

graph (a) of § 10.8^(b) may be entered on the operator's baggage declaration, in lieu of formal entry and examination and may be passed under item 864.05, Tariff Schedules of the United States, at the place of arrival in the same manner as passengers' baggage. The temporary importation bond, as prescribed in § 10.31(f), given to support such entry shall be without surety or cash deposit. The examination may be made by an inspector who is qualified to determine the amount of such bond to be filed in support of the entry. The privilege accorded by this paragraph shall not apply when two or more vehicles, pleasure boats, or aircraft are to be entered by the same importer under item 864.05 at the same time. In that event, the importer must file a formal entry supported by bond with surety or cash deposit in lieu of surety.

(b) Each vehicle, pleasure boat, or aircraft to which paragraph (a) of this section is applicable shall be identified on the operator's baggage declaration, which must include the data prescribed in paragraphs (a) and (c) of § 10.31.

(c) Exportation shall be effected in accordance with the provisions of § 10.38.

(d) The privilege of clearance of a vehicle, pleasure boat, or aircraft brought in by the operator of such vehicle, pleasure boat, or aircraft, for repair or alteration on his baggage declaration under bond without surety or cash deposit shall not be granted to an individual who has failed to comply with the provisions of such a bond in connection with any prior arrival. Such individual shall be required to file a formal entry under item 864.05, Tariff Schedules of the United States, with a bond supported by a surety or cash deposit in lieu of surety. (77A Stat. 13, 14, 422; 19 U.S.C. 1202 (Gen. Hdnotes 10, 11, Sch. 8, Pt. 5C, Hdnote 1).)

(R.S. 251, Sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624.)

The purpose of this amendment is to simplify the admission requirements for the specified class of merchandise. It is, therefore, found that notice of proposed rule-making and public procedure under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) is unnecessary and, since the amendment will relieve restrictions, it shall be effective upon publication in the FEDERAL REGISTER.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: February 10, 1966.

TRUE DAVIS,
Assistant Secretary of
the Treasury.

[F.R. Doc. 66-1704; Filed, Feb. 16, 1966;
8:49 a.m.]

^(b) The term "repairs or alterations" is defined in paragraph (a), section 10.8, as meaning "restoration, change, addition, renovation, cleaning, or other treatment which does not destroy the identity of the article exported or create a new or different article."

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments

This part as filed with the FEDERAL REGISTER on June 29, 1955, was last amended on March 14, 1964. The further amendments made herein do not reflect the changes made by Public Law 89-332, approved on November 8, 1965, which provides for the right of persons to be represented in matters before Federal agencies. Subpart E of this part, relating to conference and practice requirements, will be amended in the near future to reflect the changes required by Public Law 89-332. The amended provisions read as follows:

PARAGRAPH 1. Section 601.101 is amended by revising paragraphs (a) and (b). These amended provisions read as follows:

§ 601.101 Introduction.

(a) *General.* The Internal Revenue Service is a branch of the Treasury Department under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue and also of other functions relating to the administration and enforcement of laws applicable to alcohol and certain firearms which are in addition to those related to taxes. The Internal Revenue Service is the agency by which these functions are performed. Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue. The Director of International Operations administers the internal revenue laws applicable to taxpayers residing or doing business abroad, foreign taxpayers deriving income from sources within the United States, and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations. For purposes of these procedural rules any reference to a district director or a district office includes the Director of International Operations or the Office of International Operations, if appropriate. Generally, the procedural rules of the Service are based on the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954, and the procedural rules in this part apply to the taxes imposed by both Codes except to the extent specifically stated or where the procedure under one Code is incompatible with the procedure under the other Code. Reference to sections of the Code are references to the Internal Revenue Code of 1954, unless otherwise expressly indicated.

(b) *Scope.* This part sets forth the procedural rules of the Internal Revenue Service respecting all taxes administered by the Service, and supersedes the previously published statement (26 CFR (1949 ed., Part 300-End) Parts 600 and 601) with respect to such procedural rules. Subpart A provides a descriptive statement of the general course and method by which the Service's functions are channeled and determined, insofar as such functions relate generally to the assessment and collection of internal revenue taxes. Certain provisions special to particular taxes are separately described in Subpart D of this part. Conference and practice requirements of the Internal Revenue Service are contained in Subpart E of this part. Specific matters not generally involved in the assessment and collection functions are separately described in Subpart B of this part. A description of the rulemaking functions of the Treasury Department with respect to internal revenue tax matters is contained in Subpart F of this part. The procedural rules of the Service with respect to distilled spirits, wines, beer, cigars, cigarettes, and cigarette papers and tubes, and certain firearms are described in Subpart C of this part. Subpart G of this part relates to matters of official record in the Internal Revenue Service and the extent to which records and documents are subject to publication or open to public inspection. This part does not contain a detailed discussion of the substantive provisions pertaining to any particular tax or the procedures relating thereto, and for such information it is necessary that reference be made to the applicable provisions of law and the regulations promulgated thereunder. The regulations relating to the taxes administered by the Service are contained in Titles 26 and 27 of the Code of Federal Regulations.

PAR. 2. Section 601.103 is amended by revising paragraphs (a), (b), and subparagraph (1) of paragraph (c). These amended provisions read as follows:

§ 601.103 Summary of general tax procedure.

(a) *Collection procedure.* The Federal tax system is basically one of self-assessment. In general each taxpayer (or person required to collect and pay over the tax) is required to file a prescribed form of return which shows the facts upon which tax liability may be determined and assessed. Generally, the taxpayer must compute the tax due on the return and make payment thereof on or before the due date for filing the return. If the taxpayer fails to pay the tax when due, the district director of internal revenue or the director of the regional service center after assessment issues a notice and demands payment within 10 days from the date of the notice. In the case of wage earners and nonresident aliens, the income tax is collected in large part through withhold-

ing at the source. Another means of collecting the income tax is through payments on declarations of estimated tax which are required by law to be filed by certain individual and corporate taxpayers. Neither withholding nor a declaration of estimated tax relieves a taxpayer from the duty of filing a return otherwise required. Certain excise taxes are collected by the sale of internal revenue stamps.

(b) *Examination and determination of tax liability.* After the returns are filed in the office of the district director of internal revenue or in the office of the director of a regional service center, they are sorted, classified, and processed. Many of these returns are selected for examination. If adjustments are proposed with which the taxpayer does not agree, he is ordinarily afforded certain appeal rights, including an opportunity to discuss the proposed adjustments (except mathematical errors) in a conference in the district director's office. If this conference results in agreement on the proposed adjustments, the taxpayer is requested to execute an agreement form. If the tax involved is an income, profits, estate, or gift tax, and if the taxpayer waives restrictions on the assessment and collection of the tax (see § 601.105(b)), the deficiency will be immediately assessed.

(c) *Disputed liability.*—(1) *General.* If the conference on the proposed adjustments does not result in agreement, the taxpayer is given an opportunity to request that his case be considered by the regional Appellate Division, provided that Division has jurisdiction (see § 601.106(a)(3)). If the taxpayer requests such consideration, the case will be referred to the regional Appellate Division where the taxpayer may have another conference. The determination of tax liability by the Appellate Division is final insofar as the taxpayer's appellate rights within the Service are concerned. Upon protest of cases under the jurisdiction of the Director of International Operations exclusive settlement authority is vested in the regional Appellate Division having jurisdiction of the place where the taxpayer requests the Appellate Division conference. If the taxpayer does not specify a location for the conference, or if the location specified is outside the territorial limits of the regional Appellate Divisions, the Washington, D.C., branch office of the Appellate Division for the Mid-Atlantic region assumes jurisdiction. The fact that conferences were held by the Office of International Operations either before or after the receipt of a protest does not foreclose a taxpayer from having the Appellate Division consider his case.

by law or regulations to be filed by the taxpayer upon which he himself computes the tax in the manner indicated by the return. If a taxpayer fails to make a return it may be made for him by a district director or other duly authorized officer or employee. See section 6020 of the Code and the regulations thereunder. Returns must be made on the forms prescribed by the Internal Revenue Service. Forms are obtainable at the principal and branch offices of district directors of internal revenue. Forms are generally mailed to persons whom the Service has reason to believe may be required to file returns, but failure to receive a form does not excuse failure to comply with the law or regulations requiring a return. Returns, supplementary returns, statements or schedules, and the time for filing them, may sometimes be prescribed by regulations issued under authority of law by the Commissioner with the approval of the Secretary of the Treasury or his delegate. In the case of certain individual income taxpayers having gross income from specified sources of less than \$10,000, a special form (Form 1040A) is prescribed upon which the taxpayer may set forth the information necessary to a determination of his tax liability. A taxpayer filing a return on Form 1040A shall compute the tax and transmit with the return any unpaid balance of tax, except that if his income was less than \$5,000 he may elect to have the Internal Revenue Service compute the tax and mail him a notice stating the amount of tax due. A husband and wife may make a single income tax return jointly. Certain affiliated groups of corporations may file consolidated income tax returns. See section 1501 of the Code and the regulations thereunder.

(3) *Declarations of estimated tax.* Any individual who may reasonably expect to receive gross income for the taxable year from wages or from sources other than wages, in excess of amounts specified by law, or who can reasonably expect his estimated tax to be \$40 or more, is required to file a declaration of estimated income tax. Payments of estimated tax are applied in payment of the tax for the taxable year. A husband and wife may make a single declaration jointly, and the amount of the estimated tax paid on the declaration may be applied in payment of the income tax liability of either spouse in any proportion they may specify. For taxable years ending on or after December 31, 1955, the law requires a declaration of estimated tax by certain corporations. See section 6016 of the Code.

(5) *Collection of tax by another person.* Certain miscellaneous excise taxes are imposed on the person making the payment for telephone service, air transportation, and other facilities or services. Such taxes are required to be collected by the telephone company, airline, or other person receiving the payment. All taxes collected in this manner are held by the collecting agent

in trust for the United States until paid over to the district director of internal revenue. If the person from whom the tax is required to be collected refuses to pay it, or if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency is required to report the facts to the district director of internal revenue, and the tax will then be collected by direct assessment against the person failing or refusing to pay the tax to the collecting agent. For special provisions applicable to excise taxes collected by another person, see § 601.403.

(c) *Enforcement procedure.*—(1) *General.* Taxes shown to be due on returns, deficiencies in taxes, additional or delinquent taxes to be assessed, and penalties, interest, and additions to taxes, are recorded by the district director or the director of the regional service center as "assessments." Under the law an assessment is prima facie correct for all purposes. Generally, the taxpayer bears the burden of disproving the correctness of an assessment. Upon assessment, the district director is required to effect collection of any amounts which remain due and unpaid. Generally, payment within 10 days from the date of the notice and demand for payment is requested; however, payment may be required in a shorter period if collection of the tax is considered to be in jeopardy.

(2) *Levy.* If a taxpayer neglects or refuses to pay any tax within the period provided for its payment, it is lawful for the district director to make collection by levy on the taxpayer's property. See section 6331 of the Code. No suit for the purpose of restraining the assessment or collection of an internal revenue tax may be maintained in any court, except to restrain the assessment or collection of income, estate, or gift taxes during the period within which the assessment or collection of deficiencies in such taxes is prohibited. See section 7421 of the Code. Property taken under authority of any revenue law of the United States is irrepleviable. 28 U.S.C. 2463.

(3) *Liens.* The United States' claim for taxes is a lien on the taxpayer's property at the time of assessment. Such lien is not valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice has been filed by the district director. Despite such filing, the lien is not valid with respect to certain securities as against any mortgagee, pledgee, or purchaser of such securities, for adequate and full consideration in money or money's worth, who is without notice or knowledge of the existence of such lien. Certain motor vehicle purchasers are similarly protected. A valid lien generally continues until the liability is satisfied or becomes unenforceable by reason of lapse of time. A certificate of release of lien may be issued upon the taxpayer's furnishing proper bond in lieu of the lien, or when the liability is satisfied or becomes unenforceable by reason of lapse of time. The Code also contains additional provisions with respect to liens in the case of estate and

PAR. 3. Section 601.104 is amended by revising subparagraphs (1), (3), and (5) of paragraph (a) and paragraph (c). These amended provisions read as follows:

§601.104 Collection functions.

(a) *Collection methods.*—(1) *Returns.* Generally, an internal revenue tax assessment is based upon a return required

gift taxes. For the specific rules with respect to liens, see subchapter C of chapter 64 of the Code and the regulations thereunder.

(4) *Penalties.* In the case of failure to file a return within the prescribed time, a certain percentage of the amount of tax is, pursuant to statute, added to the tax unless the failure to file the return within the prescribed time is shown to the satisfaction of the district director or the director of the regional service center to be due to reasonable cause and not neglect. Civil penalties are also imposed for fraudulent returns; in the case of income and gift taxes, for intentional disregard of rules and regulations or negligence; and additions to the tax are imposed for the failure to comply with the requirements of law with respect to the estimated income tax. See chapter 68 of the Code. Civil penalties may also be imposed for failure to pay the tax on liquors, cigars, cigarettes, and cigarette papers and tubes within the time prescribed. See chapters 51 and 52 of the Code. Criminal penalties are imposed for willful failure to make returns, keep records, supply information, etc. See chapter 75 of the Code.

(5) *Informants' rewards.* Payments to informers are authorized for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws. See section 7623 of the Code and the regulations thereunder. Claims for rewards should be made on Form 211. Relevant facts should be stated on the form, which after execution should be forwarded to the district director of internal revenue for the district in which the informer resides, or to the Commissioner of Internal Revenue, Washington, D.C., 20224.

PAR. 4. Section 601.105 is amended by revising paragraph (a), subparagraphs (1), (2), (4), and subdivisions (iii) (a), (vi) (b), and (vi) (c) of subparagraph (5) of paragraph (b), paragraph (c), subparagraphs (1) and (2) (i) of paragraph (d), subparagraphs (1) and (2) of paragraph (e), and paragraph (f). These amended provisions read as follows:

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

(a) *Processing of returns.* When the returns are filed in the office of the district director of internal revenue or the office of the director of a regional service center, they are checked first for form, execution, and mathematical accuracy. Mathematical errors are corrected and a correction notice of any such error is sent to the taxpayer. Notice and demand is made for the payment of any additional tax so resulting, or refund is made of any overpayment. All returns are then sorted according to such classifications and subclassifications as are prescribed by the uniform management directive of the Commissioner. The purpose of these classifications is to facilitate prompt processing of returns showing refunds due and returns received with in-

sufficient or no remittance, the selection of refunds for audit, and the compilation of income and other statistics.

(b) *Examination of returns.*—(1) *General.* The original examination of income, profits, estate, gift, excise, and employment tax returns is a primary function of internal revenue agents in the Audit Division of the office of each district director of internal revenue. Such internal revenue agents are organized in groups, each of which is under the immediate supervision of a group supervisor designated by the district director. In the international enforcement program, which provides comprehensive audit coverage of the returns of domestic taxpayers engaged in substantial international activities, these agents are assisted by specialists from the Office of International Operations. These specialists assist in developing the facts bearing on international activity and in determining whether any change in reported taxable income should be recommended as a result of the inquiry. Revenue agents (and such other officers or employees of the Internal Revenue Service as may be designated for this purpose by the Commissioner) are authorized to examine any books, papers, records, or memoranda bearing upon matters required to be included in Federal tax returns and to take testimony relative thereto and to administer oaths. See section 7602 of the Code and the regulations thereunder. There are two general types of audit. These are commonly called "office audit" and "field audit." During the audit of a return a taxpayer may be represented before the examining officer by an attorney, certified public accountant, or other representative. See Subpart E for conference and practice requirements.

(2) *Office audit.* Certain returns are examined by office audit. These are returns susceptible to office audit techniques and include certain business returns in addition to the full range of nonbusiness individual income tax returns. Office audits are conducted either by correspondence or by office interview. The method employed normally depends upon the complexity of the items questioned. When an examination can be conducted by either method, the convenience of the taxpayer generally will be the principal consideration. In a correspondence audit, the taxpayer is asked to supply explanations or supporting evidence by mail. In an office interview audit the taxpayer is asked to come to the district director's office for a personal interview and to bring certain records with him in support of his return. During the audit the taxpayer has the right, of course, to bring to the attention of the examining officer any amounts included in his return which are not taxable or any deductions which he failed to claim on his return. If it develops that a field audit is necessary, an appropriate transfer will be made.

(4) *Conclusion of audit.* At the conclusion of an office or field audit, the taxpayer is given an opportunity to agree

with the findings of the examining officer. If the taxpayer does not agree, the examining officer will inform the taxpayer of his appeal rights. See paragraph (c) of this section for district conference procedure. If the taxpayer does agree with the proposed changes, the examining officer will invite him to execute either Form 870 or another appropriate agreement form. When the taxpayer agrees with the proposed changes but does not offer to pay any deficiency or additional tax which may be due, the examining officer will also invite payment (by check or money order), together with any applicable interest or penalty. If the agreed case involves income, profits, estate, or gift taxes, the agreement is evidenced by a waiver by the taxpayer of restrictions on assessment and collection of the deficiency, or an acceptance of a proposed over assessment. If the agreed case involves excise or employment taxes, the agreement is evidenced by a waiver by the taxpayer of his right to file a claim for abatement after assessment of the additional tax, or by acceptance of a proposed over assessment. Even though the taxpayer signs an acceptance of a proposed over assessment the district director or the director of the regional service center remains free to assess a deficiency. On the other hand, the taxpayer who has given a waiver may still claim a refund of any part of the deficiency assessed against him and paid by him, or any part of the tax originally assessed and paid by him. The taxpayer's acceptance of an agreed over assessment does not prevent his filing a claim and bringing a suit for an additional sum, nor does it preclude the Government from maintaining suit to recover an erroneous refund. As a matter of practice, however, waivers or acceptances ordinarily result in the closing of a case insofar as the Government is concerned.

(5) *Technical advice from the National Office.* * * *

(iii) *Requesting technical advice.* (a) It is the responsibility of the district office to determine whether technical advice is to be requested on any issue before that office. However, during the course of an examination or a conference in a district office, a taxpayer or his representative may request that an issue be referred to the National Office for technical advice on the grounds that a lack of uniformity exists as to the disposition of the issue, or that the issue is so unusual or complex as to warrant consideration by the National Office. If, in the opinion of the examining officer or conferee, the circumstances do not warrant such referral, he will so advise the taxpayer.

(vi) (a) *Conference in the National Office.* * * *

(b) A taxpayer is entitled, as a matter of right, to only one conference in the National Office unless one of the circumstances discussed in (a) through (c) of this subdivision exists. This conference will usually be held at the branch level in the appropriate division in the office of the Assistant Commissioner (Techni-

cal) and will usually be attended by a person who has authority to act for the branch chief. (See § 601.201(a)(2) for the divisions involved.) If more than one subject is discussed at the conference, the discussion constitutes a conference with respect to each subject. At the request of the taxpayer or his representative, the conference may be held at an earlier stage in the consideration of the case than the Service would ordinarily designate. A taxpayer has no "right" of appeal from an action of a branch to the director of a division or to any other National Office official.

(e) A taxpayer or his representative desiring to obtain information as to the status of his case may do so by contacting the appropriate division in the office of the Assistant Commissioner (Technical). (See § 601.201(a)(2) for the divisions involved.)

(c) *District conference procedure—*
(1) *Office audit.* (i) In a correspondence audit the taxpayer is informed of the examining officer's proposed findings by a form letter. He is asked to sign and return an agreement if he accepts the findings. The letter also informs the taxpayer of several courses of appeal available to him, including a district conference and consideration of his case by the regional Appellate Division. A conference in the district director's office will be granted the taxpayer upon request without submission of a written protest. If no agreement is reached at the conference, the taxpayer will be furnished a report of the findings and a 30-day letter describing his further appeal rights.

(ii) In an office interview audit the taxpayer will usually be informed of the examining officer's findings at the interview. If no agreement is reached at the conference, the taxpayer is given an opportunity to request a district conference at the end of the interview or is invited in a 15-day letter to arrange for such a conference. The balance of the procedure in a correspondence audit is also applicable in an office interview audit.

(2) *Field audit.* (i) If, at the conclusion of an examination, the taxpayer does not agree with the adjustments proposed by the examining officer, a complete examination report will be prepared fully explaining all proposed adjustments. Before the report or any invitation to a district Audit Division conference is sent to the taxpayer, the case file will be submitted to the district Review Staff for a thorough technical and procedural review. Following such review, the taxpayer will receive a copy of the examination report under cover of a transmittal letter (30-day letter) providing him with a detailed explanation of the available appeal procedure and requesting the taxpayer to inform the district director of his choice of action.

(ii) If the total amount of proposed additional tax, proposed overassessment, or claimed refund does not exceed \$1,000 for any taxable year, the taxpayer will be granted a district Audit Division conference on request. A written protest is not required.

(iii) If the amount of proposed additional tax, proposed overassessment, or claimed refund exceeds \$1,000 for any taxable year, the taxpayer, on request, will be granted a district Audit Division conference, provided a written protest is filed setting forth the facts, law, and arguments upon which the taxpayer relies.

(iv) If the issues involved are such that there appears to be little possibility of disposing of them in a district Audit Division conference, the taxpayer will be encouraged to bypass the district conference in favor of prompt consideration of his case by the regional Appellate Division. In such a case, unless the taxpayer expressly requests a district conference, the taxpayer's protest and case file, after preliminary screening by the Chief, Conference Staff, will be forwarded to the regional Appellate Division.

(v) Ordinarily, the examining officer will not attend the district Audit Division conference.

(vi) Changes made by the Conference Staff in the proposals set forth in the examining officer's examination report will be reflected in a Conference Audit Statement which will be forwarded to the taxpayer to inform him of changes made and to serve as a supplement to the examination report.

(vii) The determination of the Conference Staff will not be submitted to the district Review Staff for review.

(3) *Scope of district conference procedure.* The conference procedure described in this paragraph is applicable in the determination of any liability in respect of income, profits, estate, gift, excise, or employment taxes. This procedure, however, is not applicable in the determination of liability for any excise tax imposed by subtitle E of the Internal Revenue Code (relating to alcohol, tobacco, machineguns, and certain other firearms), or by subchapter D of chapter 78 (relating to certain import taxes) insofar as it relates to alcohol and tobacco. The procedure described in this paragraph does not apply in any case where criminal prosecution is under consideration, or in any case in which, in the discretion of the district director of internal revenue, the Government's interest would be prejudiced thereby. Nor does this procedure preclude the taking of appropriate action where the assessment or collection of the tax is in jeopardy. See paragraph (h) of this section.

(4) *Rules governing district conferences.* The objective of the district conference procedure is to give taxpayers a greater opportunity to reach an early agreement with respect to disputed items arising from office and field audits. If the taxpayer is represented at a district conference, see the conference and practice requirements of Subpart E. In conduct of conferences, it is the duty of the conferee (i) to conduct the conference in accordance with the objectives of the conference procedure, (ii) to provide the taxpayer a fair and courteous hearing at

which the taxpayer may discuss the issues, (iii) to make certain that all pertinent facts are included in the record and are considered in arriving at the proposed recommendation, (iv) to make certain that the pertinent provisions of the Internal Revenue Code are applied in arriving at the proposed recommendation and that the proposed recommendation is in accord with the interpretations of the Internal Revenue Service as expressed in regulations and rulings, and (v) to explain fully to the taxpayer the conclusions reached and the reasons therefor. If an agreement with the taxpayer is reached at the conference, the taxpayer will be requested to execute Form 870 or another appropriate agreement form. Any deficiency in tax or additional tax proposed will then be assessed, or any overpayment will be credited or refunded.

(5) *Settlement authority.* The authority of the Chief, Conference Staff, may be extended to include the settlement of selected issues on a basis reflecting an evaluation of litigating hazards, provided a substantially identical issue has been previously so disposed of by a regional Appellate Division. This procedure applies only if the total amount of proposed additional tax, proposed overassessment, or claimed refund does not exceed \$1,000 for any year.

(d) *Thirty-day letters and protests.*—

(1) *General.* The report of the examining officer, as approved after review, recommends one of four determinations:

(i) Acceptance of the return as filed and closing of the case;

(ii) Assertion of a given deficiency or additional tax;

(iii) Allowance of a given overassessment, with or without a claim for refund, credit, or abatement;

(iv) Denial of a claim for refund, credit, or abatement which has been filed and is found wholly lacking in merit.

In an unagreed case, the district director sends to the taxpayer a preliminary or "30-day letter" if any one of the last three determinations is made (except a full allowance of a claim in respect of any tax). The 30-day letter is a form letter which states the determination proposed to be made. It is accompanied by a copy of the examining officer's report explaining the basis of the proposed determination. It suggests to the taxpayer that if he concurs in the recommendation, he indicate his agreement by executing and returning a waiver or acceptance. The preliminary letter also informs the taxpayer of his appeal rights if he disagrees with the proposed determination. If the taxpayer does not respond to the letter within 30 days, a statutory notice of deficiency will be issued or other appropriate action taken, such as the issuance of a notice of adjustment, the denial of a claim in income, profits, estate, and gift tax cases, or an appropriate adjustment of the tax liability or denial of a claim in excise and employment tax cases.

(2) *Protests.* (i) No written protest is required to obtain a district Audit Division conference in an office audit case.

However, in a field audit case a written protest is required to obtain a district conference if the total amount of proposed additional tax, proposed over-assessment or claimed refund exceeds \$1,000 for any taxable year. A written protest is required in every case in which the taxpayer requests Appellate Division consideration. Instructions for the preparation of protests are sent with the preliminary letter.

(e) *Claims for refund or credit.* (1) After payment of the tax a taxpayer may (unless he has executed an agreement to the contrary) contest the assessment by filing a claim for refund or credit for all or any part of the amount paid, except as provided in section 6512 of the Code with respect to certain taxes determined by the Tax Court, the decision of which has become final. A claim for refund or credit is made on Form 843, which is obtainable from the district director. Generally, the claim, together with appropriate supporting evidence, must be filed in the office of the district director for the district in which the tax was paid. A claim for refund or credit must be filed within the applicable statutory period of limitation. In the case of individuals a properly executed income tax return may, if the taxpayer elects, operate as a claim for refund or credit of the amount of the overpayment disclosed by such return. If an individual income taxpayer files Form 1040A as a return and properly elects to have the tax computed by the district director or the director of the regional service center, such return operates automatically as a claim for refund for the amount of any overpayment disclosed by such computation.

(2) Generally, claims for refund or credit are investigated and considered by the Audit Division of the district director's office. The procedure applicable to the determination of correct tax liability upon the basis of a claim for refund or credit filed by the taxpayer is substantially the same as the procedure applicable to the original determination of tax liability upon the basis of a return filed by a taxpayer. See § 601.108 for procedure for review of proposed overpayment exceeding \$100,000 of income, estate, and gift taxes.

(i) *Regional post review of examined cases.* Regional commissioners review samples of the examined cases closed in their district offices to assure uniformity throughout their districts in the application of the provisions of the Code, regulations, and rulings, as well as the general policies of the Service. The Audit Division of the National Office in a similar manner reviews samples of the examined cases closed in the Office of International Operations. In certain circumstances, such as where substantial errors are found or where there is evidence of fraud or collusion, the regional commissioner has authority to reopen the case. When a reexamination of books and records is necessary, Form 2756, notice of reexamination, will be

delivered to the taxpayer at the time the reexamination is begun.

PAR. 5. Section 601.106 is amended by revising paragraphs (a) (1), (b), and (c), by adding a new subdivision (iii) to paragraph (d) (2), and by revising subparagraphs (3), (5), and (9) of paragraph (f). These amended and added provisions read as follows:

§ 601.106 Appellate functions.

(a) *General.* (1) There is provided in each region an Appellate Division with office facilities within the region. Unless they otherwise specify, taxpayers residing outside the territorial limits of the regional Appellate Divisions use the facilities of the Washington, D.C., branch office of the Appellate Division of the Mid-Atlantic Region. Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph, the Commissioner has delegated to certain officers of the Appellate Division of each region authority to represent the regional commissioner in his exclusive and final authority for the determination of Federal income, profits, estate, or gift tax liability (whether before or after the issuance of a statutory notice of deficiency), and for the determination of employment or certain Federal excise tax liability in any case originating in the office of any district director situated in the region, or in any case in which jurisdiction has been transferred to the region, in which the taxpayer has protested the determination of liability made by that officer and no agreement has been reached. The Appellate Division has complete jurisdiction of every income, profits, estate, or gift tax case after the issuance of the statutory notice of deficiency, subject to the limitations provided in subparagraph (2) of this paragraph. After the filing of a petition in the Tax Court the Appellate Division continues to have exclusive jurisdiction of the case, subject to the provisions of subparagraph (2) of this paragraph. Subject to the exceptions and limitations set forth in subparagraph (2) of this paragraph, there is also vested in the Appellate Division of the region authority to represent the regional commissioner in his exclusive authority to settle (i) all cases docketed in the Tax Court of the United States and designated for trial at any place within the territory comprising the region and (ii) all docketed cases originating in the office of any district director situated within the region or in which jurisdiction has been transferred to the region, which are designated for trial at Washington, D.C., unless the petitioner resides in and his books and records are located (or can be made available) in the region which includes Washington, D.C.

(b) *Initiation of proceedings before the Appellate Division.* In any case in which the district director has issued a preliminary or "30-day letter" and the taxpayer files a written protest (see paragraph (c) (1) of § 601.103 and § 601.509) against the proposed determination of tax liability, except as to those taxes de-

scribed in paragraph (a) (3) of this section, the taxpayer has the right (and will be so advised by the district director) of administrative appeal to the regional office of the Appellate Division. Organizations such as labor unions and trade associations which have been examined by the district director to determine the amounts expended by the organization for purposes of lobbying, promotion or defeat of legislation, political campaigns, or propaganda related to those purposes are treated as "taxpayers" for the purpose of this right of administrative appeal. Thus, upon filing a protest to the district director's findings that a portion of member dues is to be disallowed as a deduction to each member because expended for such purposes, the organization will be afforded full rights of administrative appeal to the Appellate Division of the region similar to those rights afforded to taxpayers generally. After review of any protest by the district director, the case and its administrative record are referred to the Appellate Division. No taxpayer is required to submit his case to the Appellate Division for consideration. Appeal is at the option of the taxpayer. A request for administrative appeal to the Appellate Division will not be denied because no district conference was held in the district director's office. After the issuance by the district director of a statutory notice of deficiency, upon the taxpayer's request, the Appellate Division may take up the case for settlement and may grant the taxpayer a conference thereon. Except in unusual circumstances, however, no conference will be granted prior to the filing of a petition in the Tax Court for a redetermination of the deficiency proposed in the statutory notice.

(c) *Nature of proceedings before the Appellate Division.* Proceedings before the Appellate Division are informal. Testimony under oath is not taken, although matters alleged as facts may be required to be submitted in the form of affidavits, or declared to be true under the penalties of perjury. Taxpayers may appear in person or by or with a representative. See Subpart E for conference and practice requirements. At any conference granted by the Appellate Division on a nondocketed case, the district director will be represented if he and the Appellate Division official having settlement authority deem it advisable. At any such conference on a case involving the ad valorem fraud penalty, the regional counsel will be represented if he so desires.

(d) *Disposition and settlement of cases before the Appellate Division.* ***

(2) *Cases docketed in the Tax Court.* ***

(iii) If the deficiency notice in a case docketed in the Tax Court was not issued by the Appellate Division and no recommendation for criminal prosecution is pending, the case will be referred by the regional counsel to the Appellate Division for settlement as soon as it is at issue in the Tax Court. The settlement procedure shall be governed by the following rules:

(a) The Appellate Division will arrange a conference for settlement purposes promptly after receipt of the file. Except in unusual circumstances, the regional counsel will be represented at the conference and will actively participate in it.

(b) If a settlement is agreed upon by the Appellate Division and the regional counsel as a result of a conference with the taxpayer, the stipulation of settlement will be prepared and filed with the Tax Court without delay.

(c) If no settlement is reached at a conference with the taxpayer, the file will be returned promptly to the regional counsel for preparation for trial and the taxpayer will be so advised by appropriate letter by the Appellate Division.

(d) In the event of disagreement between the Appellate Division and the regional counsel as to the settlement of the case, any issue in the case, or with respect to the amount of a counter offer which should be made, efforts will be made to resolve the matter quickly. If agreement cannot be reached the case will promptly be referred in writing to the Chief Counsel for decision.

(e) During the period between receipt of the Tax Court's "Trial Status Order" (usually issued from 60 to 90 days in advance of the issuance of the trial calendar) and the receipt of the trial calendar (usually issued about 90 days in advance of the opening date of the trial calendar) the Appellate Division will conclude settlement negotiations on any case not previously settled or referred to the regional counsel.

(f) In order to enable the regional counsel to prepare the case for trial and stipulate the undisputed facts in any case on the trial calendar which has not been settled, the Appellate Division will ordinarily, upon receipt of the trial calendar, return to the regional counsel any file still in its possession in any case on the calendar. Concurrent with any such return of the file, the Appellate Division will advise the taxpayer by letter that, since settlement negotiations have not been productive, the case is being referred to the regional counsel for preparation for trial.

(g) Upon receipt of the trial calendar, the regional counsel will address an appropriate letter to the taxpayer in each case on the calendar which has not been settled, or where the file has been retained by the Appellate Division, or in which the parties are not then negotiating a stipulation of facts. This letter will arrange or suggest a conference at an early date for the purpose of stipulating facts, as required by Rule 31(b) of the Tax Court, to clarify and, if possible, limit the issues.

(h) Any request for conferences received after receipt of the trial calendar will be referred to the regional counsel.

(f) Conference and practice requirements. . . .

(3) Rule III. Where the Appellate Division conferee recommends acceptance of the taxpayer's proposal of settlement, or, in the absence of a proposal,

recommends action favorable to the taxpayer, and said recommendation is disapproved in whole or in part by a reviewing officer in the Appellate Division, the taxpayer shall be so advised and upon written request shall be accorded a conference with such reviewing officer. The Appellate Division may disregard this rule where the interest of the Government would be injured by delay, as for example, in a case involving the imminent expiration of the statute of limitations or the dissipation of assets.

(5) Rule V. In order to bring before the Appellate Division an unagreed income, estate, or gift tax case in pre-statutory notice status, an unagreed employment or excise tax case, or an offer in compromise, the taxpayer or his representative must first file with the district director a written protest setting forth specifically the reasons for his refusal to accept the district director's findings. If the protest includes a statement of facts upon which the taxpayer relies, such statement must be declared to be true under the penalties of perjury (see paragraph (c) (1) of § 601.103 and § 601.509). The protest and any new facts, law, or arguments presented therewith will be reviewed by the district director for the purpose of deciding whether further development or action is required prior to referring the case to the Appellate Division. Where the Appellate Division has an issue under consideration as a result of the filing of a protest or Tax Court petition, it may, with the concurrence of the taxpayer, assume jurisdiction in a related case without the necessity of an additional protest, after the district director has completed any necessary action. The Director, Appellate Division, may authorize the regional Appellate Division to accept jurisdiction (after any necessary action by the district director) in specified classes of cases without a written protest, provided a written request for Appellate Division consideration is submitted by or on behalf of each taxpayer.

(9) Rule IX. Prior to the opening date of the session of the Tax Court at which the case is on the calendar for trial (or the opening date of any pretrial hearing or report session) a taxpayer may request the reopening or resumption of settlement conferences in a docketed case, before the Chief, Associate Chief, or the Assistant Chief, in charge of an Appellate Division branch office, and whenever such request is granted the Appellate conferee who originally considered the case shall ordinarily be present and participate in any conference.

PAR. 6. Paragraph (a) (2) of section 601.107 is amended to read as follows:

§ 601.107 Excess Profits Tax Council; appellate functions and procedures under section 722 of the Internal Revenue Code of 1939.

(a) General. . . .

(2) The rules bearing upon the procedure applicable with respect to section

722 of the 1939 Code are found in Regulations 109 (26 CFR, 1938 Ed. and Supps., Part 30) and Regulations 112 (26 CFR, 1938 Ed. and Supps., Part 35). There has also been published "Bulletin on Section 722 of the Internal Revenue Code," copies of which may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. Practice and conference procedure before the Council is also governed by the requirements of Subpart E of this part.

PAR. 7. Section 601.108 is amended to read as follows:

§ 601.108 Review of overpayments exceeding \$100,000.

(a) General. Section 6405(a) of the Code provides that no refund or credit of income, profits, estate, or gift taxes in excess of \$100,000 may be made until 30 days after a report has been made to the Joint Committee on Internal Revenue Taxation. Taxpayers in cases requiring review by the Joint Committee are afforded the same district conference and appeal rights as other taxpayers. In general, these cases follow regular procedures, except for preparation of reports to and review by the Joint Committee.

(b) Reports to Joint Committee. In any case in which no protest is made to the Appellate Division and no petition docketed in the Tax Court, the report to the Joint Committee is prepared by a Joint Committee Coordinator, who is an Audit Division regional specialist. In cases in which such a protest has been made or such a petition docketed, the report to the Joint Committee is prepared by an Appellate Division conferee.

(c) Procedure after report to Joint Committee. After compliance with section 6405 of the Code, the case is processed for issuance of a certificate of overassessment, and payment or credit of any overpayment. If the final determination involves a rejection of a claimed overpayment in whole or in part, a statutory notice of disallowance will be sent by certified or registered mail to the taxpayer, except where the taxpayer has filed a written waiver of such notice of disallowance.

PAR. 8. Section 601.109 is amended by revising subparagraphs (1) and (3) of paragraph (b). These amended provisions read as follows:

§ 601.109 Bankruptcy and receivership cases.

(b) Procedure in office of district director. (1) While the district director is required by section 6871 of the Code to make immediate assessment of any deficiency in income, estate, or gift taxes, such assessment is not made as a jeopardy assessment (see paragraph (h) of § 601.105), and the provisions of section 6861 of the Code do not apply to any assessment made under section 6871. Therefore, the notice of deficiency provided for in section 6861(b) will not be mailed to the taxpayer. Nevertheless,

a letter (Form 7900) will be prepared and addressed in the name of the taxpayer, immediately followed by the name of the trustee, receiver, debtor in possession, or other person designated to be in control of the assets or affairs of the debtor by the court in which the bankruptcy or receivership proceeding is pending. Such letter will state how the deficiency was computed, advise that within 30 days a written protest under penalties of perjury may be filed with the district director showing wherein the deficiency is claimed to be incorrect, and advise that upon request a district conference will be granted with respect to such deficiency. If, after protest is filed and a district conference is held, adjustment appears necessary in the deficiency, appropriate action will be taken. Except where the interests of the Government require otherwise, Form 7900 letters are issued by the office of the district director. If at the time of the adjudication of bankruptcy in a liquidating proceeding, the approval of a petition in any other proceeding under the Bankruptcy Act, or appointment of a receiver, a case was pending before the Tax Court, the prescribed Form 7900 letter will not advise the addressee of any right to request a conference in the office of the district director. Protests must be filed in triplicate. The district conference procedures described in paragraph (c) of § 601.105 are generally applicable to a district conference held after the issuance of a Form 7900 letter.

(3) If after such assessment a claim for abatement is filed and such claim is accompanied by a request in writing for a conference, a district conference in the office of the district director of internal revenue will be granted. Ordinarily, only one conference will be held, unless it develops that additional information can be furnished which has a material bearing upon the tax liability, in which event the conference will be continued to a later date.

PAR. 9. Section 601.201 is amended by revising subparagraphs (1), (2), and (6) of paragraph (a), paragraph (c) (4), subparagraphs (2), (6), (7), and (9) of paragraph (e), paragraph (f) (2), subparagraphs (1), (7), and (8) of paragraph (l), paragraph (m), and subparagraphs (2) and (11) (i) and (ii) of paragraph (n). These amended provisions read as follows:

§ 601.201 Rulings and determination letters.

(a) General practice and definitions.

(1) It is the practice of the Internal Revenue Service to answer inquiries of individuals and organizations, whenever appropriate in the interest of sound tax administration, as to their status for tax purposes and as to the tax effects of their acts or transactions. One of the functions of the National Office of the Internal Revenue Service is to issue rulings in such matters. District directors apply the statutes, regulations, Revenue Rulings, and other precedents published in

the Internal Revenue Bulletin in the determination of tax liability, the collection of taxes, and the issuance of determination letters in answer to taxpayers' inquiries or requests. For purposes of this section any reference to district director or district office also includes, where appropriate, the office of the Director, Office of International Operations.

(2) A "ruling" is a written statement issued to a taxpayer or his authorized representative by the National Office which interprets and applies the tax laws to a specific set of facts. Rulings are issued only by the National Office. The issuance of rulings is under the general supervision of the Assistant Commissioner (Technical) and has been largely redelegated to the Directors of three divisions: Director, Income Tax Division; Director, Exempt Organization and Pension Trust Division; and Director, Miscellaneous Tax Division.

(6) A "closing agreement", as the term is used in this section, is an agreement between the Commissioner of Internal Revenue or his delegate and a taxpayer with respect to a specific issue or issues entered into pursuant to the authority contained in section 7121 of the Code. Such a closing agreement is based on a ruling which has been signed by the Commissioner or his delegate and in which the Commissioner or his delegate indicates that he will enter into a closing agreement on the basis of the holding of the ruling letter. Closing agreements are final and conclusive except upon a showing of fraud, malfeasance, or misrepresentation of a material fact. They may be entered into where it is advantageous to have the matter permanently and conclusively closed, or where a taxpayer can show good and sufficient reasons for an agreement and the Government will sustain no disadvantage by its consummation.

(c) Determination letters issued by district directors of internal revenue.

(4) Notwithstanding the provisions of subparagraphs (1), (2), (3), (5), and (6) of this paragraph, a district director may not issue a determination letter in response to an inquiry, although the inquiry presents a question covered specifically by statute, regulations, rulings, etc., published in the Internal Revenue Bulletin, where (i) it appears that the taxpayer has directed a similar inquiry to the National Office, (ii) the identical issue is pending in a case before the Appellate Division, (iii) the determination letter is requested by an industry, trade association, or similar group, or (iv) the request involves an industry-wide problem. Under no circumstances will a district director issue a determination letter unless it is clearly indicated that the inquiry is with regard to a taxpayer or taxpayers who have filed or are required to file returns in the district under his supervision. Notwithstanding the provision of subparagraph (3) of this paragraph, a district director may not issue a determination letter on an em-

ployment tax question when the specific question involved has been or is being considered by the National Office of the Social Security Administration. Nor may district directors issue determination letters on excise tax questions if the request is for a determination of fair market price under section 4216(b) or 4218 of the Code. However, the National Office will issue rulings in this area. See paragraph (d) (3) of this section.

(e) Instructions to taxpayers.

(2) Each request for a determination letter or a ruling must contain a complete statement of facts relating to the transaction. This includes, but is not necessarily limited to, the names, addresses, and taxpayer account numbers of all interested parties; the district office where each file or will file its return or report; a full and precise statement of the business reasons for the transactions; and true copies of all contracts, wills, deeds, agreements, or other documents involved in the transaction. The request must contain a statement whether, to the best of the knowledge of the taxpayer or his representative, the identical issue is being considered by any field office of the Service in connection with an active examination or audit of a tax return already filed. Such statement will enable the Service to rule with full knowledge of the consequences of the ruling. Where the request pertains to only one step of a larger integrated transaction, the facts, circumstances, etc., must be submitted with respect to the entire transaction. (The term "all interested parties" is not to be construed as requiring a list of all shareholders of a widely held corporation requesting a ruling relating to a reorganization, or a list of employees where a large number may be involved in a plan.) As documents and exhibits become a part of the Internal Revenue Service file and cannot be returned, the original documents should not be submitted. When documents and exhibits are submitted, they must be accompanied by an analysis of their bearing on the issue or issues, specifying the pertinent provisions. If the request is with respect to a corporate distribution, reorganization, or other similar or related transaction, the corporate balance sheet nearest the date of the transaction should be submitted. (If the request relates to a prospective transaction, the most recent balance sheet should be submitted.)

(6) A request for a ruling by the National Office should be addressed to the Commissioner of Internal Revenue, Washington, D.C., 20224. A request for a determination letter should be addressed to the district director of internal revenue for the district with which the tax return of the taxpayer has been filed or is required to be filed. See also paragraphs (n) and (o) of this section.

(7) Any request for a ruling or a determination letter which does not comply with all the provisions of this section will be acknowledged, pointing out the requirements which have not been met.

See Subpart E for power of attorney requirements.

(9) It is the practice of the Service to process requests for rulings or determination letters in regular order and as expeditiously as possible. Compliance with a request for consideration of a particular matter ahead of its regular order, or by a specified time, tends to delay the disposition of other matters. Requests for processing ahead of the regular order, made in writing and showing clear need for such treatment, will be given consideration as the particular circumstances warrant. However, no assurance can be given that any ruling or determination letter will be processed by the time requested. Requests by telegram will be treated in the same manner as requests by letter. Rulings and determination letters ordinarily will not be issued by telegram. A taxpayer or his representative desiring to obtain information as to the status of his case may do so by contacting the appropriate division in the office of the Assistant Commissioner (Technical).

(f) *Conferences in the National Office.*

(2) A taxpayer is entitled as a matter of right, to only one conference in the National Office unless one of the circumstances discussed in this paragraph exists. This conference will usually be held at the branch level of the appropriate division in the office of the Assistant Commissioner (Technical) and will usually be attended by a person who has authority to act for the branch chief. (See § 601.201(a)(2) for the divisions involved.) If more than one subject is to be discussed at the conference, the discussion will constitute a conference with respect to each subject. At the request of the taxpayer or his representative, the conference may be held at an earlier stage in the consideration of the case than the Service would ordinarily designate. No taxpayer has a "right" to appeal the action of a branch to a Division Director or to any other official of the Service.

(1) *Effect of rulings.* (1) A ruling, except to the extent incorporated in a closing agreement, may be revoked or modified at any time in the wise administration of the taxing statutes. See paragraph (a)(6) of this section for the effect of a closing agreement. If a ruling is revoked or modified, the revocation or modification applies to all open years under the statutes, unless the Assistant Commissioner (Compliance) or the Assistant Commissioner (Technical) exercises the discretionary powers delegated to him under section 7805(b) of the Code to limit the retroactive effect of the ruling. The Assistant Commissioner (Compliance) exercises such powers with respect to rulings concerning alcohol, tobacco, and firearms taxes other than the manufacturers excise tax on firearms arising from the application of sections 4181 and 4182 of the Code. The Assistant

Commissioner (Technical) exercises such powers with respect to rulings issued by or pursuant to authorization from him relating to the internal revenue laws concerning taxes other than those for which the Assistant Commissioner (Compliance) has responsibility. The manner in which such Assistant Commissioners generally will exercise this power is set forth in this paragraph. With reference to rulings relating to the sale or lease of articles subject to the manufacturers excise tax and the retailers excise tax, see specifically subparagraph (8) of this paragraph.

(7) If a ruling is issued covering a continuing action or a series of actions and it is determined that the ruling was in error or no longer in accord with the position of the Service, the appropriate Assistant Commissioner ordinarily will limit the retroactivity of the revocation or modification to a date not earlier than that on which the original ruling was modified or revoked. To illustrate, if a taxpayer rendered service or provided a facility which is subject to the excise tax on services or facilities, and in reliance on a ruling issued to the same taxpayer did not pass the tax on to the user of the Service or the facility, the appropriate Assistant Commissioner ordinarily will restrict the retroactive application to the revocation or modification of the ruling.

(8) A ruling holding that the sale or lease of a particular article is subject to the manufacturers excise tax may not revoke or modify retroactively a prior ruling holding the sale or lease of such article was not taxable, if the taxpayer to whom the ruling was issued, in reliance upon such prior ruling, parted with possession or ownership of the article without passing the tax on to his customer. Section 1108(b), Revenue Act of 1926.

(m) *Effect of determination letters.* A determination letter issued by a district director, in accordance with this section, shall be given the same effect upon examination of the return of the taxpayer to whom the determination letter was issued as is described in paragraph (1) of this section, in the case of a ruling issued to a taxpayer, except that reference to the National Office is not necessary where, upon the examination of the return, it is the opinion of the district director that a conclusion contrary to that expressed in the determination letter is indicated. A district director may not limit the modification or revocation of a determination letter, but may refer the matter to the National Office for exercise by the Assistant Commissioner (Technical) of his authority to limit the modification or revocation.

(n) *Organization claiming exemption under section 501 or 521 of the Code.*

(2) Requests other than in the form of an application for exemption, involving the provisions of section 502 of the Code relating to feeder corporations, section 503 relating to prohibited transactions, section 504 relating to accumulation of

income, or sections 511 through 515 relating to unrelated business income, should be forwarded to the Commissioner of Internal Revenue, Washington, D.C., 20224. In this connection see subparagraph (7) of this paragraph and paragraphs (a) through (m) of this section.

(11) (i) If a district director concludes, in the course of examining an information return, or from any other source, that a ruling or a determination letter holding an organization to be exempt should be revoked or modified, the organization will be advised in writing of the proposed action and the reasons therefor. The district office will also advise the organization of its rights to protest the proposed action by submitting a statement of facts, law, and arguments in support of its continued exemption, and of its rights to a conference in the district office.

(ii) If the organization agrees with the proposed action, either before or after a district conference, or if no protest is filed, the district director will advise the organization in writing of the revocation or modification of the exemption status.

PAR. 10. Section 601.202 is amended by revising paragraphs (b), (c), and (d). These amended provisions read as follows:

§ 601.202 Closing agreements.

(b) *Use of prescribed forms.* In cases in which it is proposed to close conclusively the total tax liability for a taxable period ending prior to the date of the agreement, Form 866, Agreement as to Final Determination of Tax Liability, will be used. In cases in which agreement has been reached as to the disposition of one or more issues and a closing agreement is considered necessary to insure consistent treatment of such issues in any other taxable period Form 906, Closing Agreement as to Final Determination Covering Specific Matters, generally will be used. A request for a closing agreement which determines tax liability may be submitted at any time before the determination of such liability becomes a matter within the province of a court of competent jurisdiction. The request should be submitted to the district director of internal revenue with whom the return for the period involved was filed. However, if the matter to which the request relates is pending before an office of the Appellate Division, the request should be submitted to that office. A request for a closing agreement which relates only to a subsequent period should be submitted to the Commissioner of Internal Revenue, Washington, D.C., 20224.

(c) *Review and approval.* All closing agreements initiated in the field offices are reviewed in the Appellate Division of the National Office. After review in the Appellate Division these closing agreements are referred to the Office of the Assistant Commissioner (Compliance) as authorized in Delegation Order 97 (Rev. 1), I.R.B. 1965-40, 23. After

approval of a closing agreement affecting or relating to tax liability for a period ending subsequent to the date of the agreement, the appropriate regional commissioner or district director is fully advised as to the basis of the agreement in order that, by the maintenance of proper controls, the Government may be insured against loss through the failure to give effect to all the terms thereof in the determination of taxes for periods ending subsequent to the date of the agreement.

(d) *Applicability of ruling requirements.* The requirements relating to requests for rulings (see § 601.201) shall be applicable with respect to requests for closing agreements pertaining to future periods only (see paragraph (b) of § 601.202).

PAR. 11. Section 601.203 is amended by revising paragraph (a) (1), subdivisions (iii) and (iv) of subparagraph (1) and subparagraphs (3) and (4) of paragraph (c), and paragraph (d). These amended provisions read as follows:

§ 601.203 Offers in compromise.

(a) *General.* (1) The Commissioner may compromise, in accordance with the provisions of section 7122 of the Code, any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense. Certain functions of the Commissioner with respect to compromise of civil cases involving liability under \$100,000, and of certain specific penalties involving only the regulatory provisions of the Code and related statutes, have been delegated to district directors. In civil cases involving liability of \$500 or over and in criminal cases the functions of the General Counsel are performed by the Chief Counsel for the Internal Revenue Service. In certain cases these functions are performed in the National Office and in other cases by Regional Counsel. (See also paragraph (c) of this section.)

(c) *Consideration of offer.* (1) * * * (iii) Accept the offer if it involves a civil liability of \$500 or more, but less than \$100,000, or involves a specific penalty (including in the case of narcotics, smoking opium, and marihuana taxes only those specific penalties which involve delinquency in registration or delinquency in payment), and the Regional Counsel concurs in the acceptance of the offer, or

(iv) Recommend to the National Office the acceptance of the offer if it involves a civil liability of \$100,000 or over.

(3) The district directors are authorized to reject any offer in compromise referred for their consideration. Unacceptable offers considered by the Chief Counsel, regional counsel, or the Appellate Division are also rejected by district directors. If an offer is not acceptable, the taxpayer is promptly notified of the rejection of that offer. If an offer is rejected, the sum submitted with the offer is return by the district director to the

proponent, unless the taxpayer, in submitting the offer, authorized the district director to retain the sum submitted with the offer. A selective post review of offers rejected by a district director involving liabilities totaling \$5,000 or more is made by each regional commissioner. A selected post review of offers rejected by the Director of International Operations involving liabilities totaling \$5,000 or more is made by the Audit Division of the National Office.

(4) If an offer involving unpaid liability of \$100,000 or more is considered acceptable by the office having jurisdiction over the offer, a recommendation for acceptance is forwarded to the Audit Division in the National Office for review. If the Audit Division approves the recommendation for acceptance, the offer is forwarded to the Office of the Chief Counsel for approval. After approval by the Office of the Chief Counsel, it is forwarded to the Commissioner for acceptance. The taxpayer is notified of the acceptance of the offer in accordance with its terms. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

(d) *Conferences.* Before filing a formal offer in compromise, a taxpayer may request a conference in the office which would have jurisdiction of the offer filed by him for the purpose of exploring the possibilities of compromising the unpaid tax liability. A conference may also be requested by the taxpayer in the office which has jurisdiction of the offer filed by him after all investigations have been made for the purpose of determining the amount which may be accepted as a compromise. If the offer is one with respect to which the district director has processing jurisdiction and the proponent does not agree with the rejection or proposed rejection, and neither the internal revenue agent nor the conferee of the district director's office has been able to convince the proponent of the correctness of the conclusion reached, the proponent will be apprised of his privilege of submitting a request in writing, accompanied by a protest, for a district conference. If the controversial issues cannot be resolved at the district conference level, the taxpayer may appeal the case to the appropriate Appellate branch office for a conference provided the required protest has been filed. The procedure outlined in the preceding sentence will not be followed if the offer relates to a tax over which the Appellate Division has no authority (see paragraph (a) (3) of § 601.106). Taxpayers and their representatives are required to fulfill and comply with the applicable conference and practice requirements. See Subpart E.

PAR. 12. Section 601.204 is amended to read as follows:

§ 601.204 Changes in accounting periods and in methods of accounting.

(a) *Accounting periods.* A taxpayer who changes his accounting period shall,

before using the new period for income tax purposes, comply with the provisions of the income tax regulations relating to changes in accounting periods. In cases where the regulations require the taxpayer to secure the consent of the Commissioner to the change, the application for permission to change the accounting period shall be made on Form 1128 and shall be submitted to the Commissioner of Internal Revenue, Washington, D.C., 20224, within the period of time prescribed in such regulations. See section 442 and the regulations thereunder (under the 1939 Code, § 39.46-1 of Regulations 118) (26 CFR Rev. 1953, Parts 1-79, 39.46-1). If the change is approved by the Commissioner, the taxpayer shall thereafter make his returns and compute his net income upon the basis of the new accounting period. A request for permission to change the accounting period will be considered by the Income Tax Division.

(b) *Methods of accounting.* A taxpayer who changes the method of accounting employed in keeping his books shall, before computing his income upon such method for purposes of income taxation, comply with the provisions of the income tax regulations relating to changes in accounting methods. The regulations require that, in the ordinary case, the taxpayer secure the consent of the Commissioner to the change. See section 446 of the Code and the regulations thereunder. Application for permission to change the method of accounting employed shall be made on Form 3115 and shall be submitted to the Commissioner of Internal Revenue, Washington, D.C., 20224, within 90 days after the beginning of the taxable year in which it is desired to make the change. Permission to change the method of accounting will not be granted unless the taxpayer and the Commissioner agree to the terms and conditions under which the change will be effected. The request will be considered by the Income Tax Division.

(c) *Verification of changes.* Written permission to a taxpayer by the National Office consenting to a change in his annual accounting period or to a change in his accounting method is a "ruling." Therefore, in the examination of returns involving changes of annual accounting periods and methods of accounting, district directors must determine whether the representations upon which the permission was granted reflect an accurate statement of the material facts, and whether the agreed terms, conditions, and adjustments have been substantially carried out as proposed.

PAR. 13. Section 601.205 is amended to read as follows:

§ 601.205 Tort claims.

Claims for property loss or damage, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the Service, acting within the scope of his office or employment, filed under the Federal Tort Claims Act, as amended, must be prepared and filed in accordance with Treasury Department regulations entitled "Central Office Pro-

cedures" and "Claims Regulations" (31 CFR Parts 1 and 3). Such regulations contain the procedural and substantive requirements relative to such claims, and set forth the manner in which they are handled. The claims should be filed with the Commissioner of Internal Revenue, Washington, D.C., 20224, and must be filed within 2 years after the accident or incident occurred.

PAR. 14. The heading for Subpart C of Part 601 is amended to read as follows:

Subpart C—Provisions Relating to Distilled Spirits, Wines, Beer, Cigars, Cigarettes, and Cigarette Papers and Tubes and Certain Firearms

PAR. 15. Section 601.301 is amended by revising the introductory language of paragraph (c), by deleting subdivision (vi) of subparagraph (2) of paragraph (c), by redesignating subdivisions (ii), (iii), (iv), and (v) of subparagraph (2) of paragraph (c) as subdivisions (iii), (iv), (v), and (vi), respectively, by adding a new subdivision (ii) to subparagraph (2) of paragraph (c), and by revising subparagraphs (4), (12), (16), (18), (21), and (28) of paragraph (c). These amended and added provisions read as follows:

§ 601.301 Imposition of taxes, qualification requirements, and regulations.

(c) *Regulations.* The procedural requirements with respect to matters relating to distilled spirits, wines, and beer which are within the jurisdiction of the Alcohol and Tobacco Tax Division are published in the regulations described in this paragraph. These regulations contain full information as to the general course and method by which the functions concerning liquors are channeled and determined, including the nature and requirements of formal and informal procedures, the forms, records, reports, and other documents required, and contents of applications, notices, registrations, permits, bonds, and other documents. Supplies of prescribed forms may be obtained from the offices of assistant regional commissioners (alcohol and tobacco tax), except that Forms 52-A, 52-B, 122, 133, 338, 2051, 2054-2060, 2621, and 2637 must be provided by the users at their own expense. Users and commercial printers may procure specimen copies of such forms from such offices. The following is a brief description of the several regulations arranged according to the principal subjects and operations concerned:

(2) *Miscellaneous liquor transactions.*

(ii) Authorizations to execute bonds and consents on behalf of corporate sureties;

(iii) Refunds of tax and duty paid on distilled spirits, wine, rectified products, and beer lost as a result of floods, hurricanes, or other disasters;

(iv) Application of section 6423, Internal Revenue Code of 1954, as amended, to refund or credit of tax on distilled spirits, wines, and beer;

(v) Regulations in effect on June 30, 1959, which were prescribed on July 1, 1959, as interim regulations; and

(vi) Manufacture and sale of certain compounds, preparations, and products containing alcohol.

(4) *Manufacture and use of containers of distilled spirits.* Part 175 of this chapter contains the regulations relating to the traffic in containers of distilled spirits of a capacity of not more than 5 wine gallons. The regulations cover the manufacture, sale, and use of liquor bottles for packaging distilled spirits for other than industrial use; use of liquor bottles for purposes other than packaging distilled spirits; labeling of distilled spirits; permits and revocation proceedings; imports and exports of liquor bottles; records, reports, and inventories of liquor bottles; reuse or refilling of liquor bottles (see also Part 194 of this chapter); and the purchase, sale, and possession of refilled or used liquor bottles.

(1) *Production and removal of wine.* Part 240 of this chapter contains the regulations relative to the establishment and operation of bonded wine cellars, including bonded wineries, for the production, cellar treatment, and storage of wines, including amelioration, sweetening, addition of volatile fruit-flavor concentrates, addition of wine spirits (including distillates containing aldehydes), blending, and other cellar treatment; removals; taxpayment; return of unmerchantable taxpaid wine; use of wine for distilling material and manufacture of vinegar; and record and report requirements.

(16) *Establishment and operations of breweries.* Part 245 of this chapter contains the regulations relating to the production (including concentration and reconstitution incident thereto) and removal of beer and cereal beverages. The regulations cover the location, construction, equipment, and operations of breweries; and the qualification of such establishments, including the ownership, control and management thereof.

(18) *Liquor dealers.* Part 194 of this chapter contains the regulations relative to the special (occupational) taxes imposed on wholesale and retail dealers in liquors, wholesale and retail dealers in beer, and limited retail dealers; restrictions on purchases of distilled spirits; reuse or refilling of liquor bottles (see also Part 175 of this chapter); sale or possession of refilled or used liquor bottles; repackaging of alcohol for industrial use; recordkeeping and reporting requirements; and provisions relating to entry of premises and inspection of records by internal revenue officers.

(21) *Production of volatile fruit-flavor concentrates.* Part 198 of this chapter contains the regulations relating to the manufacture, removal, sale, storage, transfer in bond, transportation, recordkeeping and reporting requirements, and use of volatile fruit-flavor concentrates. It includes provisions regarding the location, qualification, use, and operations of concentrate plants.

(28) *Exportation of liquors.* Part 252 of this chapter contains the regulations relating to exportation (including, where applicable, lading for use on vessels and aircraft, transfer to a foreign-trade zone, or transfer to a manufacturing bonded warehouse, Class 6, of distilled spirits (including specially denatured spirits), beer (including beer concentrate), and wine, whether without payment of tax, free of tax, or with benefit of drawback. It includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

PAR. 16. Section 601.306 is revised to read as follows:

§ 601.306 Application for approval of interlocking directors and officers under section 8 of the Federal Alcohol Administration Act.

Any person who is an officer or director of a corporation now engaged in business as a distiller, rectifier, or blender of distilled spirits, or of an affiliate thereof, who desires to take office in other companies similarly engaged, must obtain permission to do so from the Director of the Alcohol and Tobacco Tax Division. Applications for such permission to take office shall be prepared and filed in accordance with instructions available from the assistant regional commissioner (alcohol and tobacco tax) or from the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C., 20224.

PAR. 17. Section 601.307 is amended to read as follows:

§ 601.307 Rulings.

The procedure for rulings in alcohol tax matters is set forth in § 601.328.

PAR. 18. Section 601.309 is amended to read as follows:

§ 601.309 Representatives.

Subpart E, conference and practice requirements, is applicable to all representatives of the taxpayer before the Service, in the office of the Director, Alcohol and Tobacco Tax Division, or in the office of the assistant regional commissioner (alcohol and tobacco tax).

PAR. 19. The center heading preceding § 601.311 is amended to read as follows:

CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

PAR. 20. Section 601.311 is amended to read as follows:

§ 601.311 Imposition of taxes; regulations.

(a) *Taxes.* Subchapter A of chapter 52 of the Internal Revenue Code of 1954,

as amended, imposes taxes on cigars, cigarettes, and cigarette papers and tubes manufactured in or imported into the United States. Subchapter D of chapter 78 of the Code imposes a tax (equal to the internal revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture) on cigars, cigarettes, and cigarette papers and tubes of Puerto Rican manufacture brought into the United States and withdrawn for consumption or sale, and on such articles brought into the United States from the Virgin Islands.

(b) *Regulations.* The procedural requirements with respect to matters relating to cigars, cigarettes, and cigarette papers and tubes are contained in the regulations listed below:

(1) Part 200 of this chapter relates to the procedure and practice in connection with the disapproval of applications for permits, and the suspension and revocation of permits, under chapter 52 of the Code.

(2) Part 270 of this chapter relates to the manufacture of cigars and cigarettes; the payment by manufacturers of cigars and cigarettes of internal revenue taxes imposed by chapter 52 of the Code; and the qualification of and operations by manufacturers of cigars and cigarettes.

(3) Part 275 of this chapter relates to cigars, cigarettes, and cigarette papers, and tubes imported into the United States from a foreign country or brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States; the removal of cigars from a customs bonded manufacturing warehouse, Class 6; and the release of such articles from customs custody, without payment of internal revenue tax or customs duty attributable to the internal revenue tax.

(4) Part 285 of this chapter relates to the manufacture of cigarette papers and tubes; the payment by manufacturers of cigarette papers and tubes of internal revenue taxes imposed by chapter 52 of the Code; and the qualification of and operations by manufacturers of such articles.

(5) Part 290 of this chapter relates to the exportation (including supplies for vessels and aircraft and transfers to a foreign-trade zone) of cigars, cigarettes, and cigarette papers and tubes, without payment of tax, or with benefit of drawback of tax, and the qualification of and operations by export warehouse proprietors.

(6) Part 295 of this chapter relates to the removal of cigars, cigarettes, and cigarette papers, and tubes, without payment of tax, for use of the United States.

(7) Part 296 of this chapter relates to the provisions of a miscellaneous nature or not of continuing application. Included are regulations relating to:

(i) Limitations imposed by section 6423 of the Code on the refund or credit of tax paid or collected on cigars, cigarettes, and cigarette papers and tubes;

(ii) Losses of cigars, cigarettes, and cigarette papers and tubes caused by

disasters occurring in the United States on or after September 3, 1958;

(iii) Purchase, receipt, possession, offering for sale, or sale or other disposition of cigars and cigarettes by dealers in such products;

(iv) Authorizations to execute bonds and extensions of coverage of bonds on behalf of corporate sureties; and

(v) Periods to be covered by tax returns filed by manufacturers for the deferred payment of taxes on cigars and cigarettes.

PAR. 21. Section 601.312 is amended by revising paragraphs (b), (b-1), and (d). These amended provisions read as follows:

§ 601.312 Qualification and bonding requirements.

(b) *Manufacturers of cigarette papers and tubes.* Every person, before commencing business as a manufacturer of cigarette papers and tubes, is required to qualify with the Internal Revenue Service by filing bond and other required documents with the assistant regional commissioner (alcohol and tobacco tax) for the region in which operations are to be conducted.

(b-1) *Puerto Rican manufacturers of cigars and cigarettes.* Every manufacturer of cigars and cigarettes in Puerto Rico who desires to defer payment in Puerto Rico of the internal revenue tax imposed by section 7652(a) of the Code on cigars and cigarettes of Puerto Rico manufacture coming into the United States must file a bond with the Director's Representative of the Office of International Operations, in Puerto Rico. Such bond is conditioned on the principal's paying, at the time and in the manner prescribed in the regulations, the full amount of tax computed on the tobacco products which are released for shipment to the United States. No bond is required if the tax is prepaid.

(d) *Drawback of tax.* Taxpaid cigars, cigarettes, and cigarette papers and tubes may be exported with benefit of drawback of tax. Drawback may be allowed only to the person who paid the tax on such articles and who files claim and otherwise complies with the provisions contained in the applicable regulations referred to in § 601.311. As a condition precedent to the allowance of any drawback claim, the claimant is required to file a bond in an amount not less than the amount of tax covered in the claim.

PAR. 22. Section 601.313 is amended by revising paragraphs (a) and (c). These amended provisions read as follows:

§ 601.313 Collection of taxes.

(a) *Cigars and cigarettes.* Taxes on cigars and cigarettes are paid by the manufacturer on the basis of a return. If the manufacturer has filed a proper bond, he may defer payment at the time of removal and file semimonthly returns to cover the taxes. If the manufacturer has not filed such a bond or if he has de-

faulted in any way in paying his taxes, he is required to file a prepayment return prior to removal of such products, and to continue so doing until the assistant regional commissioner (alcohol and tobacco tax) finds that the revenue will not be jeopardized by deferred payment. Tax returns, with remittances, are filed by the domestic manufacturer with the appropriate district director of internal revenue. Taxes on cigars produced in a customs bonded manufacturing warehouse, Class 6, are paid on the basis of a return to the collector of customs in accordance with customs procedures and regulations. Taxes on cigars and cigarettes imported or brought into the United States from a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are paid by the importer to the collector of customs on the basis of a return made on the customs form by which release from customs custody is to be effected. However, taxes on cigars and cigarettes manufactured in Puerto Rico and brought into the United States may be prepaid in Puerto Rico on the basis of a return. If a Puerto Rican manufacturer has filed a proper bond, he may defer payment at the time of release for shipment to the United States and file a semimonthly return to cover the taxes. If the manufacturer has not filed such a bond or if he has defaulted in any way in payment of his taxes, he must file a prepayment return prior to removal of such products for shipment to the United States, and continue to do so until the Director's Representative of the Office of International Operations in Puerto Rico finds that the revenue will not be jeopardized by deferred payment. Tax returns in Puerto Rico, with remittances, are filed with the Director's Representative.

(c) *General.* Detailed information about the payment of taxes on cigars, cigarettes, and cigarette papers and tubes, including the forms to be used, records to be kept, and reports and inventories to be filed, is contained in the respective regulations referred to in § 601.311.

PAR. 23. Section 601.314 is amended to read as follows:

§ 601.314 Assessments.

When additional or delinquent tax liability on cigars, cigarettes, and cigarette papers and tubes is disclosed by an investigation or by an examination of the taxpayer's records, a notice (except where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error) is forwarded to the taxpayer advising him of the basis for, and amount of, the liability and affording him an opportunity to show cause, in writing, against assessment.

PAR. 24. Section 601.315 is amended by revising paragraphs (a), (b), (c), (d), (e), and (f) and adding a new paragraph (g). These amended and added provisions read as follows:

§ 601.315 Claims.

(a) *Abatement of assessment.* Abatement of the unpaid portion of an assessment of any tax on cigars, cigarettes, and cigarette papers and tubes, or any liability in respect thereof, may be allowed to the extent that such assessment is excessive in amount, is assessed after expiration of the applicable period of limitation, or is erroneously or illegally assessed. The taxpayer against whom such assessment has been made may file a claim for abatement of the tax on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the tax or liability was assessed.

(b) *Allowance of tax.* Relief from the payment of tax on cigars, cigarettes, and cigarette papers and tubes may be extended to a manufacturer by allowance of the tax, where such articles, after removal from the factory upon determination of tax and prior to the time for payment of such tax, are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such articles, or are withdrawn by him from the market. A claim for allowance is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the cigars, cigarettes, and cigarette papers and tubes were removed from the factory. A manufacturer may not anticipate allowance of his claim by making an adjusting entry in a tax return, pending consideration and action on the claim by the assistant regional commissioner.

(c) *Remission of tax liability.* Remission of tax liability on cigars, cigarettes, and cigarette papers and tubes may be extended to a manufacturer or export warehouse proprietor liable for the tax, where such articles, before removal, or after removal for tax-exempt purposes (including transfers in bond), are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer or export warehouse proprietor. Remission of tax liability on shortages of cigars and cigarettes in bond may be extended to manufacturers of these products. A claim for remission of such tax liability is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the factory or warehouse is located.

(d) *Refund of tax.* Taxes paid by return, or otherwise, on cigars, cigarettes, and cigarette papers and tubes lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, importer, or export warehouse proprietor, or withdrawn by him from the market, may be refunded. A claim for refund of tax is filed on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the tax was paid. If tax was paid in more than one region, a claim may be filed with the assistant regional

commissioner for any one of the regions in which tax was paid.

(e) *Losses caused by disaster.* Payment of an amount equal to the amount of internal revenue taxes paid or determined and customs duties paid on cigars, cigarettes, and cigarette papers and tubes removed from the factory or released from customs custody, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of a "major disaster" as determined by the President of the United States, may be made only if, at the time of the disaster, such articles were being held for sale by the claimant. A claim for payment of the internal revenue taxes for such losses is filed on Form 843 with the assistant regional commissioner (alcohol and tobacco tax) for the internal revenue region in which the articles were lost, rendered unmarketable, or condemned. A separate claim in respect of customs duties is also filed on Form 843 with the same assistant regional commissioner.

(f) *Drawback of tax.* Drawback may be allowed only to the person who paid the tax on cigars, cigarettes, and cigarette papers and tubes which are shipped to a foreign country, Puerto Rico, and the Virgin Islands, or a possession of the United States. A claim for drawback of tax is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which such articles covered by the claim are held by the claimant. See the appropriate regulation listed under § 601.311 for information as to proper form to be used.

(g) *Credit of tax.* Taxes paid on cigars, cigarettes, and cigarette papers and tubes lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, or withdrawn by him from the market, may be credited. A claim for credit of tax is filed with the assistant regional commissioner (alcohol and tobacco tax) for the region in which the tax was paid. If the tax was paid in more than one region, a claim may be filed with the assistant regional commissioner for any one of the regions in which tax was paid. See the appropriate regulation listed under § 601.311 for information as to the proper form to be used.

PAR. 25. Section 601.317 is amended to read as follows:

§ 601.317 Rulings.

The procedure for rulings in tobacco tax matters is set forth in § 601.328.

PAR. 26. Section 601.319 is amended to read as follows:

§ 601.319 Applicable laws.

Chapter 53 of the Internal Revenue Code of 1954 (26 U.S.C. 5801-5862), the provisions of which are chiefly derived from the National Firearms Act, as amended (act of June 26, 1934, 48 Stat. 1236), imposes a tax on the manufacture, and transfer in the United States, of machine guns and certain other types of firearms, and an occupational tax

upon every importer and manufacturer of, and dealer and pawnbroker in, such machine guns and firearms. Section 1(b)(2) of the act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. 781-788) make provision for the seizure of vessels, vehicles and aircraft on which are transported, carried, or possessed, any firearm with respect to which there has been committed any violation of the National Firearms Act or any regulations issued pursuant thereto. The Federal Firearms Act (53 Stat. 1250; 15 U.S.C. 901-909) makes it unlawful for any manufacturer or dealer (except a manufacturer or dealer having a license issued under the provisions of the act), or any person who is a fugitive from justice or, except as provided in § 177.31 of this chapter, any person who is under indictment for, or has been convicted of, a crime punishable by imprisonment for a term exceeding one year, to transport, ship, or receive in interstate or foreign commerce any firearm or ammunition.

PAR. 27. Section 601.322 is amended to read as follows:

§ 601.322 Rulings.

The procedure for rulings in matters in the firearms area is set forth in § 601.328.

PAR. 28. Section 601.327 is amended to read as follows:

§ 601.327 Offers in compromise.

(a) *Liabilities (other than forfeiture) under Internal Revenue Code.* Persons desiring to submit offers in compromise in order to avoid prosecution proceedings, and taxpayers who disclaim liability in whole or in part for taxes or claim inability to pay the taxes in full, may submit offers in compromise to the district director of internal revenue. Each assistant regional commissioner (alcohol and tobacco tax) has the authority to accept or reject offers in compromise of (1) tax liabilities arising from (i) the illegal production of untaxed distilled spirits, wines, or beer, (ii) the failure to file returns of, or to pay, occupational taxes with respect to distilled spirits, wines, beer, or firearms, and (iii) the failure to pay firearms "making" or transfer taxes; (2) criminal liabilities of retail dealers in liquor arising from violations of the internal revenue laws relating to liquor, including the reuse or refilling of liquor bottles; and (3) liabilities arising under chapter 52 of the Code (cigars, cigarettes, and cigarette papers and tubes). The Director, Alcohol and Tobacco Tax Division, has the authority to accept or reject offers in compromise of civil liability (of less than \$100,000) and criminal liability arising under chapters 51 and 53 of the Code in cases not subject to compromise by assistant regional commissioner (alcohol and tobacco tax). The Commissioner accepts or rejects all other offers in compromise except those in compromise of liabilities listed in paragraphs (b) and (c) of this section. (For offers in compromise generally, see § 601.203.) Form 656 is used in all cases arising under this paragraph,

regardless of whether the amount of the offer is tendered in full at the time the offer is filed or the amount of the offer is to be paid by deferred payment or payments. Offers received by the district director which come within the purview of the assistant regional commissioner (alcohol and tobacco tax) or the Director, Alcohol and Tobacco Tax Division, are forwarded to such assistant regional commissioner for consideration and appropriate action. When final action has been taken, the district director, the assistant regional commissioner (when applicable), and the proponent are notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer is returned to the proponent, and prosecution or collection proceedings are resumed. If the offer is accepted, the proponent is notified and the case is closed. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

(b) *Violations of Federal Alcohol Administration Act.* The Federal Alcohol Administration Act provides penalties for violations of its provisions. The Director, Alcohol and Tobacco Tax Division, is authorized to compromise such liabilities. Persons desiring to submit offers in compromise may submit such offers on Form 656-D to the assistant regional commissioner (alcohol and tobacco tax) or an internal revenue officer under his jurisdiction. Such offers are considered by such assistant regional commissioner and are forwarded to the Director, Alcohol and Tobacco Tax Division, for final action. When the offer is acted upon, the proponent and the assistant regional commissioner (alcohol and tobacco tax) are notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed.

(c) *Forfeiture liabilities.* The assistant regional commissioner (alcohol and tobacco tax) is authorized to compromise liabilities to administrative forfeiture of personal property seized under the laws administered and enforced by the Internal Revenue Service, including the internal revenue laws pertaining to wagering. Persons desiring to submit offers in compromise of such liabilities may submit such offers on Form 656-E to the supervisor-in-charge (alcohol and tobacco tax). Such offers are forwarded to the assistant regional commissioner (alcohol and tobacco tax) for final action. When the offer is acted upon, the proponent and the assistant regional commissioner (alcohol and tobacco tax) are notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in com-

promise of criminal liabilities remit civil liabilities.

PAR. 29. The following new center heading and regulations are inserted following § 601.327:

RULINGS

§ 601.328 Rulings.

(a) *Requests for rulings.* Any person who is in doubt as to any matter arising in connection with:

(1) Operations or transactions in the alcohol tax area or under the Federal Alcohol Administration Act;

(2) Operations or transactions in the tobacco tax area; or

(3) The taxes relating to machineguns and certain other firearms imposed by chapter 53 of the Code; the registration by importers and manufacturers of, and dealers in such firearms; the registration of such firearms; and the licensing of manufacturers of, and dealers in, firearms or ammunition under sections 901 through 909 of title 15 of the United States Code, may request a ruling thereon by addressing a letter to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C., 20224, or the assistant regional commissioner (alcohol and tobacco tax) of the region in which the inquirer's business is located. Since a ruling as defined in paragraph (a) (2) of § 601.201 can issue only from the National Office, any such request made to an assistant regional commissioner will be referred by him to the Director, Alcohol and Tobacco Tax Division, for reply unless the issues involved are clearly covered by currently effective rulings or come within the plain intent of the statutes or regulations.

(b) *Routine requests for information.* Routine requests for information should be addressed to the assistant regional commissioner (alcohol and tobacco tax) of the region in which the inquirer is located.

PAR. 30. Section 601.402 is amended by revising paragraph (a), subparagraphs (1) and (3) of paragraph (c), and subparagraphs (1) and (2) of paragraph (d). These amended provisions read as follows:

§ 601.402 Sales taxes collected by return.

(a) *General.* Sales taxes collected by return include the following:

(1) The retailers excise taxes, imposed by chapter 31 of the Code, with respect to:

Diesel fuel;
Special motor fuels.

(2) The manufacturers excise taxes, imposed by chapter 32 of the Code, with respect to the following items:

(i) Motor vehicles and related items:

Automobiles, trucks, buses, trailers;
Truck parts and accessories;
Tires, tubes, and tread rubber;
Gasoline and lubricating oil.

(ii) Recreational equipment:

Fishing rods, creels, and reels;
Artificial lures, baits and flies;
Pistols and revolvers;
Other firearms, shells, and cartridges.

(c) *Returns, refunds, and credits—(1) Returns.* The sales taxes referred to in paragraph (a) of this section are collected by means of returns. Any person liable for tax is required to file returns with the district director of internal revenue for the district in which the principal place of business of such person is located. A procedure similar to the Depositary Receipt procedure with respect to the payment of certain Federal employment taxes, described in paragraph (a) (5) of § 601.401, is prescribed with respect to the sales taxes referred to in paragraph (a) of this section. For information relating to the use of depositary receipts for the payment of such taxes, see the applicable regulations and the instructions on Form 720, Quarterly Federal Excise Tax Return.

(3) *Payments to certain ultimate purchasers of gasoline and lubricating oil.* Sections 6420, 6421, and 6424 of the Code provide for certain payments to ultimate purchasers of gasoline used on a farm for farming purposes, used for certain nonhighway purposes, or used by local transit systems, and of lubricating oil used otherwise than in a highway motor vehicle. For periods after June 30, 1965, payments allowable under sections 6420, 6421, and 6424 of the Code may be taken by an income taxpayer as a credit against the tax due on his income tax return. Governmental agencies and certain exempt organizations may file claims for allowable payments on Form 2240 or Form 843. Applicable regulations and instructions accompanying the prescribed forms provide detailed procedures.

(d) *Registration and bonding requirements.* (1) Under temporary regulations effective January 1, 1959, an article may, in general, be sold tax free under chapter 32 of the Code by the manufacturer for certain uses, provided the seller, first purchaser, and second purchaser, as the case may be, have been registered. In the case of State governments, registration is optional. Also, the requirements for registration do not apply to sales or purchases by the United States, or to a purchaser located in a foreign country or a possession of the United States where an article is sold for export. Any person who has been issued a certificate of registry prior to January 1, 1959, which has not been revoked, is registered for purposes of the temporary regulations. Any other person entitled to sell or purchase articles tax free under such regulations who has not previously registered, may register by completing Form 637 setting forth the prescribed information and forwarding it to his district director. Such person shall be considered to be registered for purposes of making such tax-free sales or purchases upon receipt of a validated Form 637 from his district director.

(2) If not previously registered, producers and importers of gasoline and manufacturers of lubricating oil (including wholesale distributors of gasoline who qualify as producers under applicable regulations) must, before incurring any liability for tax under section 4081 or

4091 of the Code, make application for registration on Form 637. Detailed instructions as to the filing of applications for registration by producers and importers of gasoline and manufacturers of lubricating oil are prescribed in applicable regulations.

PAR. 31. Section 601.403 is amended by revising paragraph (a) and subparagraphs (1) and (2) of paragraph (c), by deleting subparagraph (1) of paragraph (e), and by redesignating subparagraphs (2) and (3) of paragraph (e) as subparagraphs (1) and (2) respectively. These amended provisions read as follows:

§ 601.403 Miscellaneous excise taxes collected by return.

(a) *General.* Miscellaneous excise taxes collected by return include the following:

(1) *Communications.* Subchapter B of chapter 33 of the Code imposes a tax on amounts paid for local telephone service, toll telephone service, and teletypewriter exchange service.

(2) *Transportation of persons by air.* Subchapter C of chapter 33 of the Code imposes a tax with respect to transportation of persons by air, including seating or sleeping accommodations furnished in connection with such transportation.

(3) *Foreign insurance policies.* Chapter 34 of the Code imposes a tax on the issuance of foreign insurance policies.

(4) *Wagers.* Subchapter A of chapter 35 of the Code imposes a tax on wagers as defined therein.

(5) *Highway motor vehicle use.* Subchapter D of chapter 36 of the Code imposes a tax for each taxable year (commencing after June 30, 1956, and ending before October 1, 1972) upon the use, at any time during the taxable year, on the public highways in the United States of any highway motor vehicle which (together with certain semitrailers and trailers) has a taxable gross weight in excess of 26,000 pounds.

(6) *Sugar.* Chapter 37 of the Code also imposes a tax upon manufactured sugar manufactured in the United States.

(7) *Circulation other than of national banks.* Subchapter E of chapter 39 of the Code imposes a tax with respect to (i) the average circulation outstanding of any bank, association, corporation, company or person, and (ii) the circulation paid out by every person, firm, association other than national bank associations, and every corporation, State bank, or State banking association.

(8) *Interest equalization.* Chapter 41 of the Code imposes (subject to specified exemptions) a tax on the acquisition by United States persons of foreign securities from a foreign person. The tax became effective July 19, 1963.

(9) *Hydraulic mining.* The act entitled "An Act to create the California Debris Commission and regulate hydraulic mining in the State of California," approved March 1, 1893, as amended (33 U.S.C. 661-687), imposes a tax with respect to certain hydraulic gold mining in the State of California.

(c) *Collection of tax—(1) Imposed taxes.* The tax on the manufacture of sugar is collected in the same manner as manufacturers sales taxes. See § 601.402. The tax on the use of highway motor vehicles, the tax on wagers, the tax on hydraulic mining, and the tax on circulation other than of national banks are also collected by means of returns. The returns of the tax on wagers are required to be filed monthly; returns of the taxes on hydraulic mining and on the use of highway motor vehicles are required to be filed annually; and the returns of the tax on circulation are required to be filed on June 1 and December 1 of each calendar year.

(2) *Collected taxes.* The other miscellaneous excise taxes referred to in this section are imposed on the person making the payment for the telephone, air transportation or other service involved. These taxes are required to be collected by the telephone company, airline, or other person receiving the payment. All taxes collected in this manner are held by the collecting agent in trust for the United States until deposited in accordance with the Depositary Receipt procedure or paid over to the district director of internal revenue. The collecting agencies are required to file returns and the tax is payable, without notice from the district director, at the time fixed for filing the returns. If the person from whom the tax is required to be collected refuses to pay it or, if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency is required to report to the district director of internal revenue for the district in which its returns are required to be filed the name and address of such person, the nature of the service or facility rendered, the amount paid therefor, and the date on which paid. Upon receipt of this information the district director will proceed against the person to whom the facilities were provided or the services rendered to assert the amount of tax due, affording such person the same district conference, protest and appellate rights as are available to other excise taxpayers. In addition, when a field or office audit of a collecting agency's records, or of a taxpayer's records, discloses that the collecting agency failed during prior reporting periods to collect taxes due, the district director may assert such taxes directly against the person to whom the facilities were provided or the services rendered, whether or not the collecting agency had attempted collection or the person liable for the tax had refused payment thereof.

(e) *Licensing and registration—(1) Hydraulic mining.*

(2) *Wagering.*

PAR. 32. Section 601.404 is amended by revising paragraph (b) (1), by deleting paragraph (b) (3), by deleting paragraph (c) (7), by redesignating paragraph (c) (8) as paragraph (c) (7), by revising paragraph (d) (2), by deleting paragraph (d) (3), by revising paragraphs (f) (1), (f) (2), and (f) (4), by revising paragraph (g), by deleting paragraph (i),

by revising paragraphs (j) (1) and (j) (3), and by revising paragraph (k). These amended provisions read as follows:

§ 601.404 Miscellaneous excise taxes collected by sale of revenue stamps.

(b) *Documentary stamp taxes—(1). Deeds of conveyance.* Chapter 34 of the Internal Revenue Code imposes a tax on deeds of conveyance of realty sold.

(c) *Commodity stamp taxes.*

(7) *White phosphorous matches.*

(d) *Occupational stamp taxes.*

(2) *Coin-operated gaming devices.* Subchapter B of chapter 36 of the Code imposes an occupational tax with respect to coin-operated gaming devices, or similar devices operated without a coin.

(f) *General procedure.* (1) The documentary and commodity stamp taxes are paid by having affixed to the document, package, container, etc., an internal revenue adhesive stamp or stamps, in an amount equal to the tax due and by thereafter canceling such stamps in the manner prescribed. In addition, documentary stamp taxes may be paid by stamps produced by authorized documentary stamp meter machines. Payment of occupational taxes is evidenced by the posting or displaying of a special occupational tax stamp on the premises where the business is operated. If the taxpayer required to display the special occupational tax stamp has no fixed place of business, the stamp must be kept on his person. The stamps used for such purposes are prepared by the Internal Revenue Service and distributed through the district director of internal revenue.

(2) Documentary stamp taxes are payable with respect to every transfer of real property. Commodity stamp taxes are payable with respect to the manufacture, importation, or transfer, as the case may be, of the contents of each package or container. Occupational taxes are payable annually for the privilege of doing business beginning with July 1 of each year, when the taxpayer is in business on that date, or from the beginning of the month in which the business is commenced on a pro rata basis.

(4) Payments for such stamps may be made by means of cash, post office money order, or certified check, or by personal check to the extent provided by regulations. In situations (i) where the documents, commodities, etc., subject to stamp tax are no longer in existence or (ii) where, for other reasons, such documents, etc., cannot be stamped, or (iii) where it is discovered that occupational tax stamps are due for prior taxable years, or (iv) where a taxpayer, after being advised of his liability, refuses to affix stamps, the tax is collected by assessment.

(g) *Liability for delinquent tax.* When liability for delinquent tax is dis-

closed by the taxpayer or is discovered as a result of an examination of the taxpayer's books and records, the delinquent tax may be collected by assessment.

(i) [Deleted]

(j) *Provisions special to commodity stamp taxes.* (1) Provision is made for the withdrawal of filled cheese from factories, free of tax, for the use of the United States. The procedure to be followed and the form of exemption certificate to be used in the case of such withdrawals are prescribed in the applicable regulations. Provision is also made for the exportation without payment of tax on adulterated butter. The procedure to be followed in the case of such exportation is prescribed in the applicable regulations.

(3) Every manufacturer of adulterated and process or renovated butter, filled cheese, or white phosphorous matches must also give notice and register with the district director on Form 213 before engaging in the business and furnish a satisfactory bond on Form 214. Persons required to register with the district director or furnish bond should consult the applicable regulations and the appropriate forms.

(k) *Provisions applicable to special or occupational stamp taxes.* Every person liable to pay any occupational tax imposed under subtitle D of the Code is required to register with the district director of internal revenue his name or style, place of residence, trade or business, and the place where such trade or business is carried on. In the case of a partnership the names of the partners and their place of residence must be so registered. See section 7011 of the Code. The following forms are prescribed for registration: Form 678 (relating to occupational taxes with respect to narcotics and marihuana), Form 11 (relating to adulterated and process or renovated butter and filled cheese), Form 11-B (relating to the occupational tax for coin-operated gaming devices), Form 11-C (relating to occupational tax with respect to wagering).

PAR. 33. Section 601.601 is amended by revising paragraph (a) (1) and paragraph (c). These amended provisions read as follows:

§ 601.601 Rules and regulations.

(a) *Formulation.* (1) Internal revenue rules take various forms. The most important rules are issued as regulations and Treasury decisions, prescribed by the Commissioner and approved by the Secretary or his delegate. Other rules may be issued over the signature of the Commissioner or the signature of any other official to whom authority has been delegated. The channeling of rules varies with the circumstances. Regulations and Treasury decisions, except those relating to alcohol, tobacco, and certain firearms, are prepared in the Office of the Chief Counsel. Alcohol, tobacco, and certain firearms regulations and Treas-

ury decisions are prepared in the Office of the Assistant Commissioner (Compliance) and reviewed in the Office of the Chief Counsel. After approval by the Commissioner (and, in the case of regulations relating to narcotics and certain regulations relating to alcohol and tobacco taxes, the approval of the Commissioner of Narcotics or the Commissioner of Customs, as the case may be), regulations and Treasury decisions are forwarded to the Secretary or his delegate for further consideration and final approval.

(c) *Petition to change rules.* Interested persons are privileged to petition for the issuance, amendment, or repeal of a rule. A petition for the issuance of a rule should identify the section or sections of law involved; and a petition for the amendment or repeal of a rule should set forth the section or sections of the regulations involved. The petition should also set forth the reasons for the requested action. Such petitions will be given careful consideration and the petitioner will be advised of the action taken thereon. Petitions should be addressed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C., 20224.

PAR. 34. Paragraph (c) of section 601.602 is amended to read as follows:

§ 601.602 Forms and instructions.

(c) *Procurement of forms and instructions.* Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from district directors of internal revenue or, where appropriate, from assistant regional commissioners (alcohol and tobacco tax).

PAR. 35. Section 601.702 is amended by revising paragraphs (a) (4), (a) (7), and (d) (1). These amended provisions read as follows:

§ 601.702 Publication and public inspection.

(a) *General.* * * *

(4) *Record of seizure and sale of real estate.* Record 21, "Record of seizure and sale of real estate," is open for public inspection in offices of district directors of internal revenue and copies are furnished on application. See Treasury Decision 5428, approved January 11, 1945, 10 F.R. 622. However, Record 21 does not list real estate seized for forfeiture under the internal revenue laws (section 7302 of the Code).

(7) *Information returns of certain tax-exempt organizations and certain trusts.* Information furnished on the public portion of Form 990-A and information furnished pursuant to section 6034 of the Code (relating to annual information required of trusts claiming deduction under section 642(c) of the Code) on Form 1041-A is available for public inspection. The public inspection portion of Form 990-A is, however, only retained for a 4-year period. Informa-

tion furnished for years ending prior to December 31, 1962, shall be available for public inspection in the office of the district director with whom the Form 990-A or Form 1041-A was filed. Information furnished for years ending on or after December 31, 1962, shall be available for public inspection in the Office of the Director, Public Information Division, Internal Revenue Service, Washington, D.C., 20224, as well as in the office of the district director with whom the forms were filed.

(d) *Requests.* (1) Requests for information in connection with matters of official record in which the procedure for inspection is not set out in rules referred to in the preceding paragraphs of this section should be submitted to the Commissioner of Internal Revenue, Washington, D.C., 20224. The request should clearly state the information desired and must set forth the interest of the applicant in the subject matter and purpose for which the information is desired. If the applicant is an agent or attorney acting for another he will attach to the application evidence of his authority to act for his principal. If such evidence is satisfactory, such agent or attorney will be given access to any record to which his principal would be given access. The determination as to whether the information requested is available for disclosure in any particular case will be made by the Commissioner of Internal Revenue or such other officer authorized under the provisions of law referred to in paragraph (a) of this section.

(R.S. 161; 5 U.S.C. 22)

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

[F.R. Doc. 66-1665; Filed, Feb. 16, 1966;
8:45 a.m.]

Title 29—LABOR

Chapter XIV—Equal Employment Opportunity Commission

PART 1602—RECORDS AND REPORTS

Employer Reporting and Record-keeping Requirements

Pursuant to the authority vested in it by section 709(c) of the Civil Rights Act of 1964, 78 Stat. 263, and after consideration of the testimony and statements submitted to it in response to its notice of proposed rule making published November 25, 1965 (30 F.R. 14658), and at the public hearing held December 16, 1965, in accordance with such notice, the Equal Employment Opportunity Commission hereby amends Title 29, Chapter XIV of the Code of Federal Regulations by designating §§ 1602.2 through 1602.6 as "Subpart A—Procedure" and by adding thereafter the following Subparts B and C. In view of the publicity already accorded to the proposed rule and the fact that the rule adopted herein calls

for compliance on or before March 31, 1966, the Commission finds no useful purpose would be served by delay in the effective date and accordingly this rule shall become effective on the date of its publication in the *FEDERAL REGISTER*.

Subpart B—Employer Information Report

- Sec.
1602.7 Requirement for filing of report.
1602.8 Penalty for making of willfully false statements on report.
1602.9 Commission's remedy for employer's failure to file report.
1602.10 Employer's exemption from reporting requirements.
1602.11 Additional reporting requirements.

Subpart C—Recordkeeping by Employers

- 1602.12 Records to be made or kept.
1602.13 Records as to racial or ethnic identity of employees.
1602.14 Preservation of records made or kept.

AUTHORITY: The provisions of subparts B and C issued under section 709, 713, 78 Stat. 263, 265.

Subpart B—Employer Information Report

§ 1602.7 Requirement for filing of report.

On or before March 31, 1966, every employer subject to Title VII of the Civil Rights Act shall file with the Commission or its delegate executed copies of the "Equal Employment Opportunity Employer Information Report EEO-1," Standard Form 100.¹ The definitions, instructions, and requirements contained in the form and the Instructions attached thereto are specifically incorporated herein and shall have the same force and effect as the other sections of this part. One copy of the Report and Instructions is being mailed by the Commission to every employer known to be subject to Title VII, but it is the responsibility of each such employer to obtain all necessary supplies of same prior to the filing date from The Joint Reporting Committee, 1800 G Street NW., Washington, D.C., 20506.

§ 1602.8 Penalty for making of willfully false statements on report.

The making of willfully false statements on Report EEO-1 is a violation of the United States Code, Title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

§ 1602.9 Commission's remedy for employer's failure to file report.

Any employer failing or refusing to file Report EEO-1 when required to do so may be compelled to file by order of a U.S. District Court, upon application of the Commission.

§ 1602.10 Employer's exemption from reporting requirements.

If an employer is engaged in activities for which the reporting unit criteria described in section 4(c) of the Instructions are not readily adaptable, special reporting procedures may be required. In such case, the employer should so advise by submitting to the Commission

¹ Filed as part of the original document.

or its delegate a specific proposal for an alternative reporting system prior to the date on which the report is due. If it is claimed the preparation or filing of the report would create undue hardship, the employer may apply to the Commission for an exemption from the requirements set forth in this part.

§ 1602.11 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as the Employer Information Report EEO-1, about the employment practices of individual employers or groups of employers whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of Title VII. Any system for the requirement of such reports will be established in accordance with the procedures referred to in section 709(c) of Title VII and as otherwise prescribed by law.

Subpart C—Record-Keeping by Employers

§ 1602.12 Records to be made or kept.

The Commission has not adopted any requirement, generally applicable to employers, that records be made or kept. It reserves the right to impose record-keeping requirements upon individual employers or groups of employers subject to its jurisdiction whenever, in its judgment, such records (a) are necessary for the effective operation of the EEO-1 reporting system or of any special or supplemental reporting system as described above; or (b) are further required to accomplish the purposes of Title VII. Such record-keeping requirements will be adopted in accordance with the procedures referred to in section 709(c), and as otherwise prescribed by law.

§ 1602.13 Records as to racial or ethnic identity of employees.

Employers may acquire the information necessary for completion of Items 5 and 6 of Report EEO-1 either by visual surveys of the work force, or at their option, by the maintenance of post-employment records as to the identity of employees where the same is permitted by State law. In the latter case, however, the Commission recommends the maintenance of a permanent record as to the racial or ethnic identity of an individual for purpose of completing the report form only where the employer keeps such records separately from the employee's basic personnel form or other records available to those responsible for personnel decisions, e.g., as part of an automatic data processing system in the payroll department.

§ 1602.14 Preservation of records made or kept.

(a) Unless the employer is subject to a State or local fair employment practice law or regulation governing the preservation of records and containing requirements inconsistent with those stated in this part, any personnel or employment record made or kept by an employer (in-

cluding but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the employer for a period of 6 months from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 6 months from the date of termination. Where a charge of discrimination has been filed, or an action brought by the Attorney General, against an employer under Title VII, the respondent employer shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The term "personnel records relevant to the charge," for example, would include personnel or employment records relating to the charging party and to all other employees holding positions similar to that held or sought by the charging party; and applications forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the charging party applied and was rejected. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which a charging party may bring an action in a U.S. District Court or, where an action is brought against an employer either by a charging party or by the Attorney General, the date on which such litigation is terminated.

(b) The requirements of this section shall not apply to application forms and other pre-employment records of applicants for positions known to applicants to be of a temporary or seasonal nature.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

FRANKLIN D. ROOSEVELT, Jr.,
Chairman.

FEBRUARY 11, 1966.
[F.R. Doc. 66-1694; Filed, Feb. 16, 1966;
8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

TYLOSIN

The Commissioner of Food and Drugs, having evaluated the data submitted in a