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[4830-01-p]

Published November 7, 2005

DEPARTMENT OF THE TREASURY

26 CFR Parts 1, 25, 26, 53, 55, 156, 157, 301

TD 9229

RIN 1545-BE63

Extension of Time for Filing Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the simplification of procedures for obtaining automatic extensions of time to file certain returns. The portions of this document that are final regulations provide necessary cross-references to the temporary regulations. The temporary regulations allow individual income taxpayers and certain other taxpayers to obtain an automatic six-month extension of time to file certain returns by filing a single request. For these returns, the temporary regulations also remove the requirements for a signature and an explanation of the need for an extension of time to file. The temporary regulations affect taxpayers who are required to file certain returns and need an extension of time to file. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: Effective Date: These regulations are effective November 7, 2005.

Applicability Dates: For dates of applicability of these regulations, see §§1.6081-2T(i), 1.6081-3T(e)(2), 1.6081-4T(f), 1.6081-5T(g), 1.6081-6T(g), 1.6081-7T(g), 1.6081-10T(f), 1.6081-11T(e), 25.6081-1T(f), 26.6081-1T(f), 53.6081-1T(f), 55.6081-1T(f), 156.6081-1T(f), 157.6081-1T(f), and 301.6081-2T(e).

FOR FURTHER INFORMATION CONTACT: Allen D. Madison, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR parts 1, 25, 26, 53, 55, 156, 157, and 301 under section 6081 of the Internal Revenue Code. Section 6081(a) provides that the Secretary may grant a reasonable extension of time for filing any return, declaration, statement, or other document required by Title 26 or by regulations. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months. The regulations under section 6081 provide specific rules taxpayers must follow to request an extension of time to file Federal tax returns. A taxpayer must generally submit a written application for the extension on or before the due date of the return. An extension of time for filing a return does not extend the time for payment of tax.

Explanation of Provisions

Rationale for Change

Currently, most taxpayers other than corporations can receive a full six-month extension of time to file their income tax returns, but to obtain the full six-

month extension they must file one application for an initial extension of time and then file a second application to obtain an extension for the balance of the six months. For example, individual income taxpayers request an initial four-month automatic extension on one form and then use a second form to request a two-month discretionary extension. Similarly, trusts and partnerships request an initial three-month automatic extension on one form and then use a second form to request a three-month discretionary extension. Requiring these taxpayers to file two different forms to obtain the full six-month extension creates an unnecessary burden on taxpayers and the IRS, and it can cause unnecessary confusion.

To reduce the complexity of the current extension process, and to provide cost savings and other benefits to taxpayers and the IRS, these temporary regulations simplify the extension process by allowing certain taxpayers to file a single request for an automatic six-month extension of time to file certain returns. Because the extension is automatic, these taxpayers do not need to sign the extension request or provide an explanation of the reasons for requesting an extension. Simplifying, consolidating, and standardizing extension forms will reduce taxpayer burden and will also reduce taxpayer confusion and error in filing the correct form. In addition, taxpayers will save considerable time and expense by not having to complete and file a second request to obtain the full six-month extension. This simplification will also lower processing costs and facilitate increased efficiency for the IRS. According to IRS research,

simplification of the extension process will save taxpayers between \$73-94 million annually and will save the IRS \$4.6 million annually.

Individual Income Taxpayers

Currently, individual income taxpayers submit Form 4868 “Application for Automatic Extension of Time To File a U.S. Individual Income Tax Return,” for an initial four-month extension of time to file an individual income tax return. The Form 4868 must be filed by the original due date of the return. Taxpayers do not have to sign or give a reason for the extension request. Taxpayers must, however, provide a proper estimate of their tax liability.

Form 4868 does not extend the time for payment of tax. Although no payment of tax is necessary in order to receive the extension, penalties and interest may apply on any amounts that are not paid as of the original due date of the return. Individual income taxpayers can seek an additional two-month extension of time to file on Form 2688, “Application for Additional Extension of Time To File U.S. Individual Income Tax Return,” which requires taxpayers to provide an explanation of the need for an extension and must be signed under penalties of perjury.

To reduce burden on taxpayers and the IRS, the temporary regulations provide an automatic six-month extension to taxpayers who must file an individual income tax return if they submit a timely, completed application for extension on Form 4868. Taxpayers do not have to sign the request or explain why an extension is needed in order to receive the automatic six-month extension of time to file. An automatic extension under the temporary regulations

does not extend the time for payment of tax. Accordingly, taxpayers must make a proper estimate of any tax due. While no payment of tax is required in order to obtain the extension, failure to pay any tax as of the original due date of the return may subject the taxpayer to penalties and interest.

Corporate Income Taxpayers

These temporary regulations do not change the rules regarding filing extensions for corporate income tax returns. Currently, corporations may obtain an automatic six-month extension of time to file their income tax returns by submitting Form 7004, "Application for Automatic Extension of Time To File Corporation Income Tax Return." Corporations do not have to sign the extension request or give a reason for their request. The Form 7004 does not extend the time for payment of tax. Accordingly, corporations filing Form 7004 must compute the total amount of their tentative tax and make a remittance of any balance due. Although these regulations do not change the rules regarding filing extensions for corporations, they do change the title to and appearance of Form 7004. Taxpayers filing certain other types of returns will now also use Form 7004 to request an automatic six-month extension of time to file. The new Form 7004 will be titled "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns" and will apply to a larger number of returns than the prior form.

Taxpayers Previously Filing Form 2758 to Request an Extension of Time

Under these regulations, taxpayers that previously requested additional time to file certain excise, income, information, and other returns by submitting

Form 2758, "Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns," may request an automatic six-month extension of time to file by filing the new Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns." Previously, these taxpayers filed Form 2758 in order to obtain a 90-day extension. To obtain the extension, these taxpayers had to sign the form and provide an explanation of the need for the extension. To obtain additional time beyond the 90-day period, these taxpayers had to file Form 2758 a second time, once again signing the request and providing an explanation why the initial extension was not sufficient. The total extension was capped at the statutory maximum of six months. The Form 2758 has been obsoleted by these regulations.

Partnership, REMIC, and Certain Trust Taxpayers

Prior regulations required partnerships, real estate mortgage investment conduits (REMICs) and certain trusts to request three-month automatic extensions of time to file by submitting Form 8736, "Application for Automatic Extension of Time to File U.S. Return for a Partnership, REMIC, or for Certain Trusts." These entities could then file a second request for an additional three-month extension of time to file on Form 8800, "Application for Additional Extension of Time to File U.S. Return for a Partnership, REMIC, or for Certain Trusts." In order to promote simplified extension procedures, the temporary regulations allow these taxpayers to file an automatic six-month extension of time to file on one application, the new Form 7004, "Application for Automatic 6-Month

Extension of Time to File Certain Business Income Tax, Information, and Other Returns.” These taxpayers do not have to sign the Form 7004 or provide an explanation for their request in order to receive the automatic six-month extension of time to file. Forms 8736 and 8800 have been obsoleted by these regulations.

The six-month automatic extension of time to file set forth in these temporary regulations applies to returns of pass-through entities, e.g., Form 1065 for partnerships. The Treasury Department and the IRS recognize that because the six-month automatic extension is available for returns of pass-through entities, some taxpayers may not receive information returns from the pass-through entities that they need in order to complete their own income tax returns before those returns are due. For example, an individual income taxpayer with a six-month extension of time to October 15 to file the Form 1040 may not receive a Schedule K-1 from a partnership in which the taxpayer holds an interest until after the partnership files its Form 1065 on its extended due date of October 15. Similarly, a C-corporation with a six-month extension to September 15 to file its Form 1120 may not receive a Schedule K-1 from a calendar year partnership in which it holds an interest until 30 days after its return is due if the partnership files its Form 1065 and sends out the Schedule K-1s on its extended due date of October 15. This filing anomaly existed under prior regulations when the pass-through entity received an extension of time to file to a date on or after the extended due date for the pass-through interest holder, but the automatic six-

month extension in these regulations may cause this to happen with more frequency.

Because of this filing anomaly, the availability of a six-month extension of time to file for pass-through entities may result in taxpayers filing an increased number of amended income tax returns. Therefore, it may be appropriate for pass-through entities to have a shorter extension period than their partners or shareholders. The Treasury Department and the IRS request comments on whether a shorter extension of time to file for pass-through entities might reduce overall taxpayer burden. Please follow the instructions in the “Comments and Public Hearing” section in the notice of proposed rulemaking accompanying these temporary regulations in this issue of the **Federal Register**.

In order to minimize the burden that might be imposed as a result of this filing anomaly, the Treasury Department and the IRS encourage pass-through entities that request an extension of time to file to minimize the impact that such extension might have on their partners’ or members’ ability to timely file (with an extension) their own tax returns.

Transition Rule

These temporary regulations are effective for applications for an automatic extension of time to file certain returns filed after December 31, 2005. Therefore, the temporary regulations apply to applications for extension of time to file tax year 2005 returns. In addition, these temporary regulations also apply to applications for extension of time to file some tax year 2004 returns for certain fiscal year taxpayers because these returns are due after December 31, 2005.

Although these fiscal year taxpayers should continue to use the tax year 2004 extension forms, the IRS will grant a six-month extension of time to file if an extension request made on one of these forms would otherwise qualify under these temporary regulations, except for use of the specified form.

Certain Employee Plan Returns

These temporary regulations also allow administrators and sponsors of employee benefit plans subject to Employee Retirement Income Security Act of 1974 (ERISA) to report information concerning the plans and direct filing entities to use a new version of Form 5558, "Application for Extension of Time To File Certain Employee Plan Returns," for an automatic two and one-half-month extension of time to file. Under these regulations, the Form 5558 no longer requires taxpayers to provide an explanation of the need for the extension of time to file or a signature.

Gift Tax Returns

Under section 6075(b)(2), individuals who make a transfer by gift and who request an automatic extension of time to file the individual's income tax return are deemed to have an extension of time to file the return required by section 6019. The temporary regulations also allow donors who do not request an extension of time to file an income tax return to request an automatic six-month extension of time to file Form 709, "United States Gift (and Generation-Skipping Transfer) Tax Return" by filing a new version of Form 8892, "Payment of Gift/GST Tax and/or Application for Extension of Time to File Form 709." Under

these regulations, the Form 8892 no longer requires an explanation of the need for the extension of time to file or a signature.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal author of these regulations is Tracey B. Leibowitz of the Office of the Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

26 CFR Part 26

Generation-skipping transfer taxes, Reporting and recordkeeping requirements.

26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

26 CFR Part 55

Excise taxes, Investments, Reporting and recordkeeping requirements.

26 CFR Part 156

Excise taxes, Reporting and recordkeeping requirements.

26 CFR Part 157

Excise taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1, 25, 26, 53, 55, 156, 157, and 301 are amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entries for §1.6081-2, §1.6081-4, §1.6081-6, and §1.6081-7 and adding entries in numerical order to read, in part, as follows:

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

Section 1.6081-2T also issued under 26 U.S.C. 6081.
Section 1.6081-4T also issued under 26 U.S.C. 6081.
Section 1.6081-6T also issued under 26 U.S.C. 6081.
Section 1.6081-7T also issued under 26 U.S.C. 6081.
Section 1.6081-10T also issued under 26 U.S.C. 6081.
Section 1.6081-11T also issued under 26 U.S.C. 6081. * * *

§1.6081-2 [Removed]

Par. 2. Section 1.6081-2 is removed.

Par. 3. Section 1.6081-2T is added to read as follows:

§1.6081-2T Automatic extension of time to file certain returns filed by partnerships (temporary).

(a) In general. A partnership required to file Form 1065, "U.S. Partnership Return of Income," or Form 8804, "Annual Return for Partnership Withholding Tax," for any taxable year will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the partnership files an application under this section in accordance with paragraph (b) of this section. In the case of a partnership described in §1.6081-5(a)(1), the automatic extension of time to file allowed under this section runs concurrently with an extension of time to file granted pursuant to §1.6081-5(a).

(b) Requirements. To satisfy this paragraph (b), the partnership must--

(1) Submit a complete application on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the later of--

(i) The date prescribed for filing the return of the partnership; or

(ii) The expiration of any extension of time to file granted under §1.6081-5(a); and

(3) File the application with the Internal Revenue Service office designated in the application's instructions.

(c) Payment of section 7519 amount. An automatic extension of time for filing a partnership return of income granted under paragraph (a) of this section does not extend the time for payment of any amount due under section 7519, relating to required payments for entities electing not to have a required taxable year.

(d) Section 444 election. An automatic extension of time for filing a partnership return of income will run concurrently with any extension of time for filing a return allowed because of section 444, relating to the election of a taxable year other than a required taxable year.

(e) Effect of extension on partner. An automatic extension of time for filing a partnership return of income under this section does not extend the time for filing a partner's income tax return or the time for the payment of any tax due on a partner's income tax return.

(f) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the partnership a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the partnership's last known address. For further

guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(g) Penalties. See section 6698 for failure to file a partnership return.

(h) Effective dates. This section is applicable for applications for an automatic extension of time to file the partnership returns listed in paragraph (a) of this section filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

Par. 4. Section 1.6081-3 is amended by revising paragraphs (a)(1) and (e).

§1.6081-3 Automatic extension of time for filing corporation income tax returns.

(a) * * *

(1) [Reserved]. For guidance on the form to file to request a 6-month extension of time to file corporation income tax returns after December 31, 2005, see §1.6081-3T.

* * * * *

(e) For guidance on the applicability date of this section, see §1.6081-3T.

Par. 5. Section 1.6081-3T is added to read as follows:

§1.6081-3T Automatic extension of time for filing corporation income tax returns (temporary).

(a) [Reserved]. For further guidance, see §1.6081-3(a).

(1) An application must be submitted on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax,

Information, and Other Returns,” or in any other manner prescribed by the Commissioner.

(a)(2) through (d) [Reserved]. For further guidance, see §1.6081-3(a)(2) through (d).

(e) Effective dates. (1) Except as provided in paragraph (e)(2) of this section, this section applies to requests for extensions of time to file corporation income tax returns due after December 7, 2004.

(2) Paragraph (a)(1) of this section applies to applications for an automatic extension of time to file corporation income tax returns filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

§1.6081-4 [Removed]

Par. 6. Section 1.6081-4 is removed.

Par. 7. Section 1.6081-4T is added to read as follows:

§1.6081-4T Automatic extension of time for filing individual income tax return (temporary).

(a) In general. An individual who is required to file an individual income tax return will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the individual files an application under this section in accordance with paragraph (b) of this section. In the case of an individual described in §1.6081-5(a)(5) or (6), the automatic 6-month extension will run concurrently with the extension of time to file granted pursuant to §1.6081-5.

(b) Requirements. To satisfy this paragraph (b), an individual must--

(1) Submit a complete application on Form 4868, "Application for Automatic Extension of Time To File U.S Individual Income Tax Return," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the later of--

(i) The date prescribed for filing the return; or

(ii) The expiration of any extension of time to file granted pursuant to §1.6081-5;

(3) File the application with the Internal Revenue Service office designated in the application's instructions; and

(4) Show on the application the full amount properly estimated as tax for the taxable year.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the individual a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 4868 or to the individual's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) Penalties. See section 6651 for failure to file an individual income tax return or failure to pay the amount shown as tax on the return. In particular, see

§301.6651-1(c)(3) of this chapter (relating to a presumption of reasonable cause in certain circumstances involving an automatic extension of time for filing an individual income tax return).

(f) Effective dates. This section is applicable for applications for an automatic extension of time to file an individual income tax return filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

Par. 8. Section 1.6081-5 is amended by revising paragraph (b) to read as follows:

§1.6081-5 Extensions of time in the case of certain partnerships, corporations, and U.S. citizens and residents.

* * * * *

(b) [Reserved]. For guidance on how a person should demonstrate that the person qualified for the extension in paragraph (a) of this section after December 31, 2005, see §1.6081-5T.

* * * * *

Par. 9. Section 1.6081-5T is added to read as follows:

§1.6081-5T Extensions of time in the case of certain partnerships, corporations, and U.S. citizens and residents (temporary).

(a) [Reserved]. For further guidance, see §1.6081-5(a).

(b) In order to qualify for the extension under this section--

(1) A statement must be attached to the return showing that the person for whom the return is made is a person described in paragraph (a) of this section; or

(2) If a person described in paragraph (a) of this section requests additional time to file, the person must request the extension on or before the fifteenth day of the sixth month following the close of the taxable year and check the appropriate box on Form 4868, "Application for Automatic Extension of Time To File a U.S. Individual Income Tax Return," or Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," whichever is applicable, or in any other manner prescribed by the Commissioner.

(c) through (f) [Reserved]. For further guidance, see §1.6081-5(c) through (f).

(g) Effective date. This section is applicable for applications for an automatic extension of time to file returns of income for taxpayers listed in paragraph (a) of this section filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

§1.6081-6 [Removed]

Par. 10. Section 1.6081-6 is removed.

Par. 11. Section 1.6081-6T is added to read as follows:

§1.6081-6T Automatic extension of time to file estate or trust income tax return (temporary).

(a) In general. An estate or trust required to file an income tax return on Form 1041, "U.S. Income Tax Return for Estates and Trusts," will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the estate or trust files an application under this section in accordance with paragraph (b) of this section.

(b) Requirements. To satisfy this paragraph (b), an estate or trust must--

(1) Submit a complete application on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions; and

(3) Show on the application the amount properly estimated as tax for the estate or trust for the taxable year.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Effect of extension on beneficiary. An automatic extension of time to file an estate or trust income tax return under this section will not extend the time for filing the income tax return of a beneficiary of the estate or trust or the time for the payment of any tax due on the beneficiary's income tax return.

(e) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the estate or trust a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the estate or trust's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(f) Penalties. See section 6651 for failure to file an estate or trust income tax return or failure to pay the amount shown as tax on the return.

(g) Effective dates. This section is applicable for applications for an automatic extension of time to file a n estate or trust income tax return filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

§1.6081-7 [Removed]

Par. 12. Section 1.6081-7 is removed.

Par. 13. Section 1.6081-7T is added to read as follows:

§1.6081-7T Automatic extension of time to file Real Estate Mortgage Investment Conduit (REMIC) income tax return (temporary).

(a) In general. A Real Estate Mortgage Investment Conduit (REMIC) required to file an income tax return on Form 1066, "U.S. Real Estate Mortgage Investment Conduit Income Tax Return," or Form 8831, "Excise Tax on Excess Inclusions of REMIC Residual Interests," for any taxable year will be allowed an automatic 6-month extension of time to file the return after the date prescribed for

filing the return if the REMIC files an application under this section in accordance with paragraph (b) of this section.

(b) Requirements. To satisfy this paragraph (b), a REMIC must--

(1) Submit a complete application on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions; and

(3) Show on the application the full amount properly estimated as tax for the REMIC for the taxable year.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Effect of extension on residual or regular interest holders. An automatic extension of time to file a REMIC income tax return under this section will not extend the time for filing the income tax return of a residual or regular interest holder of the REMIC or the time for the payment of any tax due on the residual or regular interest holder's income tax return. An automatic extension will also not extend the time for payment of any excise tax on excess inclusions of REMIC residual interests.

(e) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the REMIC a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the REMIC's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(f) Penalties. See sections 6698 and 6651 for failure to file a REMIC income tax return or failure to pay an amount shown as tax on the return.

(g) Effective dates. This section is applicable for applications for an automatic extension of time to file REMIC income and excise tax returns listed in paragraph (a) of this section filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

Par. 14. Section 1.6081-10T is added to read as follows:

§1.6081-10T Automatic extension of time to file withholding tax return for U.S. source income of foreign persons (temporary).

(a) In general. A withholding agent or intermediary required to file a return on Form 1042, "Annual Withholding Tax Return for U.S. Source Income of Foreign Persons," for any taxable year will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the withholding agent or intermediary files an application under this section in accordance with paragraph (b) of this section.

(b) Requirements. To satisfy this paragraph (b), a withholding agent or intermediary must--

(1) Submit a complete application on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the withholding agent or intermediary a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the withholding agent or intermediary's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) Penalties. See section 6651 for failure to file a return or failure to pay an amount shown as tax on the return.

(f) Effective dates. This section is applicable for applications for an automatic extension of time to file the withholding tax return for U.S. source income of foreign persons return filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

Par. 15. Section 1.6081-11T is added to read as follows:

§1.6081-11T Automatic extension of time for filing certain employee plan returns (temporary).

(a) In general. An administrator or sponsor of an employee benefit plan required to file a return under the provisions of chapter 61 or the regulations thereunder on Form 5500 (series), "Annual Return/ Report of Employee Benefit Plan," will be allowed an automatic 2 1/2-month extension of time to file the return after the date prescribed for filing the return if the administrator or sponsor files an application under this section in accordance with paragraph (b) of this section.

(b) Requirements. To satisfy this paragraph (b), a n administrator or sponsor must--

(1) Submit a complete application on Form 5558, "Application for Extension of Time To File Certain Employee Plan Returns," or in any other manner as may be prescribed by the Commissioner; and

(2) File the application with the Internal Revenue Service office designated in the application's instructions on or before the date prescribed for filing the information return.

(c) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the administrator or sponsor a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 5558 or to the administrator or sponsor's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(d) Penalties. See sections 6652, 6692, and the Employee Retirement Income Security Act of 1974 for penalties for failure to file a timely and complete Form 5500.

(e) Effective dates. This section is applicable for applications for an automatic extension of time to file Forms 5500 filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

PART 25-- GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 16. The authority citation for part 25 is amended by adding an entry in numerical order to read, in part, as follows:

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

Section 25.6081-1T also issued under the authority of 26 U.S.C. 6081(a).

* * *

§25.6081-1 [Removed]

Par. 17. Section 25.6081-1 is removed.

Par. 18. Section 25.6081-1T is added to read as follows:

§25.6081-1T Automatic extension of time for filing gift tax returns (temporary).

(a) In general. Under section 6075(b)(2), an automatic six-month extension of time granted to a donor to file the donor's return of income under §1.6081-4T shall be deemed to also be a six-month extension of time granted to file a return on Form 709, "United States Gift (and Generation-Skipping Transfer) Tax Return." If a donor does not obtain an extension of time to file the donor's return of income under §1.6081-4T, the donor will be allowed an automatic 6-month extension of time to file Form 709 after the date prescribed for filing if the donor files an application under this section in accordance with paragraph (b) of this section. In the case of an individual described in §1.6081-5(a)(5) or (6), the automatic 6-month extension of time to file Form 709 will run concurrently with the extension of time to file granted pursuant to §1.6081-5.

(b) Requirements. To satisfy this paragraph (b), a donor must--

(1) Submit a complete application on Form 8892, "Payment of Gift/GST Tax and/or Application for Extension of Time To File Form 709," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the later of--

(i) The date prescribed for filing the return; or

(ii) The expiration of any extension of time to file granted pursuant to §1.6081-5; and

(3) File the application with the Internal Revenue Service office designated in the application's instructions.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Termination of automatic extension. The Commissioner may terminate an extension at any time by mailing to the donor a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 8892, or to the donor's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) Penalties. See section 6651 for failure to file a gift tax return or failure to pay the amount shown as tax on the return.

(f) Effective dates. This section is applicable for applications for an extension of time to file Form 709 filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

PART 26--GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER
THE TAX REFORM ACT OF 1986

Par. 19. The authority citation for part 26 is amended by adding an entry in numerical order to read, in part, as follows:

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

Section 26.6081-1T also issued under the authority of 26 U.S.C. 6081(a).

Par. 20. Section 26.6081-1T is added to read as follows:

§26.6081-1T Automatic extension of time for filing generation-skipping transfer tax returns (temporary).

(a) In general. A skip person distributee required to file a return on Form 706-GS(D), "Generation-Skipping Transfer Tax Return for Distributions," or a trustee required to file a return on Form 706-GS(T), "Generation-Skipping Transfer Tax Return for Terminations," will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing if the skip person distributee or trustee files an application under this section in accordance with paragraph (b) of this section.

(b) Requirements. To satisfy this paragraph (b), a skip person distributee or trustee must--

(1) Submit a complete application on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the skip person distributee or

trustee a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the skip person distributee or trustee's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) Penalties. See section 6651 for failure to file a generation-skipping transfer tax return or failure to pay the amount shown as tax on the return.

(f) Effective dates. This section is effective for applications for an automatic extension of time to file a generation-skipping transfer tax return filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

PART 53--FOUNDATION AND SIMILAR EXCISE TAXES

Par. 21. The authority citation for part 53 is amended by adding an entry in numerical order to read, in part, as follows:

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

Section 53.6081-1T also issued under 26 U.S.C. 6081(a).

§53.6081-1 [Removed]

Par. 22. Section 53.6081-1 is removed.

Par. 23. Section 53.6081-1T is added to read as follows:

§53.6081-1T Automatic extension of time for filing the return to report taxes due under section 4951 for self-dealing with a nuclear decommissioning fund (temporary).

(a) In general. A disqualified person for purposes of section 4951(e)(4) who engaged in self-dealing with a Nuclear Decommissioning Fund, and must report tax due under section 4951 on Form 1120-ND, "Return for Nuclear Decommissioning Funds and Certain Related Persons," will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the disqualified person files an application under this section in accordance with paragraph (b) of this section. For guidance on requesting an extension of time to file Form 1120-ND for purposes of reporting contributions received, income earned, administrative expenses of operating the fund, and the tax on modified gross income, see §1.6081-3 of this chapter.

(b) Requirements. To satisfy this paragraph (b), a disqualified person must--

(1) Submit a complete application on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the disqualified person a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the disqualified person's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) Penalties. See section 6651 for failure to file or failure to pay the amount shown as tax on the return.

(f) Effective dates. This section is applicable for applications for an automatic extension of time to file a return to report taxes due under section 4951 for self-dealing with a Nuclear Decommissioning Fund filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

PART 55--EXCISE TAX ON REAL INVESTMENT TRUSTS AND REGULATED INVESTMENT COMPANIES

Par. 24. The authority citation is amended by adding an entry in numerical order to read, in part, as follows:

Authority: 26 U.S.C. 6001, 6011, 6071, 6091, and 7805 * * *

Section 55.6081-1T also issued under 26 U.S.C. 6081(a). * * *

§55.6081-1 [Removed]

Par. 25. Section 55.6081-1 is removed.

Par. 26. Section 55.6081-1T is added to read as follows:

§55.6081-1T Automatic extension of time for filing a return due under Chapter 44 (temporary).

(a) In general. A Real Estate Investment Trust (REIT) required to file a return on Form 8612, "Return of Excise Tax on Undistributed Income of Real Estate Investment Trusts," or a Regulated Investment Company (RIC) required to file a return on Form 8613, "Return of Excise Tax on Undistributed Income of Regulated Investment Companies," will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the REIT or RIC files an application under this section in accordance with paragraph (b) of this section.

(b) Requirements. To satisfy this paragraph (b), a REIT or RIC must--

(1) Submit a complete application on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the REIT or RIC a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the REIT or RIC's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) Penalties. See section 6651 for failure to file or failure to pay the amount shown as tax on the return.

(f) Effective dates. This section is applicable for applications for an automatic extension of time to file a return due under chapter 44, filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

PART 156--EXCISE TAX ON GREENMAIL

Par. 27. The authority citation is amended by adding an entry in numerical order to read, in part, as follows:

Authority: 26 U.S.C. 6001, 6011, 6061, 6071, 6091, 6161, and 7805

* * *

Section 156.6081-1T also issued under 26 U.S.C. 6081(a). * * *

§156.6081-1 [Removed]

Par. 28. Section 156.6081-1 is removed.

Par. 29. Section 156.6081-1T is added to read as follows:

§156.6081-1T Automatic extension of time for filing a return due under chapter 54 (temporary).

(a) In general. A taxpayer required to file a return on Form 8725, "Excise Tax on Greenmail," will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the taxpayer files an application under this section in accordance with paragraph (b) of this section.

(b) Requirements. To satisfy this paragraph (b), a taxpayer must--

(1) Submit a complete application on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the taxpayer a notice of

termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the taxpayer's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) Penalties. See section 6651 for failure to file or failure to pay the amount shown as tax on the return.

(f) Effective dates. This section is applicable for applications for an automatic extension of time to file a return due under chapter 54, filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

PART 157-- EXCISE TAX ON STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

Par. 30. The authority citation is amended by adding an entry in numerical order to read, in part, as follows:

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

Section 157.6081-1T also issued under 26 U.S.C. 6081(a). * * *

§157.6081-1 [Removed]

Par. 31. Section 157.6081-1 is removed.

Par. 32. Section 157.6081-1T is added to read as follows:

§157.6081-1T Automatic extension of time for filing a return due under chapter 55 (temporary).

(a) In general. A taxpayer required to file a return on Form 8876, “Excise Tax on Structured Settlement Factoring Transactions,” will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the taxpayer files an application under this section in accordance with paragraph (b) of this section.

(b) Requirements. To satisfy this paragraph (b), the taxpayer must--

(1) Submit a complete application on Form 7004, “Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns,” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application’s instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) No extension of time for the payment of tax. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the taxpayer a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the taxpayer's last known address. For further

guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) Penalties. See section 6651 for failure to file or failure to pay the amount shown as tax on the return.

(f) Effective dates. This section is applicable for applications for an automatic extension of time to file a return due under chapter 55, filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

PART 301--PROCEDURE AND ADMINISTRATION

Par. 33. The authority citation is amended by adding an entry in numerical order to read, in part, as follows:

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

Section 301.6081-2T also issued under 26 U.S.C. 6081(a). * * *

Par. 34. Section 301.6081-2T is added to read as follows:

§301.6081-2T Automatic extension of time for filing an information return with respect to certain foreign trusts (temporary).

(a) In general. A trust required to file a return on Form 3520-A, "Annual Information Return of Foreign Trust with a U.S. Owner," will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the trust files an application under this section in accordance with paragraph (b) of this section.

(b) Requirements. To satisfy this paragraph (b), a trust must--

(1) Submit a complete application on Form 7004, "Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner; and

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application's instructions.

(c) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to the trust a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the trust's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(d) Penalties. See section 6677 for failure to file information returns with respect to certain foreign trusts.

(e) Effective dates. This section is effective for applications for an automatic extension of time to file an information return with respect to certain foreign trusts listed in paragraph (a) of this section filed after December 31, 2005. The applicability of this section expires on November 4, 2008.

Deputy Commissioner for Services and Enforcement.

Approved:

Acting Deputy Assistant Secretary (for Tax Policy).