

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 204, 213, 215, 220, 221, 222, 226, 227, 233, 235, 236, 237, 240, 425, 426, 804, 805, 812 and 841

[Docket No. N-82-1172]

Notice of Postponement of Effective Dates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of postponement of effective dates for certain recent interim and final rules.

SUMMARY: This notice postpones the effective dates for certain recently published interim and final rules because of the unanticipated early recess of Congress.

DATES: The effective dates of each of the rules cited below are postponed until further notice.

FOR FURTHER INFORMATION CONTACT:

Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10278, 451 7th Street, SW., Washington, D.C. 20410, telephone no. (202) 755-7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Pursuant to section 7(o)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o)(3), no interim or final rule issued by the Department may become effective until 30 calendar days of continuous session of Congress have passed following the rule's date of publication in the *Federal Register*. The Department recently has published in the *Federal Register* the rules listed below. Effective dates were announced at the time of publication based on a projection of the necessary Congressional session-days and on an October 7, 1982 adjournment of the Congress. The Congress, however, has recessed as of October 1, 1982, and plans to resume its session in late November 1982. This unanticipated early recess of Congress has interrupted the necessary 30-day period required by Section 7(o)(3) for the rules listed below. Accordingly, the effective dates listed in these rules are stayed, and announcement of the new effective dates for these rules will be published by Notice in the *Federal Register* after Congress returns and those dates can be determined.

Section 7(o)(4) of the Department of Housing and Urban Development Act authorizes waiver of the delayed effective date requirement if concurred in by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. If waiver is granted for any of the rules listed, notice of that waiver and of the newly established effective date based thereon will be published in the *Federal Register*.

24 CFR Part 200. Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Interim rule published August 17, 1982, Docket No. R-82-1004 (47 FR 35760)

24 CFR Parts 203, 204, 213, 220, 221, 222, 226, 227, 233, 235, 237 and 240. Single Family Waiver Authority Final rule published August 18, 1982, Docket No. R-82-952 (47 FR 5957)

24 CFR Parts 215, 236, 425 and 426. Rent Supplement Regulations Interim rule published August 24, 1982, Docket No. R-82-1006 (47 FR 36814)

24 CFR Part 812. Definition of Family Income Final rule published August 31, 1982, Docket No. R-82-772 (47 FR 38282)

24 CFR Parts 804, 805 and 841. Low Rent Housing Homeownership Opportunities (Turnkey III); Indian Housing: Public Housing Development Phase; Maximum Limit on Total Development Cost Final rule published September 8, 1982, Docket No. R-82-856 (47 FR 39480)

Dated: October 4, 1982.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 82-27887 Filed 10-6-82; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 53, 54 and 301

[T.D. 7838; EE-159-78]

Procedure and Administration of Certain Excise Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to Procedure and Administration with respect to Chapters 41, 42, 43, and 44 (relating to excise taxes and black lung benefit trusts), and the unrelated business income tax, all under the Internal Revenue Code. Changes in the applicable law were made by the Tax Reform Act of 1969, the

Employee Retirement Income Security Act of 1974, the Tax Reform Act of 1976, and the Revenue Act of 1978. These regulations would provide the public with the guidance needed to comply with those Acts and would affect all persons liable for tax under Chapters 41, 42, 43, and 44 of the Code.

DATES: The amendments are effective at varying dates dependent upon the effective date of the underlying excise tax. In general, the Code sections imposing the taxes are effective as follows:

26 U.S.C.	Subject	Effective date
§ 4911	Excess lobbying expenditures of public charities.	Taxable years beginning after Dec. 31, 1976.
§ 4940	Investment income of private foundations.	Taxable years beginning after Dec. 31, 1969.
§ 4941	Self-dealing by private foundations.	Jan. 1, 1970.
§ 4942	Failure by private foundation to distribute income.	Taxable years beginning after Dec. 31, 1969.
§ 4943	Excess business holdings of private foundations.	Taxable years beginning after Dec. 31, 1969.
§ 4944	Investments that jeopardize charitable purpose of private foundations.	Jan. 1, 1970.
§ 4945	Taxable expenditures of private foundations.	Jan. 1, 1970.
§ 4951	Self-dealing by black lung benefit trusts.	Taxable years beginning after Dec. 31, 1977.
§ 4952	Taxable expenditures of black lung benefit trusts.	Taxable years beginning after Dec. 31, 1977.
§ 4953	Excess contributions to black lung benefit trusts.	Taxable years beginning after Dec. 31, 1977.
§ 4971	Failure by pension plan to meet minimum funding standard.	Plan years beginning after Dec. 31, 1975 or after Sept. 2, 1974.
§ 4972	Excess contributions for self-employed individuals.	Taxable years beginning after Dec. 31, 1975.
§ 4973	Excess contributions to IRA's, etc.	Jan. 1, 1975.
§ 4974	Excess accumulations in IRA's, etc.	Jan. 1, 1975.
§ 4975	Prohibited transactions by pension plans.	Jan. 1, 1975.
§ 4981	Undistributed income of REIT's.	Taxable years beginning after Oct. 4, 1976.

FOR FURTHER INFORMATION CONTACT:

Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1980, the *Federal Register* published proposed amendments to the Income Tax Regulations (26 CFR Part 1), the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53), Pension

Excise Taxes (26 CFR Part 54), and the Regulations on Procedure and Administration (26 CFR Part 301) under various provisions of the Internal Revenue Code of 1954. These amendments were proposed to conform the regulations relating to procedure and administration of the excise taxes to present law.

Only a few minor comments were received with respect to the proposed amendments, and no public hearing was requested or held. This Treasury decision does not reflect any changes made by the Windfall Profit Tax Act of 1980, or those changes made by Pub. L. 96-596, enacted December 24, 1980. The proposed amendments are adopted by this Treasury decision with minor changes.

Executive Order 12291 and Regulatory Flexibility Act

The Internal Revenue Service has determined that this document does not contain a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is, therefore, not required.

Although this document adopts final regulations, the Internal Revenue Service has concluded that the regulations adopted herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these regulations is Leonard S. Hirsh of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR Parts 1.6001-1—1.6109-2

Income taxes, Filing requirements.

26 CFR Part 53

Excise taxes, Foundations, Trusts and trustees.

26 CFR Part 54

Excise taxes, Pensions.

26 CFR Part 301

Administrative practice and procedure, Excise taxes, Filing requirements, Income taxes, Investigations, Pensions.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Parts 1, 53, 54, and 301 are hereby adopted subject to the changes set forth below:

Pension Excise Taxes

[26 CFR Part 54]

Paragraph 1. Section 54.6011-1, as set forth in paragraph 6 of the notice of proposed rulemaking, is amended by revising paragraph (a) to read as follows:

§ 54.6011-1 General requirement of return, statement, or list.

(a) *Minimum funding standards or excess contributions for self-employed individuals and section 403(b)(7)(A) custodial accounts.* Any employer or individual liable for tax under section 4971, 4972 or 4973(a)(2) (for a custodial account under section 403(b)(7)(A)) shall file an annual return of Form 5330 and shall include therein the information required by such form and the instructions issued with respect thereto.

Procedure and Administration

[26 CFR Part 301]

Par. 2. Section 301.6501(e)-1, as set forth in paragraph 12 of the notice of proposed rulemaking, is amended by:

1. Inserting the following sentence at the end of paragraph (c)(3)(i): "If a private foundation discloses in its return (or in a schedule or statement attached thereto) the nature, source, and amount of any income giving rise to any omitted tax, the tax arising from such income shall be counted as reported on the return in computing whether the foundation has omitted more than 25 percent of the tax reported on its return."

2. Inserting the following sentence at the end of paragraph (c)(5): "If a real estate investment trust discloses in its return (or in a schedule or statement attached thereto) the nature, source, and amount of any income giving rise to any omitted tax, the tax arising from such income shall be counted as reported on the return in computing whether the trust has omitted more than 25 percent of the tax reported on its return."

Par. 3. Section 301.6501(n)-1, as set forth in paragraph 13 of the notice of proposed rulemaking, is amended by:

1. Inserting "(2)" in the second sentence of paragraph (a)(1), immediately following the phrase "section 4947(a)".

2. Inserting "(a) or section 4941(b)" immediately following the phrase "section 4941" in the third sentence of the example in paragraph (c).

Par. 4. Section 301.7422-1, as set forth in paragraph 24 of the notice of proposed rulemaking, is amended by:

1. Inserting "and 43" immediately following the phrase "chapter 42" in the title.

1a. Inserting "of the United States Claims Court or" immediately following the word "decision" in paragraph (a)(1).

1b. Deleting the phrase "Court of Claims" from paragraph (a)(2) and inserting the phrase "Claims Court" in its place.

1c. Inserting a "." after the phrase "District Court" in paragraph (a)(2).

2. Inserting "(d)(2)(iii)(a)" immediately following the phrase "pursuant to § 53.4941(e)-1" in the second sentence of the example in paragraph (c).

3. Inserting "(d)(2)(iv)" immediately following the phrase "§ 53.4941(e)-1" in the third and fourth sentences of the example in paragraph (c).

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 8, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

Title 26 of the Code of Federal Regulations, Parts 1, 53, 54 and 301 are amended as set forth below:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.6012-2(e) is revised to read as follows:

§ 1.6012-2 Corporations required to make returns of income.

(e) *Charitable and other organizations with unrelated business income.* Every organization described in section 511(a)(2) which is subject to the tax imposed by section 511(a)(1) on its unrelated business taxable income shall make a return on Form 990-T for each taxable year if it has gross income, included in computing unrelated business taxable income for such taxable year, of \$1,000 or more. The filing of a return of unrelated business income does not relieve the organization of the duty of filing other required returns.

Par. 2. Section 1.6012-3(a)(5) is revised to read as follows:

§ 1.6012-3 Returns by fiduciaries.

(a) *For estates and trusts.* * * *

(5) *Trusts with unrelated business income.* Every fiduciary for a trust described in section 511(b)(2) which is subject to the tax on its unrelated business taxable income by section 511(b)(1) shall make a return on Form 990-T for each taxable year if the trust has gross income, included in computing unrelated business taxable income for such taxable year, of \$1,000 or more. The filing of a return of unrelated business income does not relieve the fiduciary of

such trust from the duty of filing other required returns.

Par. 3. Paragraph (a)(2)(i) of § 1.6033-2 is amended by adding a new sentence at the end to read as follows:

§ 1.6033-2 Returns by exempt organizations; taxable years beginning after December 31, 1969.

(a) *In general.* * * *

(2)(i) * * * For taxable years beginning after December 31, 1977, every section 501(c)(21) black lung trust shall file an annual information return on Form 990-BL or any other form prescribed by the Internal Revenue Service for that purpose.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 4. A new paragraph (e) is added to § 53.6011-1 to read as follows:

§ 53.6011-1 General requirement of return, statement, or list.

(e) For taxable years beginning after December 31, 1977, every person liable for tax under section 4951, 4952, or 4953 (relating to taxes on self-dealing, taxable expenditures, and excess contributions involving black lung benefit trusts) shall file an annual return with respect to the tax on the form prescribed by the Internal Revenue Service for that purpose. The person liable for the tax shall include the information required by the form and its related instructions.

Par. 5. Section 53.6071-1 is amended by changing a cross reference in paragraph (a) and adding a new paragraph (d). The revised paragraph (a) and new paragraph (d) read as follows:

§ 53.6071-1 Time for filing returns.

(a) *General rule.* Except as otherwise provided in this section, a return required by § 53.6011-1 shall be filed at the time the private foundation or trust described in section 4947(a)(2) is required to file its annual information or tax return under section 6033 or 6012 (as may be applicable).

(d) *Taxes related to black lung benefit trusts.* Forms 990-BL and 6069 shall be filed on or before the 15th day of the fifth month following the close of the filer's taxable year.

PART 54—PENSION EXCISE TAXES

Par. 6. New § 54.6011-1 is added to read as follows:

§ 54.6011-1 General requirement of return, statement, or list.

(a) *Minimum funding standards or excess contributions for self-employed individuals and section 403(b)(7)(A) custodial accounts.* Any employer or individual liable for tax under section 4971, 4972 or 4973(a)(2) (for a custodial account under section 403(b)(7)(A)) shall file an annual return on Form 5330 and shall include therein the information required by such form and the instructions issued with respect thereto.

(b) *Tax on prohibited transactions.* Every disqualified person (as defined in section 4975(e)(2)) liable for the tax imposed under section 4975(a) with respect to a prohibited transaction shall file an annual return on Form 5330 and shall include therein the information required by such form and the instructions issued with respect thereto. The annual return on Form 5330 shall be filed with respect to each prohibited transaction and for each taxable year (or part thereof) of the disqualified person in the taxable period (as defined in section 4975(f)(2)) beginning on the date on which such prohibited transaction occurs.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 7. Section 301.6204-1 is revised to read as follows:

§ 301.6204-1 Supplemental assessments.

If any assessment is incomplete or incorrect in any material respect, the district director or the director of the regional service center, subject to the restrictions with respect to the assessment of deficiencies in income, estate, gift, chapter 41, 42, 43, and 44 taxes, and subject to the applicable period of limitation, may make a supplemental assessment for the purpose of correcting or completing the original assessment.

Par. 8. Section 301.6211-1 is amended by revising paragraph (a) and the first sentence of paragraph (f) to read as follows:

§ 301.6211-1 Deficiency defined.

(a) In the case of the income tax imposed by subtitle A of the Code, the estate tax imposed by chapter 11, subtitle B, of the Code, the gift tax imposed by chapter 12, subtitle B, of the Code, and any excise tax imposed by chapter 41, 42, 43, or 44 of the Code, the term "deficiency" means the excess of the tax, (income, estate, gift, or excise tax as the case may be) over the sum of the amount shown as such tax by the taxpayer upon his return and the amounts previously assessed (or collected without assessment) as a

deficiency; but such sum shall first be reduced by the amount of rebates made. If no return is made, or if the return (except a return of income tax pursuant to sec. 6014) does not show any tax, for the purpose of the definition "the amount shown as the tax by the taxpayer upon his return" shall be considered as zero. Accordingly, in any such case, if no deficiencies with respect to the tax have been assessed, or collected without assessment, and no rebates with respect to the tax have been made, the deficiency is the amount of the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or any excise tax imposed by chapter 41, 42, 43, or 44. Any amount shown as additional tax on an "amended return," so-called (other than amounts of additional tax which such return clearly indicates the taxpayer is protesting rather than admitting) filed after the due date of the return, shall be treated as an amount shown by the taxpayer "upon his return" for purposes of computing the amount of a deficiency.

(f) As used in section 6211, the term "rebate" means so much of an abatement, credit, refund, or other repayment as is made on the ground that the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or the excise tax imposed by chapter 41, 42, 43, or 44, is less than the excess of (1) the amount shown as the tax by the taxpayer upon the return increased by the amount previously assessed (or collected without assessment) as a deficiency over (2) the amount of rebates previously made. * * *

Par. 9. Section 301.6212-1 is amended by revising paragraph (a), (b)(1), and the first sentence of paragraph (c) to read as follows:

§ 301.6212-1 Notice of deficiency.

(a) *General rule.* If a district director or director of a service center (or regional director of appeals), determines that there is a deficiency in respect of income, estate, or gift tax imposed by subtitle A or B, or excise tax imposed by chapter 41, 42, 43, or 44, of the Code, such official is authorized to notify the taxpayer of the deficiency by either registered or certified mail.

(b) *Address for notice of deficiency—*
(1) *Income, gift, and chapter 41, 42, 43, and 44 taxes.* Unless the district director for the district in which the return in question was filed has been notified under the provisions of section 6903 as to the existence of a fiduciary relationship, notice of a deficiency in

respect of income tax, gift tax, or tax imposed by chapter 41, 42, 43, or 44 shall be sufficient if mailed to the taxpayer at his last known address, even though such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(c) *Further deficiency letters restricted.* If the district director or director of a service center (or regional director of appeals) mails to the taxpayer notice of a deficiency, and the taxpayer files a petition with the Tax Court within the prescribed period, no additional deficiency may be determined with respect to income tax for the same taxable year, gift tax for the same calendar quarter (calendar year with respect to gifts made before January 1, 1971), estate tax with respect to the taxable estate of the same decedent, chapter 41, 43, or 44 tax of the taxpayer for the same taxable year, section 4940 tax for the same taxable year, or chapter 42 tax of the taxpayer (other than under section 4940) with respect to the same act (or failure to act) to which such petition relates. *

Par. 10. Section 301.6213-1 is amended by revising paragraph (a)(2) and by adding a new paragraph (e). These revised and added provisions read as follows:

§ 301.6213-1 Restrictions applicable to deficiencies, petition to Tax Court.

(a) *Time for filing petition and restrictions on assessment.* *

(2) *Restrictions on assessment.* Except as otherwise provided by this section, by sections 6851 and 6861(a) (relating to termination and jeopardy assessments), by section 6871(a) (relating to immediate assessment of claims for income, estate, and gift taxes in bankruptcy and receivership cases), or by section 7485 (in case taxpayer petitions for a review of a Tax Court decision without filing bond), no assessment of a deficiency in respect of a tax imposed by subtitle A or B or chapter 41, 42, 43, or 44 of the Code and no levy or proceeding in court for its collection shall be made until notice of deficiency has been mailed to the taxpayer, nor until the expiration of the 90-day or 150-day period within which a petition may be filed with the Tax Court, nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. As to the date on which a decision of the Tax court becomes final, see section 7481. Notwithstanding the provisions of section 7421(a), the making of an assessment or the beginning of a proceeding or levy which is forbidden by this paragraph may be enjoined by a

proceeding in the proper court. In any case where the running of the time prescribed for filing a petition in the Tax Court with respect to a tax imposed by chapter 42 or 43 is suspended under section 6213(e), no assessment of a deficiency in respect of such tax shall be made until expiration of the entire period for filing the petition. *

(e) *Suspension of filing period for certain chapter 42 and chapter 43 taxes.* The period prescribed by section 6213(a) for filing a petition in the Tax Court with respect to the taxes imposed by section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975, shall be suspended for any other period which the Commissioner has allowed for making correction under section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6). Where the time for filing a petition with the Tax Court has been suspended under the authority of this paragraph (e), the extension shall not be reduced as a result of the correction being made prior to expiration of the period allowed for making correction.

Par. 11. Section 301.6501(c)—1 is amended by revising paragraph (c) to read as follows:

§ 301.6501(c)-1 Exceptions to general period of limitations on assessments and collections.

(c) *No return.* In the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after the date prescribed for filing the return. For special rules relating to filing a return for chapter 42 and similar taxes, see §§ 301.6501(n)-1, 301.6501(n)-2, and 301.6501(n)-3. *

Par. 12. Section 301.6501(e)-1 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 301.6501(e)-1 Omission from return.

(c) *Excise taxes.*—(1) *In general.* If the taxpayer omits from a return of a tax imposed under a provision of subtitle D an amount properly includable thereon, which amount is in excess of 25 percent of the amount of tax reported thereon, the tax may be assessed or a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the return was filed. For special rules relating to chapter 41, 42, 43, and 44 taxes, see subparagraphs (2), (3), (4), and (5) of this paragraph.

(2) *Chapter 41 excise taxes.* If an organization discloses an expenditure in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the district director or director of a service center of the existing and nature of such expenditure, the three year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax under chapter 41 arising from such expenditure. If a taxpayer fails to so disclose an expenditure in its return (or in a schedule or statement attached thereto), the tax arising from the expenditure not so disclosed may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(3) *Chapter 42 excise taxes.* (i) If a private foundation omits from its annual return with respect to the tax imposed by section 4940 an amount of tax properly includable therein which is in excess of 25 percent of the amount of tax imposed by section 4940 which is reported on the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time within 6 years after the return was filed. If a private foundation discloses in its return (or in a schedule or statement attached thereto) the nature, source, and amount of any income giving rise to any omitted tax, the tax arising from such income shall be counted as reported on the return in computing whether the foundation has omitted more than 25 percent of the tax reported on its return.

(ii) If a private foundation or trust (as the case may be) discloses an item in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the district director or director of a service center of the existence and nature of such item, the three year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax imposed under sections 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4951(a), 4952(a), and 4953 arising from any transaction disclosed by such item. If a private foundation or trust (as the case may be) fails to so disclose an item in its return (or in a schedule or statement attached thereto), the tax arising from any transaction not so disclosed may be assessed or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(4) *Chapter 43 excise taxes.* If a taxpayer discloses an item in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise

the district director or director of a service center of the existence and nature of such item, the three year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax imposed under sections 4971(a), 4972, 4973, 4974, and 4975(a) arising from any transaction disclosed by such item. If a taxpayer fails to so disclose an item in its return (or in a schedule or statement attached thereto), the tax arising from any transaction not so disclosed may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. The applicable return for the tax under sections 4971, 4972, 4973 and 4974 is the return designated by the Commissioner for reporting the respective tax. The applicable return for the tax under section 4975 is the return filed by the plan used to report the act giving rise to the tax.

(5) *Chapter 44 excise taxes.* If a real estate investment trust omits from its annual return with respect to the tax imposed by section 4981 an amount of tax properly includible therein which is in excess of 25 percent of the amount of tax imposed by section 4981 which is reported on the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. If a real estate investment trust discloses in its return (or in a schedule or statement attached thereto) the nature, source, and amount of any income giving rise to any omitted tax, the tax arising from such income shall be counted as reported on the return in computing whether the trust has omitted more than 25 percent of the tax reported on its return.

* * *

Par. 13. New §§ 301.6501(n)-1, 301.6501(n)-2, and 301.6501(n)-3 are added to read as follows:

§ 301.650(n)-1 Special rules for chapter 42 and similar taxes.

(a) *Return filed by private foundation, plan, or trust.* (1) A return filed by a private foundation, plan, or trust (as the case may be) with respect to any act giving rise to a tax imposed by chapter 42 (other than a tax imposed by section 4940), or by Section 4975 shall be considered, for purposes of section 6501, to be the return of all persons required to file a return with respect to any such tax arising from such act, notwithstanding that all such persons have not signed the return. In the case of a private foundation that files a Form 990-PF (or a Form 5227 in the case of a nonexempt foundation described in

section 4947(a)(2)), which contains questions with respect to such taxes, the filing of such form by such foundation shall constitute the filing of a return with respect to any such act, even though the foundation incorrectly answered such questions.

(2) For purposes of section 4940, the return referred to in this section is the return filed by the private foundation for the taxable year for which the tax is imposed.

(b) *Failure of private foundation plan, or trust to file.* The period of limitations on assessment and collection described in section 6501 does not begin with respect to any person liable for tax under chapter 42 (other than section 4940) or section 4975 arising from a given act, where the private foundation, plan, or trust (as the case may be) has not filed its required return that reports such act for the year in which the act (or failure to act) giving rise to liability for such tax occurred.

(c) *Example.* The provision of this section may be illustrated by the following example:

Example. In 1973, D, an individual taxpayer who was a disqualified person under the provisions of section 4946(a)(1), participated in an act of self-dealing with a private foundation and incurred a tax under section 4941(a)(1). On May 15, 1974, the private foundation files a Form 990-PF and answers all the questions thereon with regard to any acts of self-dealing (as defined in section 4941(d)) in which it may have engaged in 1973. Assuming that the foundation's return was not a false or fraudulent return nor made with the willful attempt to defeat tax, the period of limitations on assessment and collection under section 6501(a) shall start with respect to any tax under section 4941(a) or section 4941(b) imposed on D arising out of that transaction with such foundation.

§ 301.6501(n)-2 Certain contributions to section 501(c)(3) organizations.

If a private foundation makes a contribution to a section 501(c)(3) organization as provided in section 4942(g)(3), and a deficiency of tax of such foundation occurs due to the failure of the section 501(c)(3) organization to make the distribution prescribed by section 4942(g)(3), then such deficiency may be assessed within one year after the expiration of the period within which a deficiency may be assessed for the taxable year with respect to which the contribution was made.

§ 301.650(n)-3 Certain set-asides described in section 4942(g)(2).

Where a deficiency of tax of a private foundation results from the failure of an amount set aside by such foundation for a specific project to be treated as a qualifying distribution under section

4942(g)(2)(B)(ii)(II), such deficiency may be assessed within two years after the expiration of the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates.

Par. 14. Paragraph (a) of § 301.6503(a)-1 is revised to read as follows:

§ 301.6503(a)-1 Suspension of running of period of limitation; issuance of statutory notice of deficiency.

(a) *General rule.* (1) Upon the mailing of a notice of deficiency for income, estate, gift, chapter 41, 42, 43, or 44 tax under the provisions of section 6212, the period of limitation on assessment and collection of any deficiency is suspended for 90 days after the mailing of a notice of such deficiency if the notice of deficiency is addressed to a person within the States of the Union and the District of Columbia, or 150 days if such notice of deficiency is addressed to a person outside the States of the Union and the District of Columbia (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the 90th or 150th day), plus an additional 60 days thereafter in either case. If a proceeding in respect of the deficiency is placed on the docket of the Tax Court, the period of limitation is suspended until the decision of the Tax Court becomes final, and for an additional 60 days thereafter. If a notice of deficiency is mailed to a taxpayer within the period of limitation and the taxpayer does not appeal therefrom to the Tax Court, the notice of deficiency so given does not suspend the running of the period of limitation with respect to any additional deficiency shown to be due in a subsequent deficiency notice.

(2) This paragraph may be illustrated by the following example:

Example. A taxpayer filed a return for the calendar year 1973 on April 15, 1974; the notice of deficiency was mailed to him (at an address within the United States) on April 15, 1977; and he filed a petition with the Tax Court on July 14, 1977. The decision of the Tax Court became final on November 6, 1978. The running of the period of limitation for assessment is suspended from April 15, 1977, to January 5, 1979, which date is 60 days after the date (November 6, 1978), on which the decision became final. If in this example the taxpayer had failed to file a petition with the Tax Court, the running of the period of limitation for assessment would then be suspended from April 15, 1977 (the date of notice), to September 12, 1977 (that is, for the 90-day period in which he could file a petition with the Tax Court, and for 60 days thereafter).

* * *

Par. 15. Section 301.6503(g)-1 is redesignated as § 301.6503(f)-1 and a

new § 301.6503(g)-1 is added to read as follows:

§ 301.6503(g)-1 Suspension pending correction.

The running of the periods of limitations provided in sections 6501 and 6502 on the making of assessments, the collection by levy, or a proceeding in court in respect of any tax imposed by chapter 42 or section 507, 4971, or 4975 shall be suspended for any period described in section 507(g)(2) or during which the Commissioner has extended the time for making correction under section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6).

Par. 16. A new § 301.6511(f)-1 is added to read as follows:

§ 301.6511(f)-1 Special rules for chapter 42 taxes.

(a) *In general.* Claims for credit or refund of an overpayment of any tax imposed by chapter 42 shall be filed by the taxpayer within 3 years from the time a return was filed by the private foundation or trust (as the case may be) with respect to such tax, or within 2 years from the time the tax was paid, whichever of such periods expire the later.

(b) *Examples.* This section may be illustrated by the following examples:

Example (1). In 1972, D, an individual taxpayer who was a disqualified person under the provisions of section 4946(a)(1), participated in an act of self-dealing with a private foundation and incurred a tax under section 4941(a)(1). The private foundation files a Form 990-PF on May 15, 1973, and discloses thereon that it has engaged in an act of self-dealing with D. D files a Form 4720 on July 2, 1973, and pays the amount of tax imposed by section 4941(a) with respect to such act of self-dealing. For purposes of this section, the return was filed on May 15, 1973, and any claim for credit or refund by D must be filed by May 17, 1976 (May 15, 1976, was a Saturday).

Example (2). Assume the same facts as in example (1) except that D filed a Form 4720 on July 1, 1974, and pays the tax on that date. D must then file any claim for credit or refund by July 1, 1976.

Par. 17. Section 301.6512-1 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 301.6512-1 Limitations in case of petition to Tax Court.

(a) *Effect of petition to Tax Court—(1) General rule.* If a person having a right to file a petition with the Tax Court with respect to a deficiency in income, estate, gift, or excise tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44 of the Code has filed such petition within the time prescribed in section 6213(a), no credit or refund of income tax for the

same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which a district director or director of a service center (or a regional director of appeals) has determined the deficiency, shall be allowed or made, and no suit in any court for the recovery of any part of such tax shall be instituted by the taxpayer, except as to items set forth in paragraph (a)(2) of this section.

(b) *Overpayment determined by Tax Court.* If the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which a district director, or director of a service center (or a regional director of appeals) has determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the overpayment determined by the Tax Court shall be credited or refunded to the taxpayer when the decision of the Tax Court has become final. (See section 7481, relating to the date when a Tax Court decision becomes final.) No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(1) After the mailing of the notice of deficiency, or

(2) Within the period which would be applicable under section 6511(b)(2), (c), (d) or (g) [see §§ 301.6511(b)-1, 301.6511(c)-1, 301.6511(d)-1, 301.6511(d)-2, and 301.6511(d)-3], if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment.

§ 301.6601-1 [Amended]

Par. 18. Paragraph (d) of § 301.6601-1 is amended by striking out "or gift tax" and inserting in lieu thereof "gift, or chapter 41, 42, 43, or 44 tax".

Par. 19. Section 301.6653-1 is amended by revising paragraph (c)(1) through paragraph (c)(2) introductory text to read as follows:

§ 301.6653-1 Failure to pay tax.

(c) *Definition of underpayment—(1) Income, estate, gift, and chapter 41, 42, 43, and 44 taxes.* In the case of income, estate, gift, and chapter 41, 42, 43, and 44 taxes, an underpayment for purposes of section 6653 and this section is—

(i) The total amount of all deficiencies as defined in section 6211, if a return was filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return, or

(ii) The amount of the tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44, as the case may be, if a return was not filed on or before the last date (determined with regard to any extension of time) prescribed for filing such return.

However, for purposes of paragraph (c)(1)(i) of this section, any amount of additional tax shown on the amended return, so called, filed after the due date of the return is a deficiency.

(2) *Other taxes.* In the case of any tax other than an income, estate, gift or chapter 41, 42, 43, or 44 tax, an underpayment for purposes of section 6653 and this section is the amount by which the tax imposed exceeds—

Par. 20. Section 301.6659-1 is amended by revising so much of paragraph (c)(1) as precedes example (1) and by revising paragraph (c)(2) to read as follows:

§ 301.6659-1 Applicable rules.

(c) *Deficiency procedures—(1) Addition to the tax for failure to file tax return.* (i) Subchapter B, chapter 63, of the Code (deficiency procedures) applies to the additions to the income, estate, gift, and chapter 41, 42, 43, and 44 taxes imposed by section 6651 for failure to file a tax return to the same extent that it applies to such taxes. Accordingly, if there is a deficiency (as defined in section 6211) in the tax (apart from the addition to the tax) where a return has not been timely filed, deficiency procedures apply to the addition to the tax under section 6651. If there is no deficiency in the tax where a return has not been timely filed, the addition to the tax under section 6651 may be assessed and collected without deficiency procedures.

(ii) The provisions of paragraph (c)(1)(i) of this section may be illustrated by the following examples:

(2) *Additions to the tax for negligence or fraud.* Subchapter B of chapter 63

(deficiency procedures) applies to all additions to the income, estate, gift, and chapter 41, 42, 43, and 44 taxes imposed by section 6653 (a) and (b) for negligence and fraud.

Par. 21. Section 301.6861-1 is amended by revising its heading, by revising the first sentence of paragraph (a), and by adding a new paragraph (g) to read as follows:

§ 301.6861-1 Jeopardy assessments of income, estate, gift, and certain excise taxes.

(a) *Authority for making.* If a district director or director of a service center believes that the assessment or collection of a deficiency in income, estate, gift, or chapter 41, 42, 43, or 44 tax will be jeopardized by delay, then the director is required to assess such deficiency immediately, together with the interest, additional amounts, and additions to the tax provided by law.

(g) *Special rules for chapters 42 and 43 taxes.* For purposes of paragraph (a) of this section, the amount of a deficiency with respect to any tax imposed by section 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4951(a), 4952(a), 4971(a) or 4975(a) shall include the amount of additional tax imposed by section 4941(b), 4942(b), 4943(b), 4944(b), 4945(b), 4951(b), 4952(b), 4971(b) or 4975(b) for failure to correct the act (or failure to act) which gave rise to liability for the initial tax. For purposes only of determining the amount to be assessed with respect to such additional tax, the correction period (as defined in sections 4941(e)(4), 4942(i)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), and 4975(f)(6)) shall be considered to end on the day such jeopardy assessment is made.

Par. 22. Paragraph (a) of § 301.6862-1 and the heading of such section are revised to read as follows:

§ 301.6862-1 Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes.

(a) If the district director believes that the collection of any tax (other than income, estate, gift, chapter 41, 42, 43, or 44 tax) will be jeopardized by delay, the director shall, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax, together with all interest, additional amounts and additions to the tax provided by law. A district director will make an assessment under this section if collection is determined to be in jeopardy because at least one of the

conditions described in § 1.6851-1(a)(1)(i), (ii), or (iii) (relating to termination assessments) exists. For example, assume that a taxpayer incurs on January 18, 1977, liability for tax imposed by section 4061, that the last day on which return and payment of such tax is required to be made is May 2, 1977, and that on January 18, 1977, the district director determines that collection of such tax would be jeopardized by delay. In such case, the district director shall immediately assess the tax.

Par. 23. The heading and first sentence of paragraph (b) of § 301.6863-1 are revised to read as follows:

§ 301.6863-1 Stay of collection of jeopardy assessments; bond to stay collection.

(b) *Additional conditions applicable to income, estate, gift, and chapter 41, 42, 43 and 44 tax assessments.* In the case of jeopardy assessment of income, estate, gift, chapter 41, 42, 43, or 44 tax, the bond must be conditioned upon the payment of so much of the amount included therein as is not abated by a decision of the Tax Court which has become final, together with the interest on such amount.

Par. 24. A new § 301.7422-1 is added which reads as follows:

§ 301.7422-1 Pendency of suit for purposes of the chapter 42 and 43 excise taxes.

(a) The "correction period" under sections 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, and 4975 shall be extended in certain circumstances while a refund suit referred to in section 7422 is pending. For purposes of such sections and the regulations thereunder, a suit for refund instituted under the provisions of this section shall be deemed to be pending until—

(1) The expiration of time allowed for filing a notice of appeal from a decision of the United States Claims Court or of the United States District Court, if no timely notice of appeal is filed; or

(2) The expiration of the time allowed for filing a petition for certiorari from a decision of the United States Claims Court, or from a decision of the United States District Court, which has been affirmed or the appeal dismissed by the United States Court of Appeals, if no timely petition for certiorari is filed; or

(3) If a petition for certiorari has been filed, thirty days from the denial of such petition; or

(4) Thirty days from the date of a decision of the United States Supreme Court if no timely petition for rehearing

is filed, however, if a timely petition for rehearing from such a decision is filed, and is denied, thirty days from the denial thereof.

(b) If a decision is entered upon a rehearing or if a decision is modified or reversed as the result of a decision of a higher court, rules similar to the rules applicable if such decision were the original decision shall apply.

(c) Example. The provision of this section may be illustrated by the following example:

Example. On December 14, 1973, 60 days after having received a notice of deficiency under section 6212 with respect to the taxes arising from an act of self-dealing, D files a form 4720 with respect to such act for 1972 and pays the amount of initial tax. The payment of the tax extends the correction period, pursuant to § 53.4941(e)-1(d)(2)(iii)(a), until 90 days after payment. On February 1, 1974, D files a claim for refund, thereby extending the correction period pursuant to § 53.4941(e)-1(d)(2)(iv) during the pendency of the claim plus an additional 90 days. On May 1, 1974, the claim for refund is denied, and on July 1, 1974, D files a suit for refund in the United States District Court, thereby extending the correction period in accordance with § 53.4941(e)-1(d)(2)(iv) during the pendency of the suit. On June 2, 1975, the Court denies D's claim for refund. D files a timely notice of appeal on June 16, 1975, thereby extending the correction period. On September 2, 1975, the Court of Appeals affirms the decision of the District Court. If D does not file a petition for certiorari with the United States Supreme Court, the correction period will end upon the expiration of the time to so file.

Par. 25 Immediately after § 301.7454-1 there is inserted the following new section § 301.7454-2 to read as follows:

§ 301.7454-2 Burden of proof in foundation manager, etc. cases.

(a) *Foundation manager.* In any proceeding involving the issue whether a foundation manager as defined in section 4946(b) has "knowingly" participated in an act of self-dealing within the meaning of section 4941, participated in an investment which jeopardizes the carrying out of exempt purposes within the meaning of section 4944, or agreed to the making of a taxable expenditure within the meaning of section 4945, the burden of proof in respect of such issue shall be upon the Commissioner.

(b) *Trustee of a black lung benefit trust.* In any proceeding involving the issue whether a trustee of a trust described in section 501(c)(21) has "knowingly" participated in an act of self-dealing within the meaning of section 4951 or agreed to the making of a taxable expenditure within the meaning of section 4952, the burden of proof in

respect of such issue shall be upon the Commissioner.

[FR Doc. 82-27720 Filed 10-5-82; 11:12 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Tax Division Directive No. 42]

Organization of the Department of Justice; Appendix To Subpart Y—Redelegation of Authority To Compromise and Close Civil Claims

AGENCY: Tax Division, Department of Justice.

ACTION: Final rule.

SUMMARY: This directive increases the redelegation to various officials of the Tax Division of the authority to compromise, settle and close claims filed in behalf of the United States and claims against the United States. This directive supersedes Tax Division Directive No. 41.

EFFECTIVE DATE: October 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mildred L. Seidman, Review Section, Tax Division, Department of Justice, Washington, D.C. 20530, 202-724-6567.

SUPPLEMENTARY INFORMATION: The Assistant Attorney General for the Tax Division has determined that this directive is not a rule within the meaning of Executive Order 12291 or the Regulatory Flexibility Act.

In the Appendix to Subpart Y—Redelegation of Authority To Compromise and Close Civil Claims, Tax Division Directive No. 1 is removed and Directive No. 42 is added to read as set forth below.

List of Subjects in 28 CFR Part 0

Government employees and organization and functions (Government agencies).

PART 0 [AMENDED]

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly §§ 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, it is ordered as follows:

Appendix to Subpart Y is amended by removing Directive No. 41 and by adding new Directive No. 42 to read as follows:

Appendix to Subpart Y—Redelegation of Authority to Compromise and Close Civil Claims

Tax Division

[Tax Division Directive No. 42]

Section 1. The Chiefs of the Civil Trial Sections, the Court of Claims Section, and the Appellate Section are authorized to reject offers in compromise, regardless of amount, without reference to the Review Section, provided that such action is not opposed by the agency or agencies involved.

Section 2. Subject to the conditions and limitations set forth in Section 6 hereof, the Chiefs of the Civil Trial Sections and Court of Claims Section are authorized to:

(A) Accept offers in compromise in all cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$100,000.

(B) Accept offers in compromise in injunction or declaratory judgment suits against the United States in which the amount of the related liability, if any, does not exceed \$100,000, and

(C) Accept offers in compromise in all other nonmonetary cases.

Provided, That such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 3. Subject to the conditions and limitations set forth in Section 6 hereof, the Chief of the Appellate Section is authorized to:

(A) Accept offers in compromise with reference to litigating hazards of the issues on appeal in all cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$100,000.

(B) Accept offers in compromise in declaratory judgment suits against the United States in which the amount of the related liability, if any, does not exceed \$100,000, and

(C) Accept offers in compromise in all other nonmonetary cases which do not involve issues concerning collectibility.

Provided, That such action is not opposed by the agency or agencies involved or the chief of the section in which the case originated, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 4. Subject to the conditions and limitations set forth in Section 6 hereof, the Chief of the Review Section shall have authority to:

(A) Accept offers in compromise of claims against the Government in all cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$500,000.

(B) Approve administrative settlements not exceeding \$500,000.

(C) Accept offers in compromise of claims in behalf of the Government in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed \$500,000.

(D) Approve concessions [other than by compromise] of civil claims asserted by the

Government in all cases in which the gross amount of the original claim does not exceed \$500,000.

(E) Accept offers in compromise in all nonmonetary cases, and

(F) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount.

Provided, That the action is not opposed by the agency or agencies involved or the chief of the section to which the case is assigned, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 5. Subject to the conditions and limitations set forth in Section 6 hereof, the Deputy Assistant Attorneys General each shall have authority to:

(A) Accept offers in compromise of claims against the Government in all cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$750,000.

(B) Approve administrative settlements not exceeding \$750,000.

(C) Accept offers in compromise of claims in behalf of the Government in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed \$750,000 or 10 percent of the original claim, whichever is greater.

(D) Approve concessions [other than by compromise] of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed \$750,000.

(E) Accept offers in compromise in all nonmonetary cases, and

(F) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount, provided, that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 6. The authority redelegated herein shall be subject to the following conditions and limitations:

(A) When, for any reason, the compromise or administrative settlement or concession of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totalling more than the respective amounts designated in Sections 2, 3, 4 and 5, the case shall be forwarded for review at the appropriate level.

(B) When, because of the importance of a question of law or policy presented, the position taken by the agency or agencies or by the United States Attorney involved, or any other considerations, the person otherwise authorized herein to take final action [or the Chief of the Review Section, in cases which have been considered by such section] is of the opinion that the proposed disposition should be reviewed at a higher level, the case shall be forwarded for such review.

(C) If the Department has previously submitted a case to the Joint Committee on Taxation leaving one or more issues unresolved, any subsequent compromise or concession in that case must be submitted to the Joint Committee, whether or not the

overpayment exceeds the amount specified in Section 6405 of the Internal Revenue Code.

(D) Nothing in this Directive shall be construed as altering any provision of Subpart Y of Part O of Title 28 of the Code of Federal Regulations requiring the submission of certain cases to the Attorney General, the Deputy Attorney General, or the Solicitor General.

(E) Authority to approve recommendations that the Government confess error, or make administrative settlements, in cases on appeal, is excepted from the foregoing redelegations.

(F) The Assistant Attorney General, at any time, may withdraw any authority delegated by this Directive as it relates to any particular case or category of cases, or to any part thereof.

Section 7. This Directive supersedes Tax Division Directive No. 41, effective October 27, 1981.

Section 8. This Directive shall become effective on the date of its publication in the Federal Register.

Dated: September 24, 1982.

Glenn L. Archer, Jr.,

Assistant Attorney General, Tax Division.

Approved:

Edward C. Schmults,

Deputy Attorney General.

[FR Doc. 82-27527 Filed 10-6-82; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 16

[AAG/A Order No. 8-82]

Privacy Act of 1974; Production or Disclosure of Material or Information

AGENCY: Justice Department.

ACTION: Final rule.

SUMMARY: The INTERPOL—United States National Central Bureau (INTERPOL—USNCB) is reprinting under a separate section of Title 28 of the Code of Federal Regulations (CFR) its existing Privacy Act regulations exempting its Criminal Investigative Records System (CIRS), JUSTICE/INTERPOL-001, from certain Privacy Act provisions. Rules to exempt this system of records have already been promulgated under "§ 16.71 Exemption of the Office of the Deputy Attorney General Systems" where the system is now identified in paragraph (c)(1) as JUSTICE/DAG-007. Due to a reorganization making the INTERPOL—USNCB an independent organizational entity within the Department of Justice (beginning in Fiscal Year 1982), the CIRS system of records has been redesignated under the INTERPOL—USNCB as JUSTICE/INTERPOL-001. Therefore, the exemptions for JUSTICE/DAG-007 are being republished as a new section of 28 CFR, i.e., § 16.103, to reflect redesignation of the system as

JUSTICE/INTERPOL-001 and to clarify the new organizational status of the INTERPOL—USNCB. There is no new effect on the public as a result of this reprinting.

DATE: This rule shall be effective October 7, 1982.

ADDRESS: Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William J. Snider (202-633-3452).

SUPPLEMENTARY INFORMATION: The CIRS system was exempted from certain Privacy Act provisions under the Office of the Deputy Attorney General exemptions in 28 CFR 16.71 by order published in the Federal Register on May 19, 1980 (45 FR 32670). Notice of a reorganization and the redesignation of this system was published in an annual publication of Department records systems on December 9, 1981 (46 FR 60326). Accordingly, the Department now proposes to amend 28 CFR by reprinting the existing exemption of the system under a new and separate CFR section to identify its correct organizational placement. This rule does not amplify or expand the present exemptions for the system. Reprinting of the rule under a new CFR section entitled "§ 16.103 Exemption of the INTERPOL—United States National Central Bureau System" will merely facilitate the public's ease in identifying and requesting access to records maintained in the organization's system of records.

Since the reprinting is in the public interest, it has been determined that it is impracticable and unnecessary to provide opportunity for public comment and that it is contrary to the public interest to delay the effective date of this rule. This determination is made in accordance with 5 U.S.C. 553(b)(B) and (d)(3).

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of Information, Privacy, Sunshine Act.

Accordingly, pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, Title 28 of the CFR is amended as follows: Section 16.71 is amended by removing paragraphs (c) and (d), and a new § 16.103, is added.

Dated: August 23, 1982.

William D. Van Stavoren

Acting Assistant Attorney General for Administration.

PART 16 [AMENDED]

§ 16.71 [Amended]

1. Section 16.71 is amended by removing paragraphs (c) and (d). Section 16.103 is added as set forth below.

§ 16.103 Exemption of the INTERPOL—United States National Central Bureau System.

(a) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G) and (H), (e)(5) and (8), (f) and (g):

(1) The Criminal Investigative Records System (CIRS) (JUSTICE/INTERPOL-001). This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), and (k)(5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From paragraph (c)(3) because the release of accounting disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement.

(2) From paragraph (c)(4), (d), (e)(4) (G), and (H), (f) and (g) because these provisions concern individual access to records and such access might compromise ongoing investigations reveal investigatory techniques and confidential informants, and invade the privacy of private citizens who provide information in connection with a particular investigation.

(3) From paragraph (e)(1) because information received in the course of an international criminal investigation may involve a violation of state or local law, and it is beneficial to maintain this information to provide investigative leads to state and local law enforcement agencies.

(4) From paragraph (e)(2) because collecting information from the subject of criminal investigations would thwart the investigation by placing the subject on notice.

(5) From paragraph (e)(3) because supplying an individual with a statement of the intended use of the requested information could compromise the existence of a confidential investigation, and may inhibit cooperation.

(6) From paragraph (e)(5) because the vast majority of these records come from local criminal justice agencies and it is administratively impossible to

ensure that the records comply with this provision. Submitting agencies are, however, urged on a continuing basis to ensure that their records are accurate and include all dispositions.

(7) From paragraph (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

[FR Doc. 82-27689 Filed 10-6-82; 8:45 am]
BILLING CODE 4410-01-M

28 CFR Part 16

[AAG/A Order No. 9-82]

Privacy Act of 1974; Production or Disclosure of Material or Information; Removal of an Exemption

AGENCY: Justice Department.

ACTION: Final rule.

SUMMARY: The exemption of two systems of records from certain provisions of the Privacy Act is removed from Title 28 of the Code of Federal Regulations, § 16.90. These systems, which were previously maintained by the Civil Rights Division, were entitled "Records Obtained by Office of Special Litigation Concerning Residents of Certain State Institutions (JUSTICE/CRT-005)" and "Files of Federal Programs Section, Civil Rights Division (JUSTICE/CRT-006)." The records in these systems were incorporated into the Central Civil Rights Division Index File and Associated Records system (JUSTICE/CRT-001), most recently published at 45 FR 75909 (1980).

In addition, specificity as to statutory authority has been included throughout § 16.90 for clarity. Neither of these amendments has any effect on the public.

DATE: This rule will be effective October 7, 1982.

ADDRESS: Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, NW., Washington, D.C. 20530

FOR FURTHER INFORMATION CONTACT: William J. Snider (202-633-3452).

SUPPLEMENTARY INFORMATION: On August 27, 1975, a rule was published exempting these two systems of records from certain provisions of the Privacy Act. However, on September 28, 1978, notice of deletion of these two systems was published in the *Federal Register*. Since these two systems have been terminated, it is appropriate that the

exemptions be removed from 28 CFR 16.90.

It has been determined that it is impracticable and unnecessary to provide opportunity for public comment and that it is not in the public interest to delay the effective date of this rule. This determination is made in accordance with 5 U.S.C. 553(b)(B).

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of Information, Privacy, and Sunshine Act.

Accordingly, pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, § 16.90 of 28 CFR is amended as set forth below.

Dated: August 20, 1982.

William D. Van Stavoren,
Acting Assistant Attorney General for Administration.

PART 16 [AMENDED]

Section 16.90 is amended by removing paragraphs (c) and (d) and by redesignating paragraphs (e), (f), (g), and (h) as paragraphs (c), (d), (e), and (f), respectively. Paragraphs (a) and (b) and redesignated paragraphs (c), (d), (e), and (f) are revised as follows:

§ 16.90 Exemption of Civil Rights Division Systems.

(a) The following system of records is exempt from 5 U.S.C. 552a(d):

(1) Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission (JUSTICE/CRT-007).

This exemption applies to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (d) because this system contains investigatory material compiled by the Equal Opportunity Commission pursuant to its authority under 42 U.S.C. 2000e-8, 42 U.S.C. 2000e-5(b), 42 U.S.C. 2000e-8(e), and 44 U.S.C. 3508 make it unlawful to make public in any manner whatsoever any information obtained by the Commission pursuant to the authority.

(c) The following system of records is exempt from 5 U.S.C. 552a(c)(3), (d) and (g):

(1) Central Civil Rights Division Index File and Associated Records (JUSTICE/CRT-001).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting for disclosure pursuant to the routine uses published for this system may enable the subject of an investigation to gain valuable information concerning the nature and scope of the investigation and seriously hamper law enforcement efforts.

(2) From subsection (d) because freely permitting access to records in this system would compromise ongoing investigations and reveal investigatory techniques. In addition, these records may be subject to protective orders entered by federal courts to protect their confidentiality. Many of the records contained in this system are copies of documents which are the property of state agencies and were obtained under express or implied promises to strictly protect their confidentiality.

(3) From subsection (g) because exemption from the provision of subsection (d) will render the provisions on suits to enforce (d) inapplicable.

(e) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3), (d), and (g) of 5 U.S.C. 552a; in addition, the following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(k)(2) from subsections (c)(3), and (d) of 5 U.S.C. 552a: Freedom of Information/Privacy Act Records (JUSTICE/CRT-010).

These exemptions apply only to the extent that the records contained in this system have been obtained from other systems of records maintained by the Civil Rights Division for which exemptions from one or more of the foregoing provisions of the Privacy Act of 1974 have been promulgated. The exemptions claimed for this system of records apply only to records obtained from such other Civil Rights Division systems and only to the same extent as the records contained in such other systems have been exempted.

(f) The system of records listed under paragraph (e) of this section is exempted for the following reasons:

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