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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 602

[TD 9061]

RIN 1545-BB55

Automatic Extension of Time to File Certain Information
Returns and Exempt Organization Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations providing an automatic extension of time to file certain information returns and exempt organization returns. The temporary regulations remove the requirement for a signature and an explanation to obtain an automatic extension of time to file these returns. The temporary regulations affect taxpayers who are required to file certain information returns and/or exempt organization returns and need an extension of time to file. The text of the temporary regulations also serves as a portion of the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: Effective Date: These regulations are effective on June 11, 2003.

Applicability Date: For dates of applicability for these regulations, see §§1.6081-8T, 1.6081-9T, and 31.6081(a)-1T(d).

FOR FURTHER INFORMATION CONTACT: Charles A. Hall, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under OMB control number 1545-1840. Responses to this collection of information are required by the IRS for taxpayers to obtain a benefit (an automatic extension of time to file certain information or exempt organization returns).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

For further information concerning this collection of information, and where to submit comments on the collection of

information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to 26 CFR parts 1, 31, and 602 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 6 months. The regulations under section 6081 provide specific rules taxpayers must follow to request an extension of time to file Federal tax returns.

Under the generally applicable rule, a taxpayer must submit an application for the extension on or before the due

date of the return. The application must be in writing, must be properly signed by the taxpayer or his duly authorized agent, and must clearly set forth the particular tax return for which the extension of the time for filing is desired and a full recital of the reasons for requesting the extension. These rules apply to all returns other than those for which the regulations provide special rules. In addition, the Employment Tax Regulations provide rules for employers to obtain an extension of time to file the Social Security Administration copy of Forms W-2 and W-3. Under those rules, the request must contain a concise statement of the reasons for requesting the extension.

Explanation of Provisions

Information Returns

Filers and transmitters of information returns on Form 1099 (series), 1098 (series), 5498 (series), W-2 (series), W-2G, 1042-S, and 8027 can obtain an extension of time to file these information returns by submitting a signed paper Form 8809, "Request for Extension of Time to File Information Returns." The extensions are most often for a period of 30 days. Filers and transmitters may thereafter request an additional 30-day extension. The extensions apply only to the filing with the government. The filer or transmitter is still

required to provide statements to the recipients by the date specified in the Code or the regulations.

Currently, in compliance with the regulations, Form 8809 requires a signature and asks for an explanation of the reasons for the request for an extension. In current practice, however, the explanation is not a determining factor for the initial extension. If the filer supplies the name, address, Employer Identification Number, tax year, and type of form(s), the initial extension is routinely granted. An extension beyond the initial 30-day period will not be granted, however, unless the filer provides a detailed explanation.

These temporary regulations allow filers and transmitters to request an automatic 30-day extension of time to file without having to sign Form 8809 and provide an explanation. An explanation and a signature are required if filers and transmitters need additional time to file after receiving the automatic 30-day extension. These regulations also permit employers to obtain an extension of time to file the Social Security Administration copy of Forms W-2 and W-3 without providing a statement of the reasons for requesting the extension.

The new rules will allow the IRS to develop an effective

online version of the extension request. Filers and transmitters will benefit from the simplified extension procedure that will provide immediate approval. The IRS will benefit from the efficiencies inherent in such a system and will move closer to achieving electronic filing goals.

Filers and transmitters are eligible for only one automatic extension of time to file. Filers and transmitters filing Forms W-2 on an expedited basis under section 31.6071(a)-1(a)(3)(ii) may receive an automatic extension of time to file Forms W-2 under Rev. Proc. 96-57, 1996-2 C.B. 389. These filers and transmitters are not eligible to obtain the 30-day automatic extension under §1.6081-8T(b). If these filers and transmitters need additional time, they may request an extension under the generally applicable procedures for obtaining additional extensions of time to file Form W-2.

Exempt Organization Returns

These temporary regulations also allow an exempt organization required to file a return on Form 990 (series), 1041-A, 4720, 5227, 6069, or 8870 an automatic three-month extension of time to file if (a) an application is submitted on Form 8868, "Application for Extension of Time To File an Exempt Organization Return," (b) the application is filed on or before the date the return is due, (c) the application

shows the full amount properly estimated as tax, and (d) the application is accompanied by full remittance of the amount properly estimated as tax that is unpaid as of the date prescribed for the filing of the return.

A signature and an explanation of the reasons for requesting the extension are not required for an exempt organization to receive the automatic three-month extension of time to file. If an exempt organization needs additional time to file a return after receiving the automatic three-month extension, the exempt organization may file a signed Form 8868 that explains in detail why the additional time is needed. The IRS may grant an additional three months for the exempt organization to file.

Deadwood Provisions

These regulations also remove §1.6081-1T and §§31.6011(a)-5(b)(1) and 31.6081(a)-1(a)(2). Section 1.6081-1T is removed because it relates only to returns for tax years ending before February 1, 1985. Sections 31.6011(a)-5(b)(1) and 31.6081(a)-1(a)(2) are removed because they relate to information returns that are no longer required.

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 has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to the 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 the regulations is Charles A. Hall of the Office of 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 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements,

Social security, Unemployment compensation.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31, and 602 are amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended

by adding entries in numerical order to read in part as follows:

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

Section 1.6081-8T also issued under 26 U.S.C. 6081.

Section 1.6081-9T also issued under 26 U.S.C. 6081. * * *

§1.6081-1T [Removed]

Par. 2. Section 1.6081-1T is removed.

Par. 3. Section 1.6081-8T is added to read as follows:

§1.6081-8T Automatic extension of time to file certain information returns (temporary).

(a) In general. A person required to file an information return (the filer) on Form W-2 series, W-2G, 1042-S, 1098 series, 1099 series, 5498 series, or 8027 will be allowed an automatic 30-day extension of time to file the return after

the date prescribed for filing the return if the filer or the person transmitting the return for the filer (the transmitter) files an application in accordance with paragraph (b) of this section.

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

(1) Be submitted on Form 8809, "Request for Extension of Time To File Information Returns," or in any other manner as may be prescribed by the Commissioner; and

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

(c) Penalties. See sections 6652, 6693, 6721, 6722, and 6723 for failure to file an information return.

(d) Additional 30-day extension of time to file--(1) In general. This paragraph (d) provides procedures for obtaining an additional extension of time for filing an information return on a form listed in paragraph (a) of this section. No extension of time will be granted under this paragraph (d) unless the filer or transmitter has first obtained an automatic extension.

(2) Procedures. In the case of an information return on a form listed in paragraph (a) of this section, one additional

30-day extension of time to file the return may be allowed if the filer or transmitter submits a request for the additional extension before the expiration of the automatic 30-day extension. The request must--

(i) Be submitted on Form 8809 or in any other manner as may be prescribed by the Commissioner;

(ii) Explain in detail why the additional time is needed;

(iii) Be signed by the filer or transmitter; and

(iv) Otherwise satisfy the requirements of §1.6081-1.

(e) No effect on time to provide statement to recipients.

An extension under this section of time to file an information return does not extend the due date for providing a statement to the person with respect to whom the information is required to be reported.

(f) Effective date. This section applies to requests for extension of time to file information returns due after June 11, 2003. The applicability of this section expires on June 10, 2006.

Par. 4. Section 1.6081-9T is added to read as follows:
§1.6081-9T Automatic extension of time to file exempt organization returns (temporary).

(a) In general. An exempt organization required to file a return on Form 990 (series), 1041-A, 4720, 5227, 6069, or

8870 will be allowed an automatic three-month extension of time to file the return after the date prescribed for filing if the exempt organization files an application in accordance with paragraph (b) of this section. For guidance on extensions of time for an exempt organization to file Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations, see §1.6081-3.

(b) Requirements. To satisfy this paragraph (b), an application for an automatic extension under this section must--

(1) Be submitted on Form 8868, "Application for Extension of Time To File an Exempt Organization Return," or in any other manner as may be prescribed by the Commissioner;

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

(3) Show the full amount properly estimated as tentative tax for the exempt organization for the taxable year; and

(4) Be accompanied by the full remittance of the amount properly estimated as tentative tax which is unpaid as of the date prescribed for the filing of the return.

(c) Termination of automatic extension. The Commissioner may terminate an automatic extension at any time by mailing to

the exempt organization a notice of termination. The notice must be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination must be mailed to the address shown on the application for extension or to the exempt organization'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 6651 and 6652(c) for failure to file an exempt organization return or failure to pay the amount shown as tax on the return.

(e) Coordination with §1.6081-1. No extension of time will be granted under §1.6081-1 for filing an exempt organization return listed in paragraph (a) of this section until an automatic extension has been allowed pursuant to this section.

(f) Effective date. This section applies to requests for extensions of time to file an exempt organization return due after June 11, 2003. The applicability of this section expires on June 10, 2006.

PART 31--EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 5. The authority citation for part 31 continues to read as follows:

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

Section 31.6081(a)-1T also issued under 26 U.S.C. 6081.*

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Par. 6. Section 31.6011(a)-5 is amended by revising paragraph (b) to read as follows:

§31.6011(a)-5 Monthly returns.

* * * * *

(b) Information returns on Form W-3 and Social Security Administration copies of Form W-2. See §31.6051-2 for requirements with respect to information returns on Form W-3 and Social Security Administration copies of Form W-2.

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§31.6051-1 [Amended]

Par. 7. Section 31.6051-1(d)(2)(i)(c) is amended by removing the language "§31.6081(a)-1(a)(3)" and adding "§31.6081(a)-1(a)(2)" in its place.

§31.6051-2 [Amended]

Par. 8. Section 31.6051-2(c) is amended by removing the language "31.6081(a)-1(a)(3)" and adding "31.6081(a)-1(a)(2)" in its place.

Par. 9. Section 31.6081(a)-1 is amended by:

1. Removing paragraph (a)(2).
2. Redesignating paragraph (a)(3) as paragraph (a)(2).

3. Revising newly designated paragraph (a)(2)(i).

The revision reads as follows:

§31.6081(a)-1 Extensions of time for filing returns and other documents.

(a) * * *

(2) * * * (i) [Reserved]. For guidance on extensions of time to file the Social Security Administration copy of Forms W-2 and W-3 due after June 11, 2003, see §31.6081(a)-1T.

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Par. 10. Section 31.6081(a)-1T is added to read as follows:

§31.6081(a)-1T Extensions of time for filing returns and other documents (temporary).

(a)(1) [Reserved]. For further guidance, see §31.6081(a)-1(a)(1).

(2) Information returns of employers on Forms W-2 and W-3--(i) In general. The Commissioner may grant an extension of time in which to file the Social Security Administration copy of Forms W-2 and the accompanying transmittal form which constitutes an information return under paragraph §31.6051-2(a). For further guidance regarding extensions of time to file the Social Security Administration copy of Forms W-2 and W-3, see §1.6081-8T of this chapter.

(a)(2)(ii) through (c) [Reserved]. For further guidance, see §31.6081(a)-1(a)(2)(ii) through (c).

(d) Effective date. This section applies to requests for extensions of time to file the Social Security Administration copy of Forms W-2 and W-3 due after June 11, 2003. The applicability of this section expires on June 10, 2006.

PART 602--OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 11. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 12. In §602.101, paragraph (b) is amended by adding the following entries in numerical order to the table to read as

follows:

§602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.6081-8T	1545-1840
1.6081-9T	1545- 1840
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/s/ David A. Mader

Assistant Deputy Commissioner of Internal
Revenue

Approved: May 21, 2003

/s/ Pamela F. Olson
Assistant Secretary of the Treasury.