



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-105005-16]

RIN 1545-BN33

Election into the Partnership Audit Regime Under the Bipartisan Budget Act of 2015

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations pursuant to section 1101(g)(4) of the Bipartisan Budget Act of 2015 regarding an election to apply the new partnership audit regime enacted by that act to certain returns of a partnership. The regulations provide the time, form, and manner for making this election. The regulations affect any partnership that wishes to elect to have the new partnership audit regime apply to its returns filed for certain taxable years beginning before January 1, 2018.

DATES: Written or electronic comments and requests for a public hearing must be received by **[INSERT DATE 60 DAYS FROM PUBLICATION IN THE FEDERAL**

**REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-105005-16), room 5207, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044.

Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-105005-16), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, or sent

electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-105005-16). The public hearing will be held in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Jenni M. Black at (202) 317-6834 (not a toll-free number).

### **Background and Explanation of Provisions**

This notice of proposed rulemaking cross-references to temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register**. The temporary regulations amend the Procedure and Administration Regulations (26 CFR part 301) to provide rules for the time, form, and manner of making the election under section 1101(g)(4) of the Bipartisan Budget Act of 2015, Public Law 114-74 (BBA) for taxable years beginning after November 2, 2015 and before January 1, 2018. The BBA was enacted on November 2, 2015, and was amended by the Protecting Americans from Tax Hikes Act of 2015, Public Law 114-113, div. Q (PATH Act) on December 18, 2015.

The text of the temporary regulations also serves as the text of these proposed regulations. The Background and Explanation of Provisions contained in the preamble to the temporary regulations explains these proposed regulations.

### **Special Analyses**

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that the collection of information contained in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the collection of information contained in this regulation is voluntary and will only occur if a partnership elects into the new partnership audit regime enacted by the BBA for taxable years beginning after November 2, 2015 and before January 1, 2018. In addition, the new partnership audit regime is new, and the IRS has yet to provide guidance on the application of the new partnership audit regime generally. As a result, the IRS estimates that there will not be a substantial number of small entities that elect into the regime for an eligible taxable year. However, even if a substantial number of small entities elect into the new BBA regime for an eligible taxable year, the election under this regulation requires only a short statement containing limited and readily available information. Therefore, the IRS estimates that the economic impact on electing small entities will not be significant. Accordingly, a regulatory flexibility analysis is not required.

Pursuant to section 7805(f) of the Code, these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### **Comments and Request for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury request comments on all aspects of the proposed rules. All comments will be available

for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

### **Drafting Information**

The principal author of these proposed regulations is Jenni M. Black of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in their development.

### **List of Subjects in 26 CFR Part 301**

Income taxes, Penalties, Reporting and recordkeeping requirements.

### **Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 301 is amended as follows:

#### **PART 301—PROCEDURE AND ADMINISTRATION**

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

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

\* \* \* \* \*

Section 301.9100-22 also issued under section 1101(g)(4) of Pub. L. 114-74.

\* \* \* \* \*

Par 2. Section 301.9100-22 is added to read as follows:

§301.9100-22 Time, form, and manner of making the election under section 1101(g)(4) of the Bipartisan Budget Act of 2015 for taxable years beginning after November 2, 2015 and before January 1, 2018.

[The text of this proposed section is the same as the text of §301.9100-22T published elsewhere in this issue of the **Federal Register**].

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

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