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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

REG-110385-99

RIN 1545-AX39

Partial Withdrawal of Proposed Regulations Relating to Changes in Entity Classification.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a portion of a notice of proposed rulemaking published on November 29, 1999, addressing certain transactions that occur within a specified period before or after a foreign entity changed its classification to disregarded-entity status.

EFFECTIVE DATES: The withdrawal of proposed §301.7701-3(h) is effective October 22, 2003.

FOR FURTHER INFORMATION CONTACT: Ronald M. Gootzeit, (202) 622-3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 18, 1996, Treasury and IRS published in the **Federal Register** (61 FR 66584) final regulations (TD 8697) relating to the classification of business entities under section 7701 (check-the-box regulations). On November 29, 1999, Treasury and the

IRS published in the **Federal Register** (64 FR 66591) a notice of proposed rulemaking (REG-110385-99) proposing to amend §§301.7701-2 and 301.7701-3 of the current check-the-box regulations (proposed regulations). A public hearing on the proposed regulations was held on January 31, 2000. In addition, written comments were received. Most of the written and oral comments related to proposed §301.7701-3(h), which provided a rule that would have operated to change the classification of a foreign disregarded entity if a so-called “extraordinary transaction” occurred one day before or within one year after the election to treat the entity as disregarded. In general, commentators criticized the approach adopted in this rule as overly broad and expressed concern that it would mitigate the increased certainty promoted by the check-the-box regulations in 1996.

After considering the comments received, Treasury and the IRS issued Notice 2003-46 (2003-28 IRB 53) on June 26, 2003, announcing the intention to withdraw the extraordinary transaction rule in proposed §301.7701-3(h) and to finalize the remaining provisions of the proposed regulations addressing grandfathered entities and the relevancy of classification status.

With the publication of this document, proposed §301.7701-3(h) is withdrawn. Final regulations adopting without substantive change the portions of the proposed regulations relating to grandfathered entities and the relevancy of classification status are being published in the Rules and Regulations section elsewhere in this issue of the **Federal**

Register. These final regulations do not adopt the extraordinary transaction rule in proposed §301.7701-3(h).

Drafting Information

The principal author of this withdrawal notice is Ronald M. Gootzeit, Office of Associate Chief Counsel (International). However, other personnel from Treasury and the IRS participated in its development.

List of Subjects in 26 CFR Part 301

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

Partial Withdrawal of a Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, §301.7701-3(h) of the notice of proposed rulemaking published in the **Federal Register** on November 29, 1999, (64 FR 66591) is withdrawn.

Deputy Commissioner for Services and Enforcement.

Robert E. Wenzel