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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[TD 9781]

RIN 1545-BN02

Preparer Tax Identification Number (PTIN) User Fee Update

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the imposition of certain user fees on tax return preparers. The final regulations supersede and adopt the text of temporary regulations that reduced the user fee to apply for or renew a preparer tax identification number (PTIN) from \$50 to \$33. The final regulations affect individuals who apply for or renew a PTIN. The Independent Offices Appropriations Act of 1952 authorizes the charging of user fees.

DATES: Effective Date: These regulations are effective on **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

Applicability Date: For date of applicability, see §300.13(d).

FOR FURTHER INFORMATION CONTACT: Concerning the final regulations, Hollie M. Marx at (202) 317-6844; concerning cost methodology, Eva J. Williams at (202) 803-9728 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Summary of Comments

This document contains final regulations relating to the imposition of a user fee to apply for or renew a PTIN. The Independent Offices Appropriations Act of 1952 (IOAA), which is codified at 31 U.S.C. 9701, authorizes agencies to prescribe regulations that establish user fees for services provided by the agency. The charges must be fair and must be based on the costs to the government, the value of the service to the recipient, the public policy or interest served, and other relevant facts. The IOAA provides that regulations implementing user fees are subject to policies prescribed by the President; these policies are set forth in the Office of Management and Budget Circular A-25, 58 FR 38142 (July 15, 1993) (OMB Circular A-25).

Under OMB Circular A-25, federal agencies that provide services that confer special benefits on identifiable recipients beyond those accruing to the general public are to establish user fees that recover the full cost of providing the special benefit. An agency that seeks to impose a user fee for government-provided services must calculate the full cost of providing those services, review user fees biennially, and update them as necessary.

Section 6109(a)(4) of the Internal Revenue Code (Code) authorizes the Secretary to prescribe regulations for the inclusion of a tax return preparer's identifying number on a return, statement, or other document required to be filed with the IRS. On September 30, 2010, the Treasury Department and the IRS published final regulations under section 6109 (REG-134235-08) in the **Federal Register** (TD 9501) (75 FR 60315) (PTIN regulations) to provide that, for returns or claims for refund filed after December 31, 2010, the identifying number of a tax return preparer is the individual's PTIN or such other number prescribed by the IRS in forms, instructions, or other

appropriate guidance. The PTIN regulations require a tax return preparer who prepares or who assists in preparing all or substantially all of a tax return or claim for refund after December 31, 2010 to have a PTIN. Final regulations (REG-139343-08) published in the **Federal Register** (TD 9503) (75 FR 60316) on September 30, 2010, established a \$50 user fee to apply for or renew a PTIN. The ability to prepare tax returns and claims for refund for compensation is a special benefit, for which the IRS may charge a user fee to recover the full costs of providing the special benefit.

Pursuant to the guidelines in OMB Circular A-25, the IRS recalculated its cost of providing services under the PTIN application and renewal process and determined that the full cost of administering the PTIN program going forward is reduced from \$50 to \$33 per application or renewal. On October 30, 2015, the Treasury Department and the IRS published in the **Federal Register** (80 FR 66851-01) a notice of proposed rulemaking by cross-reference to temporary regulations (REG-121496-15) proposing amendments to regulations under 26 CFR part 300. On the same date, the Treasury Department and the IRS published in the **Federal Register** (80 FR 66792-01) temporary regulations (TD 9742) that reduced the amount of the user fee to obtain or renew a PTIN from \$50 to \$33 per original or renewal application. Five electronic public comments were submitted under the regulation number for the proposed regulations, but their contents related to issues other than a user fee for applying for or renewing a PTIN and are not relevant to these regulations. The comments are available for public inspection at <http://www.regulations.gov> or upon request. The IRS received no requests for a public hearing, and none was held. The final regulations adopt the proposed

regulations without change. The temporary regulations are hereby made obsolete and removed.

Effect on Other Documents

Temporary regulations §300.13T are obsolete as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

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.

The Administrative Procedure Act provides that substantive rules generally will not be effective until thirty days after the final regulations are published in the **Federal Register** (5 U.S.C. 553(d)). The Treasury Department and the IRS have determined that section 5 U.S.C. 553(d) of the Administrative Procedure Act applies to these final regulations.

The notice of proposed rulemaking (REG-121496-15) included an initial regulatory flexibility analysis. The Treasury Department and the IRS concluded in the initial regulatory flexibility analysis that the proposed regulations, if promulgated, may have a significant economic impact on a substantial number of small entities. None of the public comments submitted under the regulation number for the proposed regulation addressed the initial regulatory flexibility analysis. After further consideration, the Treasury Department and the IRS conclude that no final regulatory flexibility analysis is required. The Treasury Department and the IRS certify that the final regulations will not have a significant economic impact on a substantial number of small entities. Although

the final regulations will likely affect a substantial number of small entities, the economic impact on those entities is not significant. The final regulations establish a \$33 fee to apply for or renew a PTIN per original or renewal application, which is a reduction from the previously established fee of \$50 per original or renewal application, and the \$33 fee will not have a significant economic impact on a small entity.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received on the proposed regulations.

Drafting Information

The principal author of these final regulations is Hollie M. Marx, 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 300

Reporting and recordkeeping requirements, User fees.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 300 is amended as follows:

PART 300—USER FEES

Paragraph 1. The authority citation for part 300 continues to read as follows:

Authority: 31 U.S.C. 9701.

Par. 2. Section 300.13 is amended by adding paragraph (b) and revising paragraph (d) to read as follows:

§300.13 Fee for obtaining a preparer tax identification number.

* * * * *

(b) Fee. The fee to apply for or renew a preparer tax identification number is \$33 per year, which is the cost to the government for processing the application for a preparer tax identification number and does not include any fees charged by the vendor.

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(d) Applicability date. This section will be applicable for applications for and renewal of a preparer tax identification number filed on or after **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

§300.13T [Removed]

Par. 3. Section 300.13T is removed.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: July 14, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).