

Part III - Administrative, Procedural, and Miscellaneous

Certain Enrolled Retirement Plan Agents Not Required to Obtain a PTIN

Notice 2011-91

The regulations governing practice before the IRS, which are published in 31 CFR part 10 and are reprinted as Treasury Department Circular No. 230 (Circular 230), establish enrolled retirement plan agents as individuals who may practice before the IRS. Enrolled retirement plan agents' practice is limited under section 10.3(e) of Circular 230 to representing taxpayers before the IRS with respect to issues involving the following programs or forms: employee plans determination letter program, employee plans compliance resolution system, employee plans master and prototype and volume submitter program, and the Form 5300 and the Form 5500 series that are filed by retirement plans and plan sponsors but not with respect to actuarial forms or schedules.

Section 10.4(b) of Circular 230 requires individuals who want to become an enrolled retirement plan agent to have a valid preparer tax identification number (PTIN), and section 10.6(d)(3) requires enrolled retirement plan agents to have a valid PTIN to be eligible to renew their status as an enrolled retirement plan agent.

Section 1.03 of Notice 2011-6 (2011-3 I.R.B. 315) provides that a tax return preparer must have a PTIN to prepare for compensation any IRS form unless the form

is expressly identified as not requiring a PTIN. Notice 2011-6 further provides a list of forms for which no PTIN is required. Among the forms included on this list are the Form 5300 and the Form 5500 series returns. The IRS has been informed, through public comments, that many enrolled retirement plan agents prepare only the Form 5300 or the Form 5500 series returns. These public comments are available upon request or at www.regulations.gov.

The Treasury Department and the IRS therefore intend to amend Circular 230 to remove the requirement for individuals to have a PTIN prior to applying for enrollment or renewing enrollment as enrolled retirement plan agents. Thus, effective immediately, enrolled retirement plan agents and applicants to become enrolled retirement plan agents are not required to have a PTIN to apply for enrollment or renew enrollment as an enrolled retirement plan agent. Enrolled retirement plan agents must, however, obtain a PTIN if, for compensation, they prepare, or assist in the preparation of, all or substantially all of any tax return or claim for refund that is not on the list of forms exempt from the PTIN requirement as provided in section 1.03 of Notice 2011-6 or any future guidance.

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