he or she is considered dependent on the worker only if the child: (1) Was adopted under an order of a court of competent jurisdiction within the United States; (2) began living with the worker before age 18; and (3) was living with and receiving at least one-half support from the worker for the year before the worker became entitled to benefits or became disabled (or, if the child is the worker's grandchild or stepgrandchild, for the year before the child applied for benefits).

The rule amends § 404.362 of our regulations to reflect the changes made by section 10301 of Public Law 101-239 which provides that a child adopted after the worker's entitlement began is considered dependent if the adoption was issued by a court of competent jurisdiction within the United States and either (1) the adoption proceedings began before the child attained age 18, or (2) the child was living with or receiving one-half support from the worker for the year prior to adoption.

Justification for Dispensing with Rulemaking Procedures

We are publishing these amendments without prior notice and public procedure thereon. The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of regulations. The APA provides exceptions to its notice and comment requirements when an agency finds there is good cause for dispensing with such procedures. Section 553(b)(B) exempts a rule from the notice and comment rulemaking procedures "when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." We find good cause to dispense with notice of proposed rulemaking in the case of this rule because we find that such procedure is "unnecessary" since we are only reflecting the statutory provisions in the regulations and these provisions do not involve any exercise of discretion.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the issuance of this regulation is not expected to result in significant costs. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

This regulation imposes no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because this rule will affect only individuals. Therefore a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security Disability Insurance; 13.803, Social Security Retirement Insurance; and 13.805, Social Security Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-age, survivors and disability insurance.

Dated: November 7, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: March 27, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 404 of title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950-)

1. The authority citation for subpart D of part 404 continues to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 228(a)-(e), and 1102 of the Social Security Act; 42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 428(a)-(e), and 1302.

2. In § 404.362, paragraph (b)(1) is revised; paragraph (b)(2) is removed; and paragraph (b)(3) is redesignated paragraph (b)(2) to read as follows:

§ 404.362 When a legally adopted child is dependent.

* * * * *

(b) *Adoption by the insured after he or she became entitled to benefits.* (1) *General.* If you are legally adopted by the insured after he or she became entitled to benefits and you are not the insured's natural child or stepchild, you are considered dependent on the insured during his or her lifetime only if—

(i) You had not attained age 18 when adoption proceedings were started, and your adoption was issued by a court of competent jurisdiction within the United States; or

(ii) You had attained age 18 before adoption proceedings were started; your adoption was issued by a court of competent jurisdiction within the United States; and you were living with or receiving at least one-half of your support from the insured for the year immediately preceding the month in which your adoption was issued.

* * * * *

[FR Doc. 91-12443 Filed 5-24-91; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8337]

RIN 1545-AM08

Allocation and Apportionment of Deduction for State Income Taxes; Correcting Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (T.D. 8337), which were published Tuesday, March 12, 1991 (56 FR 10365). The final regulations relate to the allocation and apportionment of deductions for state income taxes in computing taxable income from sources inside and outside the United States.

EFFECTIVE DATE: These regulations are effective for taxable years ending after March 12, 1991.

FOR FURTHER INFORMATION CONTACT: David F. Chan, (202) 566-6645 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The regulations were issued under the authority contained in section 7805 (26 U.S.C. 7805) of the Internal Revenue Code of 1986.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR 1.861-1 Through 1.864-12

Income taxes, United States investments abroad.

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

Paragraph 1. The authority for part 1 continues to read in part:

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

§ 1.861-8 [Amended]

Par. 2. On page 10371, column one, in § 1.861-8, paragraph (e)(6)(ii)(D)(*2*)(*i*), in the heading on line 3, the phrase "portfolio dividends." is corrected to read "portfolio dividends and other income.".

Par 3. On page 10371, column one, in § 1.861-8, paragraph (e)(6)(ii)(D)(*2*)(*i*), line 27, the following sentence is added after the phrase "28 of paragraph (g).":

"If a state income tax is determined based upon formulary apportionment of the total taxable income attributable to the taxpayer's unitary business, the taxpayer must also apply the methodology illustrated in paragraph (ii)(C) through (G) of Example 29 of paragraph (g) of this section to make specific allocations of appropriate portions of the deduction for state income tax on the basis of income that, under separate accounting, would have been attributed to other members of the unitary group."

Par. 4. On page 10371, column one, in § 1.861-8, paragraph (e)(6)(ii)(D)(*2*)(*i*), line 30, the phrase "portfolio dividends to which a specific" is corrected to read "portfolio dividends and other income to which a specific".

Par. 5. On page 10371, column two, in § 1.861-8, paragraph (e)(6)(ii)(D)(*2*)(*iii*), line 5, the phrase "foreign source portfolio dividends under" is corrected to read "foreign source portfolio dividends and other income under".

Par. 6. On page 10371, column two, in § 1.861-8, paragraph (e)(6)(ii)(D)(*3*)(*i*), in the heading on line 3, the phrase "portfolio dividends." is corrected to read "portfolio dividends and other income.".

Par. 7. On page 10371, column three, in § 1.861-8, paragraph (e)(6)(ii)(D)(*3*)(*iii*), line 5 from the top of the column, the phrase "foreign source portfolio dividends under" is corrected to read "foreign source portfolio dividends and other income under".

Par. 8. On page 10376, column three, in § 1.861-8, paragraph (g), General examples, paragraph (i) of Example 33, line 4, the phrase "income tax on corporations" is corrected to read "income tax on corporations, and P's non-unitary state F taxable income equals $462,500."

Par. 9. On page 10376, column three, in § 1.861-8, paragraph (g), General examples, paragraph (ii)(A) of Example 33, last line of that paragraph, after the phrase "$37,500 of foreign source portfolio dividends)." add the following sentence:

"Because the remaining amount of state F taxable income ($462,500) equals P's non-unitary state F taxable income, no further specific allocation of state tax is required."

Par. 10. On page 10377, column two in § 1.861-8 paragraph (g), General examples, paragraph (iii)(D) of Example 33, in the second paragraph of text, last line of that paragraph, after the phrase "U.S. source federal taxable income", add the following language, "and reduced by the amount of foreign source portfolio dividends to which the tax has been specifically allocated".

Par. 11. On page 10377, column two, in § 1.861-8, paragraph (g), General examples, paragraph (iii)(D) of Example 33, the remainder of the example is corrected to read as follows:

"Portion of remainder apportioned to foreign source general limitation income (statutory grouping): $21,413.93 X ($212,500/$662,500)	$6,868.62
Remaining state income tax deduction to be apportioned to income from sources within the United States (residual grouping): $21,413.93 X ($450,000/$662,500)	$14,545.31

Of P's total deduction of $56,000 for state income tax, the portion allocated and apportioned to foreign source general limitation income equals $10,618.62—the sum of $6,868.62 apportioned under Step Four and the $3,750.00 specifically allocated to foreign source portfolio dividend income under Step One. The portion of the deduction allocated and apportioned to U.S. source income equals $45,381.38—the sum of the $30,836.07 and the $14,545.31 apportioned under Step Four."

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91-12314 Filed 5-24-91; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 601

RIN 1545-AP25

Statement of Procedural Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of the statement of procedural rules.

SUMMARY: This document contains amendments to the Conference and Practice Requirements of the Statement of Procedural Rules. The Statement of Procedural Rules sets forth the procedural rules of the Internal Revenue Service for all taxes it administers as well as certain rules that apply to the Bureau of Alcohol, Tobacco, and Firearms. The Conference and Practice Requirements set forth the rules concerning powers of attorney required for representation of taxpayers before the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms. The amendments in this document concern only those provisions of the Conference and Practice Requirements which relate to the Internal Revenue Service. This action is necessary to address issues not specifically contained in the old rules, such as durable powers of attorney and powers of attorney received by the Internal Revenue Service by facsimile transmission. The rules also have been restated in order to clarify and simplify procedures concerning power of attorney requirements.

EFFECTIVE DATE: May 28, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. D. LaMar Whitman or Mr. Patrick W. McDonough of the Office of Director of Practice, Internal Revenue Service, at (202) 535-6787 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document is a revision and restatement of the Conference and Practice Requirements contained in the Statement of Procedural Rules (26 CFR part 601). The Conference and Practice Requirements contain the procedural rules for powers of attorney required for representation of taxpayers before the Internal Revenue Service. A notice was published in the **Federal Register** on April 19, 1989 (54 FR 15779), in which written comments were solicited with respect to the Conference and Practice Requirements, powers of attorney, and tax information authorizations. As a result of such comments, the rules have been restated in order to clarify and simplify the requirements. In doing so, the following matters have been either revised or added as a new provision.

a. *Form 2848-D, "Tax Information Authorization and Declaration of Representative," to be replaced by form 8821, "Tax Information Authorization."* Concurrent with the issuance of these new rules, form 2848-D, "Tax Information Authorization and Declaration of Representative" will become obsolete and will be replaced by (new) form 8821, "Tax Information Authorization." Form 2848-D has been

eliminated in order to end confusion concerning the differences between form 2848, "Power of Attorney and Declaration of Representative," and form 2848–D. The new rules contemplate the use of form 8821 by any person authorized by the taxpayer to receive and/or inspect confidential tax return information of such taxpayer. However, unlike form 2848–D, form 8821 is only a disclosure authorization and cannot be used by a taxpayer to appoint a representative. Instead, form 2848 is the appropriate form to be used by a taxpayer who wishes to appoint a representative.

Under the old rules, a taxpayer who wished to appoint an unenrolled return preparer for representation before the Examination Division of the Internal Revenue Service was required to file form 2848–D. Because this form has been eliminated, the revised form 2848 now may be used to name an unenrolled return preparer for such representation. However, the rights and privileges of an unenrolled return preparer have not been changed (i.e., the scope of authority with respect to representation by an unenrolled return preparer remains subject to the limitations imposed by § 10.7(a)(7) of Treasury Department Circular No. 230 (subtitle A of 31 CFR part 10)).

b. *Power of attorney documents other than form 2848.* In general, the new rules are intended to ease the perceived restriction on acceptance of power of attorney documents other than Form 2848 ("non-IRS powers of attorney"), such as general, limited, and durable powers of attorney. The old rules required, among other things, that a power of attorney list: (1) The type of tax involved, (2) the Federal tax form number, (3) the year(s) or period(s) involved, and (4) for estate tax matters, the date of death of the decedent. Many non-IRS powers of attorney do not routinely include such information. Therefore, those powers of attorney generally were not accepted by the Internal Revenue Service even though the authorization was complete and valid under the law of the local jurisdiction. The Internal Revenue Service recognizes the possible hardship caused by requiring a taxpayer to execute a second power of attorney conforming to the requirements of the Internal Revenue Service. While the information previously required continues to be necessary, the new rules provide that the attorney-in-fact (named on the non-IRS power of attorney) will be permitted to execute a form 2848 on behalf of the taxpayer if (i) the original power of attorney contemplates the authority on the part of the attorney-in-fact to handle Federal tax matters (e.g., the power of attorney includes the authority to handle tax matters or the authority to perform any and all acts); and (ii) the attorney-in-fact attaches a statement to the form 2848 that the original power of attorney is valid.

c. *Centralized Authorization File.* Information regarding the authority of a person appointed under either a power of attorney (form 2848) or a tax information authorization (form 2848–D) (which will be replaced by form 8821) is routinely recorded onto the Centralized Authorization File ("CAF"). Regarding such information onto the CAF system facilitates automatic routing of tax notices and correspondence to a representative appointed under a power of attorney or to a person authorized under a tax information authorization. However, recognition of the validity of a power of attorney or tax information authorization is not contingent on the entry of such information onto the system.

1. *Specific tax periods required.* In order to process a power of attorney or tax information authorization onto the CAF system, the tax matter identified thereon must relate to a specific tax period (e.g., form 1040 for the 1988 calendar year or form 941 for the quarters ended June 30, 1987, and September 30, 1987). If a tax period is not provided, it is systemically not possible to enter a power of attorney or tax information authorization onto the CAF system. This limitation also means that certain tax matters which do not relate to a specific tax period (e.g., matters concerning the 100% penalty for failure to pay over withholding taxes imposed by section 6672 of the Internal Revenue Code, applications for an employer identification number, and requests for a private letter ruling request pertaining to a proposed transaction) cannot be recorded onto the CAF system. This limitation has been present since the development of the CAF system and is not changed by the new rules. It is described in the new rules for information purposes.

2. *Limitation concerning future periods to be recorded onto the CAF system.* CAF system data analysis indicates an increasing number of powers of attorney being filed for periods ending far into the future (e.g., for periods through 2025). This has begun to cause an undue burden on CAF database management. The new rules address this burden by providing that only those matters relating to tax periods ending not more than three years after receipt (by the Internal Revenue Service) of the power of attorney will be recorded onto the CAF system. This limitation does not affect the validity of a power of attorney covering any future period. A copy of such document may be refiled for processing at a future date provided the taxpayer and practitioner wish to continue the representation during the later periods.

3. *Non-IRS power of attorney to be attached to "transmittal" form 2848.* The new rules request that a form 2848 completed by the attorney-in-fact named under the non-IRS power of attorney accompany the non-IRS power of attorney. The form 2848 is "transmittal" in nature; it is not the operative power of attorney document. However, it will contain information which is necessary for processing the power of attorney. Failure by the attorney-in-fact to furnish a transmittal form 2848 is not determinative of the current or future validity of the non-IRS power of attorney. However, its use is encouraged, for without this form, the non-IRS power of attorney will not be recorded onto the CAF file.

4. *Assignment of CAF numbers.* When a power of attorney or tax information authorization is recorded onto the CAF system, a CAF number is assigned to the representative appointed under the power of attorney or the appointee authorized under the tax information authorization. A CAF number is unique to the representative or appointee. It does not identify either the taxpayer or the tax matter. The CAF number issued should be used by the representative (in the case of a power of attorney) or the appointee (in the case of a tax information authorization) on all powers of attorney or tax information authorizations filed in the future. The new rules are intended to make it clear that issuance of a CAF number does not indicate that a person is either recognized or authorized to practice before the Internal Revenue Service; it is merely a means to facilitate the processing of a power of attorney or tax information authorization.

d. *Automatic revocation of power of attorney.* Under the old rules, a newly filed power of attorney automatically revoked either a previously filed power of attorney or tax information authorization relating to the same tax matter. The new rules provide that a newly filed power of attorney will revoke a previously filed power of attorney but not a previously filed tax information authorization. Similarly, a newly filed tax information authorization will revoke a previously filed tax information authorization

concerning the same tax matter but will not revoke a power of attorney concerning such matter. This is considered appropriate because the two documents are separate and distinct. However, the new rules continue to provide that the automatic revocation procedures can be avoided if instructions for non-revocation are included on the newly filed document.

e. *Substitution or delegation of recognized representative.* The old rules provided that even without a specific grant of authority from a taxpayer, a representative appointed under a form 2848 or general power of attorney (authorizing the representative to perform any and all acts the taxpayer can perform with respect to specified tax matters) was authorized to make a substitution of representative or to delegate authority in a matter to another representative. The new rules continue to permit the appointed representative to substitute a representative or to delegate authority to a new representative. However, such act must be authorized by the taxpayer on the power of attorney. It is believed desirable hat the taxpayer not unwittingly grant a representative authority to substitute or to delegate.

f. *Situations in which a power of attorney is required.* Although the old rules provided that a power of attorney was required to be filed by a representative to perform certain acts, they did not clearly state that a power of attorney is required in order for an individual to represent a taxpayer before the Internal Revenue Service. The new rules clarify this issue by requiring a power of attorney for the purpose of representation before the Internal Revenue Service irrespective of a specific act. The new rules also now contain specific permission for a representative to sign a tax return on behalf of a taxpayer. This permission is valid only if the substitute signature is allowed under the Internal Revenue Code (e.g., the authority to sign an income tax returns is governed by the provisions of § 1.6012–1(a)(5) of the Income Tax Regulations) and is expressly authorized by the taxpayer in the power of attorney.

g. *Facsimile copies.* Although the old rules provided that a copy of a power of attorney would be accepted by the Internal Revenue Service, they did not address the acceptability of a power of attorney submitted via facsimile transmission (FAX). The new rules specifically authorize the Internal Revenue Service to accept a power of attorney submitted by facsimile transmission.

h. *Situations in which a taxpayer may be contacted directly.* The new rules provide that the Internal Revenue Service is permitted to contact a taxpayer directly in situations in which the recognized representative of the taxpayer unreasonably delays or hinders an examination, collection or investigation by failing to furnish, after repeated request, nonprivileged information necessary to the examination, collection or investigation. This provision conforms the new rules to section 7521(c) of the Internal Revenue Code.

i. *Notarization of signature of taxpayer not required.* Under the old rules, the signature of the taxpayer was required to be acknowledged before a notary public or witnessed by two disinterested individuals if the representative appointed by the taxpayer was a person other than an attorney, certified public accountant, enrolled agent, or enrolled actuary. Those rules also required a notarial seal to be affixed under certain circumstances. Those requirements have been eliminated by the new rules.

j. *Fiduciaries.* A fiduciary (e.g., trustee, executor, administrator or receiver) stands in the position of a taxpayer and acts as the taxpayer. Therefore, a fiduciary does not act as a representative in the traditional sense of the term and need not file a power of attorney (as a representative). However, the fiduciary should file form 56, "Notice Concerning Fiduciary Relationship," to notify the Internal Revenue Service of the existence of the fiduciary relationship. If a fiduciary wishes to authorize an individual to represent or perform certain acts on behalf of the entity, a power of attorney signed by the fiduciary acting in the position of the taxpayer must be filed.

Special Analyses

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for procedural rules. Accordingly, the proposed amendments to the Statement of Procedural Rules do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting information

The principal authors of this amendment of the statement of procedural rules are Mr. D. LaMar Whitman and Mr. Patrick W. McDonough of the Office of Director of Practice, Internal Revenue Service. However, personnel from other Offices of the Internal Revenue Service participated in developing the rules both on matters of substance and style.

List of Subjects in 26 CFR Part 601

Administrative practice and procedure, Aged, Alcohol and alcoholic beverages, Arms and munitions, Cigars and cigarettes, Claims, Freedom of information, Petroleum, Reporting and recordkeeping requirements, Taxes.

Amendments to Statement of Procedural Rules

Accordingly, 26 CFR part 601 is amended as follows:

PART 601—[AMENDED]

Paragraph 1. The authority citation for part 601 continues to read as follows:

Authority: 68A Stat. 917, 26 U.S.C. 7805; 5 U.S.C. 301.

Par. 2. §§ 601.501 through 601.509 of Conference and Practice Requirements are revised to read as follows:

§ 601.501 Scope of rules; definitions.

(a) *Scope of rules.* The rules prescribed in this subpart concern, among other things, the representation of taxpayers before the Internal Revenue Service under the authority of a power of attorney. These rules apply to all offices of the Internal Revenue Service in all matters under the jurisdiction of the Internal Revenue Service and apply to practice before the Internal Revenue Service (as defined in 31 CFR 10.2(a) and 10.7(a)(7). For special provisions relating to alcohol, tobacco, and firearms activities, see §§ 601.521 through 601.527. These rules detail the means by which a recognized representative is authorized to act on behalf of a taxpayer. Such authority must be evidenced by a power of attorney and declaration of representative filed with the appropriate office of the Internal Revenue Service. In general, a power of attorney must contain certain information concerning the taxpayer, the recognized representative, and the specific tax matter(s) for which the recognized representative is authorized to act. (See § 601.503(a).) A "declaration of representative" is a written statement made by a recognized representative that he/she is currently eligible to practice before the Internal Revenue Service and is authorized to represent the particular party on whose behalf he/she acts. (See § 601.502(b).)

(b) *Definitions*—(1). *Attorney-in-fact.* An agent authorized by a principal

under a power of attorney to perform certain specified act(s) or kinds of act(s) on behalf of the principal.

(2) *Centralized Authorization File (CAF) system.* An automated file containing information regarding the authority of a person appointed under a power of attorney or designated under a tax information authorization.

(3) *Circular No. 230.* Treasury Department Circular No. 230 codified, at 31 CFR part 10, which sets forth the regulations governing practice before the Internal Revenue Service.

(4) *Declaration of representative.* (See § 601.502(b).)

(5) *Delegation of authority.* An act performed by a recognized representative whereby authority given under a power of attorney is delegated to another recognized representative. After a delegation is made, both the original recognized representative and the recognized representative to whom a delegation is made will be recognized to represent the taxpayer. (See § 601.505(b)(2).)

(6) *Form 2848, "Power of Attorney and Declaration of Representative."* The Internal Revenue Service power of attorney form which may be used by a taxpayer who wishes to appoint an individual to represent him/her before the Internal Revenue Service. (See § 601.503(b)(1).)

(7) *Matter.* The application of each tax imposed by the Internal Revenue Code and the regulations thereunder for each taxable period constitutes a (separate) matter.

(8) *Office of the Internal Revenue Service.* The Office of each district director, the office of each service center, the office of each compliance center, the office of each regional commissioner, and the National Office constitute separate offices of the Internal Revenue Service.

(9) *Power of attorney.* A document signed by the taxpayer, as principal, by which an individual is appointed as attorney-in-fact to perform certain specified act(s) or kinds of act(s) on behalf of the principal. Specific types of powers of attorney include the following—

(i) *General power of attorney.* The attorney-in-fact is authorized to perform any or all acts the taxpayer can perform.

(ii) *Durable power of attorney.* A power of attorney which specifies that the appointment of the attorney-in-fact will not end due to either the passage of time (i.e., the authority conveyed will continue until the death of the taxpayer) or the incompetency of the principal (e.g., the principal becomes unable or is adjudged incompetent to perform his/her business affairs).

(iii) *Limited power of attorney.* A power of attorney which is limited in any facet (i.e., a power of attorney authorizing the attorney-in-fact to perform only certain specified acts as contrasted to a general power of attorney authorizing the representative to perform any and all acts the taxpayer can perform).

(10) *Practice before the Internal Revenue Service.* Practice before the Internal Revenue Service encompasses all matters connected with presentation to the Internal Revenue Service or any of its personnel relating to a taxpayer's rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include the preparation and filing of necessary documents, correspondence with and communications to the Internal Revenue Service, and the representation of a taxpayer at conferences, hearings, and meetings. (See 31 CFR 10.2(a) and 10.7(a)(7).)

(11) *Principal.* A person (i.e., taxpayer) who appoints an attorney-in-fact under a power of attorney.

(12) *Recognized representative.* An individual who is recognized to practice before the Internal Revenue Service under the provisions of § 601.502.

(13) *Representation.* Acts performed on behalf of a taxpayer by a representative in practice before the Internal Revenue Service. (See § 601.501(b)(10).) Representation does not include the furnishing of information at the request of the Internal Revenue Service or any of its officers or employees. (See 31 CFR 10.7(c).)

(14) *Substitution of representative.* An act performed by an attorney-in-fact whereby authority given under a power of attorney is transferred to another recognized representative. After a substitution is made, only the newly recognized representative will be considered the taxpayer's representative. (See § 601.505(b)(2).)

(15) *Tax information authorization.* A document signed by the taxpayer authorizing any individual or entity (e.g., corporation, partnership, trust or organization) designated by the taxpayer to receive and/or inspect confidential tax information in a specified matter. (See section 6103 of the Internal Revenue Code and the regulations thereunder.)

(c) *Conferences*—(1) *Scheduling.* The Internal Revenue Service encourages the discussion of any Federal tax matter affecting a taxpayer. Conferences may be offered only to taxpayers and/or their recognized representative(s) acting under a valid power of attorney. As a general rule, such conferences will not be held without previous arrangement. However, if a compelling reason is shown by the taxpayer that an immediate conference should be held, the Internal Revenue Service official(s) responsible for the matter has the discretion to make an exception to the general rule.

(2) *Submission of information.* Every written protest, brief, or other statement the taxpayer or recognized representative wishes to be considered at any conference should be submitted to or filed with the appropriate Internal Revenue Service official(s) at least five business days before the date of the conference. If the taxpayer or the representative is unable to meet this requirement, arrangement should be made with the appropriate Internal Revenue Service official for a postponement of the conference to a date mutually agreeable to the parties. The taxpayer or the representative remains free to submit additional or supporting facts or evidence within a reasonable time after the conference.

§ 601.502 Recognized representative.

A recognized representative is an individual who is

(i) Appointed as an attorney-in-fact under a power of attorney, and a

(ii) Member of one of the categories described in § 601.502(a) and who files a declaration of representative, as described in § 601.502(b).

(a) *Categories*—(1) *Attorney.* Any individual who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia;

(2) *Certified public accountant.* Any individual who is duly qualified to practice as a certified public accountant in any state, possession, territory, commonwealth, or the District of Columbia;

(3) *Enrolled agent.* Any individual who is enrolled to practice before the Internal Revenue Service and is in active status pursuant to the requirements of Circular No. 230;

(4) *Enrolled actuary.* Any individual who is enrolled as an actuary by and is in active status with the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. 1242.

(5) *Other individuals.*—(i) *Temporary recognition.* Any individual who is granted temporary recognition as an enrolled agent by the Director of Practice (31 CFR 10.5(c)).

(ii) *Practice based on a relationship or special status with a taxpayer.* Any individual authorized to represent a taxpayer with whom/which a special

relationship exists (31 CFR 10.7(a) (1)–(6)). (For example, an individual may represent another individual who is his/her regular full-time employer or a member of his/her immediate family; an individual who is a bona fide officer or regular full-time employee of a corporation or certain other organizations may represent that entity.)

(iii) *Unenrolled return preparer.* Any individual who signs a return as having prepared it for a taxpayer, or who prepared a return with respect to which the instructions or regulations do not require that the return be signed by the preparer. The acts which an unenrolled return preparer may perform are limited to representation of a taxpayer before revenue agents and examining officers of the Examination Division in the offices of District Director with respect to the tax liability of the taxpayer for the taxable year or period covered by a return prepared by the unenrolled return prepared (31 CFR 10.7(a)(7)).

(iv) *Special appearance.* Any individual who, upon written application, is authorized by the Director of Practice to represent a taxpayer in a particular matter (31 CFR 10.7(b)).

(b) *Declaration of representative.* A recognized representative must attach to the power of attorney a written declaration (e.g., part II of form 2848) stating the following—

(1) I am not currently under suspension or disbarment from practice before the Internal Revenue Service or other practice of my profession by any other authority;

(2) I am aware of the regulations contained in Treasury Department Circular No. 230 (31 CFR part 10), concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others);

(3) I am authorized to represent the taxpayer(s) identified in the power of attorney; and

(4) I am an individual described in § 601.502(a).

If an individual is unable to make such declaration, he/she may not engage in representation of a taxpayer before the Internal Revenue Service or perform the acts described in §§ 601.504(a) (2) through (6).

§ 601.503 Requirements of power of attorney, signatures, fiduciaries and Commissioner's authority to substitute other requirements.

(a) *Requirements.* A power of attorney must contain the following information—

(1) Name and mailing address of the taxpayer;

(2) Identification number of the taxpayer (i.e., social security number and/or employer identification number);

(3) Employee plan number (if applicable);

(4) Name and mailing address of the recognized representative(s);

(5) Description of the matter(s) for which representation is authorized which, if applicable, must include—

(i) The type of tax involved;

(ii) The Federal tax form number;

(iii) The specific year(s)/period(s) involved; and

(iv) In estate matters, decedent's date of death; and

(6) A clear expression of the taxpayer's intention concerning the scope of authority granted to the recognized representative(s).

(b) *Acceptable power of attorney documents*—(1) *Form 2848.* A properly completed form 2848 satisfies the requirements for both a power of attorney (as described in § 601.503(a)) and a declaration of representative (as described in § 601.502(b)).

(2) *Other documents.* The Internal Revenue Service will accept a power of attorney other than form 2848 provided such document satisfies the requirements of § 601.503(a). However, for purposes of processing such documents onto the Centralized Authorization File (see § 601.506(d)), a completed form 2848 must be attached. (In such situations, form 2848 is not the operative power of attorney and need not be signed by the taxpayer. However, the Declaration of Representative must be signed by the representative.)

(3) *Special provision.* The Internal Revenue Service will not accept a power of attorney which fails to include the information required by §§ 601.503(a)(1) through (5). If a power of attorney fails to include some or all of the information required by such section, the attorney-in-fact can cure this defect by executing a form 2848 (on behalf of the taxpayer) which includes the missing information. Attaching a form 2848 to a copy of the original power of attorney will validate the original power of attorney (and will be treated in all circumstances as one signed and filed by the taxpayer) provided the following conditions are satisfied—

(i) The original power of attorney contemplates authorization to handle, among other things, Federal tax matters, (e.g., the power of attorney includes language to the effect that the attorney-in-fact has the authority to perform any and all acts).

(ii) The attorney-in-fact attaches a statement (signed under penalty of perjury) to the form 2848 which states that the original power of attorney is valid under the laws of the governing jurisdiction.

(4) *Other categories of powers of attorney.* Categories of powers of attorney not addressed in these rules (e.g., durable powers of attorney and limited powers of attorney) will be accepted by the Internal Revenue Service provided such documents satisfy the requirements of §§ 601.503(b) (2) or (3).

(c) *Signatures.* Internal Revenue Service officials may require a taxpayer (or such individual(s) required or authorized to sign on behalf of a taxpayer) to submit appropriate identification or evidence of authority. Except when form 2848 (or its equivalent) is executed by an attorney-in-fact under the provisions of § 601.503(b)(3), the individual who must execute a form 2848 depends on the type of taxpayer involved—

(1) *Individual taxpayer.* In matter(s) involving an individual taxpayer, a power of attorney must be signed by such individual.

(2) *Husband and wife.* In matters involving a joint return the following rules apply—

(i) *Joint representation.* In the case of any matter concerning a joint return in which both husband and wife are to be represented by the same representative(s), the power of attorney must be executed by both husband and wife.

(ii) *Individual representation.* In the case of any matter concerning a joint return in which both husband and wife are not to be represented by the same recognized representative(s), the power of attorney must be executed by the spouse who is to be represented. However, the recognized representative of such spouse cannot perform any act with respect to a tax matter that the spouse being represented cannot perform alone.

(3) *Corporation.* In the case of a corporation, a power of attorney must be executed by an officer of the corporation having authority to legally bind the corporation, who must certify that he/she has such authority.

(4) *Association.* In the case of an association, a power of attorney must be executed by an officer of the association having authority to legally bind the association, who must certify that he/she has such authority.

(5) *Partnership.* In the case of a partnership, a power of attorney must be executed by all partners, or if executed in the name of the partnership, by the partner or partners duly authorized to act for the partnership, who must certify that he/she has such authority.

(6) *Dissolved partnership.* In the case of a dissolved partnership, each of the

former partners must execute a power of attorney. However, if one or more of the former partners is deceased, the following provisions apply—

(i) The legal representative of each deceased partner(s) (or such person(s) having legal control over the disposition of partnership interest(s) and/or the share of partnership asset(s) of the deceased partner(s)) must execute a power of attorney in the place of such deceased partner(s). (See § 601.503(c)(6)(ii).)

(ii) Notwithstanding § 601.503(c)(6)(i), if the laws of the governing jurisdiction provide that such partner(s) has exclusive right to control or possession of the firm's assets for the purpose of winding up its affairs, the signature(s) of the surviving partner(s) alone will be sufficient. (If the surviving partner(s) claims exclusive right to control or possession of the firm's assets for the purpose of winding up its affairs, Internal Revenue Service officials may require the submission of a copy of or a citation to the pertinent provisions of the law of the governing jurisdiction upon which the surviving partner(s) relies.)

(d) *Fiduciaries.* In general, when a fiduciary is involved in a tax matter, a power of attorney is not required. Instead form 56, "Notice Concerning Fiduciary Relationship" should be filed. Types of taxpayer for which fiduciaries act are—

(1) *Dissolved corporation*—(i) *Appointed trustee.* In the case of a dissolved corporation, form 56, "Notice Concerning Fiduciary Relationship," should be filed by the liquidating trustee(s), if one or more have been appointed, or by the trustee(s) deriving authority under a law of the jurisdiction in which the corporation was organized. If there is more than one trustee, all must join unless it is established that fewer than all have authority to act in the matter under consideration. Internal Revenue Service officials may require the submission of a properly authenticated copy of the instrument and/or citation to the law under which the trustee derives his/her authority. If the authority of the trustee is derived under the law of a jurisdiction, Internal Revenue Service officials may require a statement (signed under penalty of perjury) setting forth the facts required by the law as a condition precedent to the vesting of authority in said trustee and stating that the authority of the trustee has not been terminated.

(ii) *No appointed trustee.* If there is no appointed trustee, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the stockholder(s) holding a majority of the voting stock of the corporation as of the date of dissolution. Internal Revenue Service officials may require submission of a statement showing the total number of outstanding shares of voting stock as of the date of dissolution, the number of shares held by each signatory to a power of attorney, the date of dissolution, and a representation that no trustee has been appointed.

(2) *Insolvent taxpayer.* In the case of an insolvent taxpayer, form 56, "Notice Concerning Fiduciary Relationship," should be filed by the trustee, receiver, or attorney appointed by the court. Internal Revenue Service officials may require the submission of a certified order or document from the court having jurisdiction over the insolvent taxpayer which shows the appointment and qualification of the trustee, receiver, or attorney and that his/her authority has not been terminated. In cases pending before a court of the United States (e.g., U.S. District Court or U.S. Bankruptcy Court), an authenticated copy of the order approving the bond of the trustee, receiver, or attorney will meet this requirement.

(3) *Deceased taxpayers*—(i) *Executor, personal representative or administrator.* In the case of a deceased taxpayer, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the executor, personal representative or administrator if one has been appointed and is responsible for disposition of the matter under consideration. Internal Revenue Service officials may require the submission of a short-form certificate (or authenticated copy of letters testamentary or letters of administration) showing that such authority is in full force and effect at the time the form 56, "Notice Concerning Fiduciary Relationship," is filed.

(ii) *Testamentary trustee(s).* In the event that a trustee is acting under the provisions of the will, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the trustee, unless the executor, personal representative or administrator has not been discharged and is responsible for disposition of the matter. Internal Revenue Service officials may require either the submission of evidence of the discharge of the executor and appointment of the trustee or other appropriate evidence of the authority of the trustee.

(iii) *Residuary legatee(s).* If no executor, administrator, or trustee named under the will is acting or responsible for disposition of the matter and the estate has been distributed to the residuary legatee(s), a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the residuary legatee(s). Internal Revenue Service officials may require the submission of a statement from the court certifying that no executor, administrator, or trustee named under the will is acting or responsible for disposition of the matter, naming the residuary legatee(s), and indicating the proper share to which each is entitled.

(iv) *Distributee(s).* In the event that the decedent died intestate and the administrator has been discharged and is not responsible for disposition of the matter (or none was ever appointed), a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the distributee(s). Internal Revenue Service officials may require the submission of evidence of the discharge of the administrator (if one had been appointed) and evidence that the administrator is not responsible for disposition of the matter. It also may require a statement(s) signed under penalty of perjury (and such other appropriate evidence as can be produced) to show the relationship of the individual(s) who sign the form 56, "Notice Concerning Fiduciary Relationship," to the decedent and the right of each signer to the respective shares of the assets claimed under the law of the domicile of the decedent.

(4) *Taxpayer for whom a guardian or other fiduciary has been appointed.* In the case of a taxpayer for whom a guardian or other fiduciary has been appointed by a court of record, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the fiduciary. Internal Revenue Service officials may require the submission of a court certificate or court order showing that the individual who executes the form 56, "Notice Concerning Fiduciary Relationship," has been appointed and that his/her appointment has not been terminated.

(5) *Taxpayer who has appointed a trustee.* In the case of a taxpayer who has appointed a trustee, a form 56, "Notice Concerning Fiduciary Relationship," should be filed by the trustee. If there is more than one trustee appointed, all should join unless it is shown that fewer than all have authority to act. Internal Revenue Service officials may require the submission of documentary evidence of the authority of the trustee to act. Such evidence may be either a copy of a properly executed trust instrument or a certified copy of extracts from the trust instruments, showing—

(i) The date of the instrument;

(ii) That it is or is not of record in any court;

(iii) The names of the beneficiaries;

(iv) The appointment of the trustee, the authority granted, and other information as may be necessary to show that such authority extends to Federal tax matters; and

(v) That the trust has not been terminated and the trustee appointed therein is still legally acting as such.

In the event that the trustee appointed in the original trust instrument has been replaced by another trustee, documentary evidence of the appointment of the new trustee must be submitted.

(e) *Commissioner's authority to substitute other requirements for power of attorney.* Upon application of a taxpayer or a recognized representative, the Commissioner of Internal Revenue may substitute a requirement(s) other than provided herein for a power of attorney as evidence of the authority of the representative.

§ 601.504 Requirements for filing power of attorney.

(a) *Situations in which a power of attorney is required.* Except as otherwise provided in § 601.504(b), a power of attorney is required by the Internal Revenue Service when the taxpayer wishes to authorize a recognized representative to perform one or more of the following acts on behalf of the taxpayer—

(1) *Representation.* (See §§ 601.501(b)(10) and 601.501(b)(13).)

(2) *Waiver.* Offer and/or execution of either

(i) A waiver of restriction on assessment or collection of a deficiency in tax, or

(ii) A waiver of notice of disallowance of a claim for credit or refund.

(3) *Consent.* Execution of a consent to extend the statutory period for assessment or collection of a tax.

(4) *Closing agreement.* Execution of a closing agreement under the provisions of the Internal Revenue Code and the regulations thereunder.

(5) *Check drawn on the United States Treasury.* The authority to receive (but not endorse or collect) a check drawn on the United States Treasury must be specifically granted in a power of attorney. (The endorsement and payment of a check drawn on the United States Treasury are governed by Treasury Department Circular No. 21, as amended, 31 CFR part 240. Endorsement and payment of such check by any person other than the payee must be made under one of the special types of powers of attorney prescribed by Circular No. 21, 31 CFR part 240. For restrictions on the assignment of claims, see Revised Statute section 3477, as amended (31 U.S.C. 3727).)

(6) *Signing tax returns.* The filing of a power of attorney does not authorize the recognized representative to sign a tax return on behalf of the taxpayer unless such act is both—

(i) Permitted under the Internal Revenue Code and the regulations thereunder (e.g., the authority to sign income tax returns is governed by the provisions of § 1.6012–1(a)(5) of the Income Tax Regulations); and

(ii) Specifically authorized in the power of attorney.

(b) *Situations in which a power of attorney is not required.* (1) *Disclosure of confidential tax information.* The submission of a tax information authorization to request a disclosure of confidential tax information does not constitute practice before the Internal Revenue Service. (Such procedure is governed by the provisions of section 6103 of the Internal Revenue Code and the regulations thereunder.) Nevertheless, if a power of attorney is properly filed, the recognized representative also is authorized to receive and/or inspect confidential tax information concerning the matter(s) specified (provided the power of attorney places no limitations upon such disclosure).

(2) *Estate matter.* A power of attorney is not required at a conference concerning an estate tax matter if the individual seeking to act as a recognized representative presents satisfactory evidence to Internal Revenue Service officials that he/she is—

(i) An individual described in § 601.502(a); and

(ii) The attorney of record for the executor, personal representative, or administrator before the court where the will is probated or the estate is administered.

(3) *Bankruptcy matters.* A power of attorney is not required in the case of a trustee, receiver, or an attorney (designated to represent a trustee, receiver, or debtor in possession) appointed by a court having jurisdiction over a debtor. In such a case, Internal Revenue Service officials may require the submission of a certificate from the court having jurisdiction over the debtor showing the appointment and qualification of the trustee, receiver, or attorney and that his/her authority has not been terminated. In cases pending before a court of the United States (e.g., U.S. District Court or U.S. Bankruptcy Court), an authenticated copy of the order approving the bond of the trustee, receiver, or attorney will meet this requirement.

(c) *Administrative requirements of filing*—(1) *General.* Except as provided in this section, a power of attorney (including the declaration of representative and any other required statement(s)) must be filed in each office of the Internal Revenue Service in which the recognized representative desires to perform one or more of the acts described in § 601.504(a).

(2) *Regional offices.* If a power of attorney (including the declaration of representative and any other required statement(s)) is filed with the office of a district director or with a service center which has the matter under consideration, it is not necessary to file a copy with the office of a regional commissioner which subsequently has the matter under consideration unless requested.

(3) *National Office.* In case of a request for a ruling or other matter to be considered in the National Office, a power of attorney, including the declaration of representative and any other required statement(s), must be submitted with each request or matter.

(4) *Copy of power of attorney.* The Internal Revenue Service will accept either the original or a copy of a power of attorney. A copy of a power of attorney received by facsimile transmission (FAX) also will be accepted.

(d) *Practice by correspondence.* If an individual desires to represent a taxpayer through correspondence with the Internal Revenue Service, such individual must submit a power of attorney, including the declaration of representative and any other required statement(s), even though no personal appearance is contemplated.

§ 601.505 Revocation, change in representation and substitution or delegation of representative.

(a) *By the taxpayer*—(1) *New power of attorney filed.* A new power of attorney revokes a prior power of attorney if it is granted by the taxpayer to another recognized representative with respect to the same matter. However, a new power of attorney does not revoke a prior power of attorney if it contains a clause stating that it does not revoke such prior power of attorney and there is attached to the new power of attorney either—

(i) a copy of the unrevoked prior power of attorney; or

(ii) a statement signed by the taxpayer listing the name and address of each recognized representative authorized under the prior unrevoked power of attorney.

(2) *Statement of revocation filed.* A taxpayer may revoke a power of attorney without authorizing a new representative by filing a statement of

revocation with those offices of the Internal Revenue Service where the taxpayer has filed the power of attorney to be revoked. The statement of revocation must indicate that the authority of the first power of attorney is revoked and must be signed by the taxpayer. Also, the name and address of each recognized representative whose authority is revoked must be listed (or a copy of the power of attorney to be revoked must be attached).

(b) *By the recognized representative*—(1) *Revocation of power of attorney.* A recognized representative may withdraw from representation in a matter in which a power of attorney has been filed by filing a statement with those offices of the Internal Revenue Service where the power of attorney to be revoked was filed. The statement must be signed by the representative and must identify the name and address of the taxpayer(s) and the matter(s) from which the representative is withdrawing.

(2) *Substitution or delegation of recognized representative.* Any recognized representative appointed in a power of attorney may substitute or delegate authority under the power of attorney to another recognized representative if substitution or delegation is specifically permitted under the power of attorney. Unless otherwise provided in the power of attorney, a recognized representative may make a substitution or delegation without the consent of any other recognized representative appointed to represent the taxpayer in the same matter. A substitution or delegation if effected by filing the following items with offices of the Internal Revenue Service where the power of attorney has been filed—

(i) *Notice of substitution or delegation.* A Notice of Substitution or Delegation is a statement signed by the recognized representative appointed under the power of attorney. The statement must contain the name and mailing address of the new recognized representative and, if more than one individual is to represent the taxpayer in the matter, a designation of which recognized representative is to receive notices and other written communications;

(ii) *Declaration of representative.* A written declaration which is made by the new representative as required by § 601.502(b); and

(iii) *Power of attorney.* A power of attorney which specifically authorizes the substitution or delegation.

An employee of a recognized representative may not be substituted for his/her employer with respect to the representation of a taxpayer before the Internal Revenue Service unless the employee is a recognized representative in his/her own capacity under the provisions of § 601.502(a). However, even if such employee is not a recognized representative in his/her own capacity under the provisions of § 601.502(a), that individual may be authorized by the taxpayer under a tax information authorization to receive and/or inspect confidential tax information under the provisions of section 6103 of the Internal Revenue Code and the regulations thereunder.

§ 601.506 Notices to be given to recognized representative; direct contact with taxpayer; delivery of a check drawn on the United States Treasury to recognized representative.

(a) *General.* Any notice or other written communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter before the Internal Revenue Service must be given to the taxpayer and, unless restricted by the taxpayer, to the representative according to the following procedures—

(1) If the taxpayer designates more than one recognized representative to receive notices and other written communications, it will be the practice of the Internal Revenue Service to give copies of such to two (but not more than two) individuals so designated.

(2) In a case in which the taxpayer does not designate which recognized representative is to receive notices, it will be the practice of the Internal Revenue Service to give notices and other communications to the first recognized representative appointed on the power of attorney.

(3) Failure to give notice or other written communication to the recognized representative of a taxpayer will not affect the validity of any notice or other written communication delivered to a taxpayer.

Unless otherwise indicated in the document, a power of attorney other than form 2848 will be presumed to grant the authority to receive notices or other written communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter(s) before the Internal Revenue Service to which the power of attorney pertains.

(b) *Cases where taxpayer may be contacted directly.* Where a recognized representative has unreasonably delayed or hindered an examination, collection or investigation by failing to furnish, after repeated request, nonprivileged information necessary to the examination, collection or investigation, the Internal Revenue Service employee conducting the examination, collection or investigation may request the permission of his/her immediate supervisor to contact the taxpayer directly for such information.

(1) *Procedure.* If such permission is granted, the case file will be documented with sufficient facts to show how the examination, collection or investigation was being delayed or hindered. Written notice of such permission, briefly stating the reason why it was granted, will be given to both the recognized representative and the taxpayer together with a request of the taxpayer to supply such nonprivileged information. (See 7521(c) of the Internal Revenue Code and the regulations thereunder.)

(2) *Effect of direct notification.* Permission to by-pass a recognized representative and contact a taxpayer directly does not automatically disqualify an individual to act as the recognized representative of a taxpayer in a matter. However, such information may be referred to the Director of Practice for possible disciplinary proceedings under Circular No. 230, 31 CFR part 10.

(c) *Delivery of a check drawn on the United States Treasury*—(1) *General.* A check drawn on the United States Treasury (e.g., a check in payment of refund of internal revenue taxes, penalties, or interest, see § 601.504(a)(5)) will be mailed to the recognized representative of a taxpayer provided that a power of attorney is filed containing specific authorization for this to be done.

(2) *Address of recognized representative.* The check will be mailed to the address of the recognized representative listed on the power of attorney unless such recognized representative notifies the Internal Revenue Service in writing that his/her mailing address has been changed.

(3) *Authorization of more than one recognized representative.* In the event a power of attorney authorizes more than one recognized representative to receive a check on the taxpayer's behalf, and such representatives have different addresses, the Internal Revenue Service will mail the check diretly to the taxpayer, unless a statement (signed by all of the recognized representatives so authorized) is submitted which indicates the address to which the check is to be mailed.

(4) *Cases in litigation.* The provisions of § 601.506(c) concerning the issuance of a tax refund do not apply to the issuance of a check in payment of claims which have been either reduced

to judgment or settled in the course (or as a result) of litigation.

(d) *Centralized Authorization File (CAF) system*— (1) *Information recorded onto the CAF system.* Information from both powers of attorney and tax information authorizations is recorded onto the CAF system. Such information enables Internal Revenue Service personnel who do not have access to the actual power of attorney or tax information authorizations to—

(i) Determine whether a recognized representative or an appointee is authorized by a taxpayer to receive and/or inspect confidential tax information;

(ii) Determine, in the case of a recognized representative, whether that representative is authorized to perform the acts set forth in § 601.504(a); and

(iii) Send copies of computer generated notices and communications to an appointee or recognized representative so authorized by the taxpayer.

(2) *CAF number.* A Centralized Authorization File (CAF) number generally will be issued to—

(i) A recognized representative who files a power of attorney and a written declaration of representative; or

(ii) An appointee authorized under a tax information authorization.

The issuance of a CAF number does not indicate that a person is either recognized or authorized to practice before the Internal Revenue Service. Such determination is made under the provisions of Circular No. 230, 31 CFR part 10. The purpose of the CAF number is to facilitate the processing of a power of attorney or a tax information authorization submitted by a recognized representative or an appointee. A recognized representative or an appointee should include the same CAF number on every power of attorney or tax information authorization filed. However, because the CAF number is not a substantive requirement (i.e., as listed in § 601.503(a)), a tax information authorization or power of attorney which does not include such number will not be rejected based on the absence of a CAF number.

(3) *Tax matters recorded on CAF.* Although a power of attorney or tax information authorization may be filed in all matters under the jurisdiction of the Internal Revenue Service, only those documents which meet each of the following criteria will be recorded onto the CAF system—

(i) *Specific tax period.* Only documents which concern a matter(s) relating to a specific tax period will be recorded onto the CAF system. A power of attorney or tax information authorization filed in a matter unrelated to a specific period (e.g., the 100% penalty for failure to pay over withholding taxes imposed by section 6672 of the Internal Revenue Code, applications for an employer identification number, and requests for a private letter ruling request pertaining to a proposed transaction) cannot be recorded onto the CAF system.

(ii) *Future three-year limitation.* Only documents which concern a tax period that ends no later than three years after the date on a power of attorney is received by the Internal Revenue Service will be recorded onto the CAF system. For example, a power of attorney received by the Internal Revenue Service on August 1, 1990, which indicates that the authorization applies to form 941 for the quarters ended December 31, 1990 through December 31, 2000, will be recorded onto the CAF system for the applicable tax periods which end no later than July 31, 1993 (i.e., three years after the date of receipt by the Internal Revenue Service).

(iii) *Documents for prior tax periods.* Documents which concern any tax period which has ended prior to the date on which a power of attorney is received by the Internal Revenue Service will be recorded onto the CAF system provided that matters concerning such years are under consideration by the Internal Revenue Service.

(iv) *Limitation on representatives recorded onto the CAF system.* No more than three representatives appointed under a power of attorney or three persons designated under a tax information authorization will be recorded onto the CAF system. If more than three representatives are appointed under a power of attorney or more than three persons designated under a tax information authorization, only the first three names will be recorded onto the CAF system.

The fact that a power of attorney or tax information authorization cannot be recorded onto the CAF system is not determinative of the (current or future) validity of such document. (For example, documents which concern tax periods that end more than three years from the date of receipt by the IRS are not invalid for the period(s) not recorded onto the CAF system, but can be resubmitted at a later date.)

§ 601.507 Evidence required to substantiate facts alleged by a recognized representative.

The Internal Revenue Service may require a recognized representative to submit all evidence, except that of a supplementary or incidental character, over a declaration (signed under penalty of perjury) that the recognized representative prepared such submission and that the facts contained therein are true. In any case in which a recognized representative is unable or unwilling to declare his/her own knowledge that the facts are true and correct, the Internal Revenue Service may require the taxpayer to make such a declaration under penalty of perjury.

§ 601.508 Dispute between recognized representatives of a taxpayer.

Where there is a dispute between two or more recognized representatives concerning who is entitled to represent a taxpayer in a matter pending before the Internal Revenue Service (or to receive a check drawn on the United States Treasury), the Internal Revenue Service will not recognize any party. However, if the contesting recognized representatives designate one or more of their number under the terms of an agreement signed by all, the Internal Revenue Service will recognize such designated recognized representatives upon receipt of a copy of such agreement according to the terms of the power of attorney.

§ 601.509 Power of attorney not required in cases docketed in the Tax Court of the United States.

The petitioner and the Commissioner of Internal Revenue stand in the position of parties litigant before a judicial body in a case docketed in the Tax Court of the United States. The Tax Court has its own rules of practice and procedure and its own rules respecting admission to practice before it. Accordingly, a power of attorney is not required to be submitted by an attorney of record in a case which is docketed in the Tax Court. Correspondence in connection with cases docketed in the Tax Court will be addressed to counsel of record before the Court. However, a power of attorney is required to be submitted by an individual other than the attorney of record in any matter before the Internal Revenue Service concerning a docketed case.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 91-12429 Filed 5-24-91; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1 91-021]

National Sweepstakes Regatta, Red Bank, NJ

AGENCY: Coast Guard; DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the special local regulations contained in 33 CFR 100.103 which govern the National Sweepstakes Regatta. This final rule amends the permanent regulations, 33 CFR 100.103, by changing the dates on which the National Sweepstakes Regatta will take place to between 8 a.m. and 6 p.m. on June 14, 15, and 16, 1991. This change in the date of the event represents the sole change to the existing permanent regulations. These regulations are needed to provide for the safety of life on the navigable waters of the United States.

EFFECTIVE DATES: These regulations will be effective on June 14, 15, and 16, 1991, from 8 a.m. to 6 p.m.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) E. G. Westerberg, Chief Boating Safety Affairs Branch, (617) 223-8310.

SUPPLEMENTARY INFORMATION: On April 24, 1991, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (56 FR 18795). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of these regulations are LT(jg) E. G. WESTERBERG, project officer, First Coast Guard District Boating Safety Affairs Branch, and LT R. E. KORROCH, project attorney, First Coast Guard District Legal Division.

Discussion of Comments

No public comments were received regarding these regulations.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the races. This should have a favorable impact on commercial facilities providing services to the spectators. Because this area is used primarily by recreational boaters, impact on commercial traffic in the area will be negligible. The Coast Guard shall ensure that the regulated area is opened periodically, allowing transiting vessels to pass without undue delay. Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.103(b) is revised to read as follows:

§ 100.103 National Sweepstakes Regatta, Redbank NJ.

* * * * *

(b) *Effective period.* This regulation is effective from 8:00 am on the morning of June 14, 1991 until 6:00 p.m. in the evening of June 16, 1991, unless otherwise specified in the Coast Guard Local Notice to Mariners and a **Federal Register** notice.

* * * * *

Dated: May 14, 1991.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 91-12509 Filed 5-24-91; 8:45 am]

BILLING CODE 4910-014-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 440

[MB-014-CN]

RIN 0938-AD16

Medicaid Program; Eligibility Groups, Coverage, and Conditions of Eligibility; Legislative Changes Under OBRA '87, COBRA, and TEFRA

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule; correction notice.

SUMMARY: This notice corrects 42 CFR 440.210, Required services for the categorically needy, 42 CFR 440.220, Required services for the medically needy, and 42 CFR 440.250, Limits on comparability of services, to restore current text which was inadvertently deleted in the final rule and to make conforming redesignation changes. This notice rescinds a correction notice published on March 14, 1991, in which certain corrections pertaining to §§ 440.220 and 440.250 were inadvertently omitted.

EFFECTIVE DATES: These corrections are effective November 12, 1990.

FOR FURTHER INFORMATION CONTACT: Valerie Krauss, (301) 966-4670.

SUPPLEMENTARY INFORMATION: On November 21, 1990, in FR Doc. 90-27393, we published a final rule that included revisions to 42 CFR part 440. In doing so, we failed to take into account changes made to part 440 by a final rule published on September 7, 1990 (55 FR 36813). As a result, we inadvertently deleted in the November 21 final rule regulatory text that was added to §§ 440.210 and 440.220 by the September 7 final rule. Consequently, we published a correction notice, FR Doc. 91-5923, on March 14, 1991 at 56 FR 10807 to integrate the provisions of the two final rules, to restore the deleted text in §§ 440.210 and 440.220, and to make technical changes to § 440.250. However, the correction notice inadvertently omitted certain corrections pertaining to §§ 440.220 and 440.250. We are, therefore, rescinding the correction notice published on March 14, 1991, and are republishing it to include the omitted material.

A. In vol. 56, on pages 10807 and 10808, the corrections in document 91-5923 are rescinded.

B. In vol. 55, on page 48611, column 1, § 440.210, is correctly revised to read as follows:

§ 440.210 Required services for the categorically needy.

(a) A State plan must specify that, as a minimum, categorically needy recipients are provided the following services:

(1) The services as specified in §§ 440.10 through 440.50, 440.70 and (to the extent nurse-midwives are authorized to practice under State law or regulation), § 440.165;

(2) Pregnancy-related services and services for other conditions that might complicate the pregnancy.

(i) Pregnancy-related services are those services that are necessary for the health of the pregnant woman and fetus, or that have become necessary as a result of the woman having been pregnant. These include, but are not