Compliance*

A summoned party also may request a determination from the IRS that it has fully complied with a designated or related summons to the extent required by court order. Under this procedure, if the summoned party believes that it has complied, the summoned party may submit a written statement (statement of compliance) to the IRS that the summoned party has fully complied with the court order. The statement of compliance must be properly addressed and sent by registered or certified mail. The statement of compliance must contain the summoned party's current contact information and information specifically identifying the applicable summons and court order.

To prevent the filing of premature or repetitious statements of compliance, the proposed regulations provide that a statement of compliance will be disregarded as a nullity if it is submitted before production or the giving of testimony (or the last act of production when there is a mutual agreement that production will be accomplished in stages) or before the IRS has responded to a previously-submitted statement of compliance. A statement of compliance also will be treated as a nullity if it is submitted by the summoned party while a referral to the Department of Justice for a collateral proceeding with respect to the court order or an appeal of the court order is pending.

Unless the IRS, within 180 days of the receipt of a statement of compliance, or within the time agreed to by the IRS and the summoned party, mails to the summoned party by registered or certified mail notification that it has not fully satisfied the designated or related summons, the summons will be treated as having been fully complied with as of the 180th day following the date the IRS received the statement. The date on which the statement of compliance was mailed by registered or certified mail will be treated as the date on which the IRS received the statement.

#### *Other Rules*

These proposed regulations provide additional rules regarding the number of designated and related summonses that

may be issued with respect to a return for any taxable period, the time within which a court proceeding must be brought to enforce or quash a designated or related summons, the computation of the suspension period in cases of multiple court proceedings, and the computation of the 60-day period for assessment when the last day falls on a weekend or holiday.

The proposed regulations also address the relationship of the suspension period provided for in section 6503(j) with other suspension provisions in the Code. The proposed regulations first provide that if a designated or related summons also could be subject to the suspension rules governing third-party summonses under section 7609(e), then the suspension rules in section 6503(j) govern. In addition, the section 6503(j) suspension period is independent of, and may run concurrently with, any other period of suspension, such as the suspension period for third-party summonses under section 7609(e) if a separate third-party summons also was issued in a case. Examples of these rules are contained in the proposed regulations.

#### **Proposed Effective Date**

These regulations are proposed to be applicable on the date final regulations are published in the **Federal Register**.

#### **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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis 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 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 comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the 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