

Notice of Proposed Rulemaking

Deposits of Excise Taxes

REG-102894-97

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In T.D. 8740, page 4, the IRS is issuing temporary regulations relating to deposits of excise taxes. The temporary regulations contain rules relating to the availability of the safe harbor deposit rule based on look-back quarter liability and to floor stocks taxes. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by March 30, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-102894-97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-102894-97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning submissions, the Regulations Unit, (202) 622-7180; concerning the regulations, Ruth Hoffman, (202) 622-3130 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

T.D. 8740 amends the Excise Tax Procedural Regulations (26 CFR part 40). The temporary regulations contain rules

relating to the availability of the safe harbor deposit rule based on look-back quarter liability and to floor stocks taxes.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 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 and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 40 is proposed to be amended as follows:

PART 40—EXCISE TAX PROCEDURAL REGULATIONS

Paragraph 1. The authority citation for part 40 continues to read in part as follows:

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

Par. 2. In §40.0-1, paragraph (a) is amended by revising the second sentence to read as follows:

§40.0-1 Introduction.

(a) * * * The regulations set forth administrative provisions relating to the excise taxes imposed by chapters 31, 32, 33, 34, 36, 38, and 39 (except for the chapter 32 tax imposed by section 4181 (firearms tax) and the chapter 36 taxes imposed by sections 4461 (harbor maintenance tax) and 4481 (heavy vehicle use tax)), and to floor stocks taxes imposed on articles subject to any of these taxes. * * *

* * * * *

Par. 3. In §40.6011(a)-1, add paragraph (a)(2)(iii) to read as follows:

§40.6011(a)-1 Returns.

(a) * * *

(2) * * *

(iii) *Floor stocks tax return.*

[The text of this proposed paragraph is the same as the text of §40.6011(a)-1T(a)(2)(iii) published in T.D. 8740].

Par. 4. Section 40.6302(c)-1 is amended as follows:

1. Paragraph (c)(2)(iv) is added.

2. Paragraph (f)(1) is amended by adding a sentence to the end of the paragraph.

The additions read as follows:

§40.6302(c)-1 Use of Government depositaries.

* * * * *

(c) * * *

(2) * * *

(iv) *Modification for new or reinstated taxes.*

[The text of this proposed paragraph is the same as the text of §40.6302(c)-1T(c)(2)(iv) published in T.D. 8740.]

(f) * * * (1) * * * Also, no deposit is required in the case of any floor stocks tax described in §40.0-1(a).

* * * * *

Par. 5. In §40.6302(c)-2, add paragraph (b)(2)(iii) to read as follows:

§40.6302(c)-2 Special rules for use of Government depositaries under section 4681.

* * * * *

(b) * * *

(2) * * *

(iii) *Modification for new chemicals.*

[The text of this proposed paragraph is the same as the text of §40.6302(c)-2T(b)(2)(iii) published in T.D. 8740.]

* * * * *

Michael P. Dolan,
*Acting Commissioner of
Internal Revenue.*

(Filed by the Office of the Federal Register on December 24, 1997, 8:45 a.m., and published in the issue of the Federal Register for December 29, 1997, 62 F.R. 67589)