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[4830-01-p]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-134247-16]

RIN 1545-BN73

Revision of Regulations Under Chapter 3 Regarding Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the Department of the Treasury (Treasury Department) and the IRS are issuing temporary regulations (TD 9808) that revise certain provisions of the final regulations regarding withholding of tax on certain U.S. source income paid to foreign persons and requirements for certain claims for refund or credit of income tax made by foreign persons. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-134247-16), room 5203, 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-134247-16), Courier's Desk, Internal Revenue

Service, 1111 Constitution Avenue, NW, Washington, DC 20224, or sent electronically, via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-134247-16).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Leni Perkins, (202) 317-6942; concerning submissions of comments and/or requests for a public hearing, Regina Johnson, (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

### **Background**

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 1441 of the Internal Revenue Code (Code). The temporary regulations set forth rules relating to withholding and reporting requirements under chapter 3 of the Code, including rules relating to claims for a reduced rate of withholding under an income tax treaty. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

### **Special Analyses**

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13653.

Therefore, a regulatory assessment is not required.

It is hereby certified that the collection of information in this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The domestic small business entities that are subject to the collections of information in this notice of proposed rulemaking are those domestic business entities that are payors of certain U.S. source income to foreign persons. These domestic small business entities are subject to comprehensive rules under chapter 3 to identify the proper treatment of payees for purposes of that chapter's information reporting and tax withholding purposes. The domestic small business entities subject to the collections of information in this notice of proposed rulemaking are also subject to comprehensive information reporting and tax withholding rules under chapters 4 and 61 with respect to payments of certain U.S. source income subject to information reporting and tax reporting under chapter 3. These payors are also subject to information and reporting rules under section 3406.

Payors of payments that are subject to the information reporting and withholding regimes under chapter 3 play an important role in U.S. tax compliance by providing information about payments made to, and income earned by, U.S. and foreign taxpayers.

Although the Treasury Department and the IRS anticipate that a substantial number of domestic small entities will be affected by the collection of information in this notice of proposed rulemaking, the Treasury Department and the IRS believe that the economic impact to these entities resulting from the information collection requirements will not be significant. The reporting obligations under these proposed regulations flow from the obligations that domestic small entities may have as withholding agents for payments of amounts subject to withholding under sections 1441 or 1442. As withholding agents, these entities have already been subject to the overall framework of

these regulations, and the economic burden of complying with any additional requirements will be minimal. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act is not required. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

### **Comments and Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely to the IRS as prescribed in this preamble under the “ADDRESSES” heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules, including comments on the clarity of the proposed rules and how compliance therewith could be made easier. All comments will be available for public inspection and copying. A public hearing will 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 public hearing will be published in the **Federal Register**.

### **Drafting Information**

The principal author of these proposed regulations is Leni C. Perkins, Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

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

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1--INCOME TAXES

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

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

Par. 2. Section 1.1441-1 is amended by:

1. Adding paragraphs (b)(7)(ii)(B) and (c)(2)(ii).
2. Revising paragraph (c)(3)(ii).
3. Adding paragraphs (c)(38)(ii), (e)(2)(ii)(B), (e)(3)(iv)(C)(3), (e)(4)(i)(B), (e)(4)(ii)(A)(2), (e)(4)(iv)(D), and (e)(4)(iv)(E).

The revisions and additions read as follows:

§1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

\* \* \* \* \*

(b) \* \* \*

(7) \* \* \*

(ii) \* \* \*

(B) [The text of the proposed amendment to §1.1441-1(b)(7)(ii)(B) is the same as the text of §1.1441-1T(b)(7)(ii)(B) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(ii) [The text of the proposed amendment to §1.1441-1(c)(2)(ii) is the same as the text of §1.1441-1T(c)(2)(ii) published elsewhere in this issue of the **Federal Register**.]

(3) \* \* \*

(ii) [The text of the proposed amendment to §1.1441-1(c)(3)(ii) is the same as the text of §1.1441-1T(c)(3)(ii) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(38) \* \* \*

(ii) [The text of the proposed amendment to §1.1441-1(c)(38)(ii) is the same as the text of §1.1441-1T(c)(38)(ii) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(B) [The text of the proposed amendment to §1.1441-1(e)(2)(ii)(B) is the same as the text of §1.1441-1T(e)(2)(ii)(B) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(3) \* \* \*

(iv) \* \* \*

(C) \* \* \*

(3) [The text of the proposed amendment to §1.1441-1(e)(3)(iv)(C)(3) is the same as the text of §1.1441-1T(e)(3)(iv)(C)(3) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(4) \* \* \*

(i) \* \* \*

(B) [The text of the proposed amendment to §1.1441-1(e)(4)(i)(B) is the same as the text of §1.1441-1T(e)(4)(i)(B) published elsewhere in this issue of the **Federal Register**.]

(ii) \* \* \*

(A) \* \* \*

(2) [The text of the proposed amendment to §1.1441-1(e)(4)(ii)(A)(2) is the same as the text of §1.1441-1T(e)(4)(ii)(A) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(iv) \* \* \*

(D) [The text of the proposed amendment to §1.1441-1(e)(4)(iv)(D) is the same as the text of §1.1441-1T(e)(4)(iv)(D) published elsewhere in this issue of the **Federal Register**.]

(E) [The text of the proposed amendment to §1.1441-1(e)(4)(iv)(E) is the same as the text of §1.1441-1(e)(4)(iv)(E) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

Par. 3. Section 1.1441-2 is amended by adding paragraph (a)(8) to read as follows:

§1.1441-2 Amounts subject to withholding.

(a) \* \* \*

(8) [The text of the proposed amendment to §1.1441-2(a)(8) is the same as the text of §1.1441-2T(a)(8) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

Par. 4. Section 1.1441-6 is amended by:

1. Adding paragraphs (b)(1)(i) and (b)(1)(ii).
2. Revising paragraphs (c)(1) and (c)(5)(i).

The additions and revision read as follows:

§1.1441-6 Claim of reduced withholding under an income tax treaty.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) [The text of the proposed amendment to §1.1441-6(b)(1)(i) is the same as the text of §1.1441-6T(b)(1)(i) published elsewhere in this issue of the **Federal Register**.]

(ii) [The text of the proposed amendment to §1.1441-6(b)(1)(ii) is the same as the text of §1.1441-6T(b)(1)(ii) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(c) \* \* \*

(1) [The text of the proposed amendment to §1.1441-6(c)(1) is the same as the text of §1.1441-6T(c)(1) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(5) \* \* \*

(i) [The text of the proposed amendment to §1.1441-6(c)(5)(i) is the same as the text of §1.1441-6T(c)(5)(i) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

Par. 5. Section 1.1441-7 is amended by adding paragraph (b)(10)(iv) to read as follows:

§1.1441-7 General provisions relating to withholding agents.

\* \* \* \* \*

(b) \* \* \*

(10) \* \* \*

(iv) [The text of the proposed amendment to §1.1441-7(b)(10)(iv) is the same as the text of §1.1441-7T(b)(10)(iv) published elsewhere in this issue of the **Federal Register**.]

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John Dalrymple,  
Deputy Commissioner for Services and Enforcement.

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