

published as final regulations in the **Federal Register**.

**Par. 8.** Section 1.1462-1 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 1.1462-1 Withheld tax as credit to recipient of income.**

\* \* \* \* \*

(b) *Amounts paid to persons who are not the beneficial owner.* Amounts withheld at source under chapter 3 of the Internal Revenue Code on payments to (or effectively connected taxable income allocable to) a fiduciary, partnership, or intermediary is deemed to have been paid by the taxpayer ultimately liable for the tax upon such income. Thus, for example, if a beneficiary of a trust is subject to the taxes imposed by section 1, 2, 3, or 11 upon any portion of the income received from a foreign trust, the part of any amount withheld at source which is properly allocable to the income so taxed to such beneficiary shall be credited against the amount of the income tax computed upon the beneficiary's return, and any excess shall be refunded. See § 1.1446-3 for examples applying this rule in the context of a partnership interest held through a foreign trust or estate. Further, if a partnership withholds an amount under chapter 3 of the Internal Revenue Code with respect to the distributive share of a partner that is a partnership or with respect to the distributive share of partners in an upper-tier partnership, such amount is deemed to have been withheld by the upper-tier partnership. See § 1.1446-5 for rules applicable to tiered partnership structures. References in this paragraph (b) to withholding under section 1446 shall apply to partnership taxable years beginning after the date that these regulations are published as final regulations in the **Federal Register**.

(c) *Effective date.* Unless otherwise provided in this section, this section applies to payments made after December 31, 2000.

**Par. 9.** Section 1.1463-1 is amended by:

1. Adding two sentences at the end of paragraph (a).
2. Revising paragraph (b).

The addition and revision read as follows:

**§ 1.1463-1 Tax paid by recipient of income.**

(a) \* \* \* See § 1.1446-3(f) for additional rules where the tax was required to be withheld under section 1446. The reference in the previous sentence to withholding under section 1446 shall apply to partnership taxable years beginning after the date that these regulations are published as final regulations in the **Federal Register**.

(b) *Effective date.* Unless otherwise provided in this section, this section applies to failures to withhold occurring after December 31, 2000.

**PART 301—PROCEDURE AND ADMINISTRATION**

**Par. 10.** The authority for 26 CFR part 301 continues to read in part as follows:

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

**Par. 11.** In § 301.6109-1 is amended as follows:

1. In paragraph (b)(2)(vi), remove the word "and".
2. In paragraph (b)(2)(vii), remove the period at the end of the paragraph and add "; and" in its place.
3. Paragraph (b)(2)(viii) is added.
4. In paragraph (c), the first three sentences are revised and a sentence is added at the end of the paragraph.

The amendments and additions read as follows:

**§ 301.6109-1 Identifying numbers.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(viii) A foreign person that furnishes a withholding certificate described in § 1.1446-1(c)(2) or (3) of this chapter. This paragraph (b)(2)(viii) shall apply to partnership taxable years beginning after the date these regulations are published as final regulations in the **Federal Register**.

(c) *Requirement to furnish another's number.* Every person required under this title to make a return, statement, or other document must furnish such taxpayer identifying numbers of other U.S. persons and foreign persons that are described in paragraph (b)(2)(i), (ii), (iii), (vi), (vii), or (viii) of this section as required by the forms and the accompanying instructions. The taxpayer identifying number of any

person furnishing a withholding certificate referred to in paragraph (b)(2)(vi) or (viii) of this section shall also be furnished if it is actually known to the person making a return, statement, or other document described in this paragraph (c). If the person making the return, statement, or other document does not know the taxpayer identifying number of the other person, and such other person is one that is described in paragraph (b)(2)(i), (ii), (iii), (vi), (vii), or (viii) of this section, such person must request the other person's number. \* \* \* References in this paragraph (c) to paragraph (b)(2)(viii) of this section shall apply to partnership taxable years beginning after the date these regulations are published as final regulations in the **Federal Register**.  
\* \* \* \* \*

**Par. 12.** In § 301.6721-1, paragraph (g)(4) is revised to read as follows:

**§ 301.6721-1 Failure to file correct information returns.**

\* \* \* \* \*

(g) \* \* \*

(4) *Other items.* The term *information return* also includes any form, statement, or schedule required to be filed with the Internal Revenue Service with respect to any amount from which tax is required to be deducted and withheld under chapter 3 of the Internal Revenue Code (or from which tax would be required to be so deducted and withheld but for an exemption under the Internal Revenue Code or any treaty obligation of the United States), generally Forms 1042-S, "Foreign Person's U.S. Source Income Subject to Withholding," and 8805, "Foreign Partner's Information Statement of Section 1446 Withholding Tax." The provisions of this paragraph (g)(4) referring to Form 8805, shall apply to partnership taxable years beginning after the date these regulations are published as final regulations in the **Federal Register**.

**Robert E. Wenzel,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 03-22175 Filed 9-2-03; 8:45 am]

**BILLING CODE 4830-01-P**