



DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[TD 10045]

RIN 1545-BS12

Enrolled Agent Special Enrollment Examination User Fee Update

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Interim final rule.

SUMMARY: This document contains interim final regulations relating to the imposition of user fees for the special enrollment examination for enrolled agents (EA SEE).

These regulations reduce the user fee for each part of the EA SEE from \$99 per part to \$66 per part. The Independent Offices Appropriation Act of 1952 authorizes the charging of user fees. The text of these interim final regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in this issue in the Proposed Rules section of this edition of the *Federal Register*.

DATES: *Effective date:* These regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Applicability date: For date of applicability, see §300.4(d) of these interim final regulations.

FOR FURTHER INFORMATION CONTACT: Concerning the interim final regulations, Sean Dix at (202) 317-6845; concerning cost methodology, CFO Cost and User Fees at (202) 317-6400 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Authority

This document contains interim final amendments to 26 CFR part 300 regarding user fees for the EA SEE.

The Independent Offices Appropriation 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 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 benefits on identifiable recipients are to establish user fees that recover the full cost of providing the service. An agency that seeks to impose a user fee for government-provided services must calculate the full cost of providing those services. In general, a user fee should be set at an amount that allows the agency to recover the direct and indirect costs of providing the service, unless the Office of Management and Budget (OMB) grants an exception. OMB Circular A-25 provides that agencies are to review user fees biennially and update them as necessary.

Background

A. Enrolled Agents and the Special Enrollment Examinations

Section 330 of Title 31 of the United States Code authorizes the Secretary of the Treasury or the Secretary's delegate (Secretary) to regulate the practice of representatives before the Department of the Treasury (Treasury Department) and to require that an individual seeking to practice demonstrate the necessary qualifications, competency, and good character and reputation. The rules governing practice before the IRS are published in 31 CFR, Subtitle A, part 10, and reprinted as Treasury Department Circular No. 230 (Circular 230).

Section 10.4(a) of Circular 230 authorizes the IRS to grant status as enrolled agents to individuals who demonstrate special competence in tax matters by passing a written examination, the EA SEE, and who have not engaged in any conduct that would justify suspension or disbarment under Circular 230.

The EA SEE is comprised of three parts, and an applicant generally must pass all three parts within three years to be granted enrolled agent status through written examination. The EA SEE testing period generally begins on May 1 each year and ends the last day of the following February. The EA SEE is not offered during March and April when it is updated to reflect recent changes in the relevant law. More information on the EA SEE, including content, scoring, and how to register, can be found on the IRS website at <https://www.irs.gov/tax-professionals/enrolled-agents>. Since 2006, the IRS has engaged the services of a third-party contractor to develop and administer the EA SEE. The IRS Return Preparer Office (RPO) oversees the development and administration of the EA SEE. As of January 31, 2026, there were 75,304 enrolled agents.

B. The EA SEE User Fee

Section 10.4(a) of Circular 230 provides that the IRS will grant enrolled agent status to an applicant who, among other things, demonstrates special competence in tax matters by written examination. The EA SEE is the written examination by which applicants can demonstrate special competence in tax matters, and an applicant must pass all three parts of the EA SEE to be granted enrolled agent status through written examination. The IRS confers a benefit on individuals who take the EA SEE beyond those that accrue to the general public by providing them with an opportunity to demonstrate special competence in tax matters by passing a written examination and thereby satisfy one of the requirements for becoming an enrolled agent under section

10.4(a) of Circular 230. Because the EA SEE is a service that provides a special benefit to test takers, the IRS charges a user fee to take the examination.

Final regulations (TD 9962) published in the *Federal Register* (87 FR 11295-02) on March 1, 2022, established the current \$99 user fee (per part) of the EA SEE. At that time the Treasury Department and the IRS determined that a \$99 user fee per part would recover the full direct and indirect costs the government would incur to oversee the EA SEE. The 2023 biennial review determined the full cost of the EA SEE was \$121 per part. The IRS requested and obtained a waiver from OMB to postpone this increase to the EA SEE user fee until the 2025 biennial review. As a result, the user fee is currently still \$99 per part. The contractor who administers the EA SEE also charges individuals taking the EA SEE an additional fee for its services. For the May 2025 to February 2026 testing period, the contractor's fee was \$168 for each part of the EA SEE. This contract expired at the end of the February 2026 testing period and a new contract was obtained, subject to public procurement procedures. For the May 2026 to February 2027 testing period, the contractor's fee is \$251 for each part of the EA SEE.

As required by OMB Circular A-25, in 2025 the IRS conducted a biennial review of the EA SEE user fee and calculated its costs for overseeing the examination. As a result of the review, the IRS determined that its full cost for overseeing the EA SEE is now \$66 per part. Therefore, these regulations decrease the amount of the user fee for taking the EA SEE from \$99 per part to \$66 per part. This amount is in addition to the amount payable directly to the third-party contractor for each part. The IRS does not intend to subsidize any of the cost of making the EA SEE available to examinees and is not applying for an exception to the full-cost requirement in OMB Circular A-25.

The decrease in the user fee is primarily attributable to a change in timekeeping methodology, which resulted in a smaller estimated expense for administering the EA SEE program. Additionally, there has been an increase in the number of exam takers,

further distributing the fixed costs related to administering the exam. The proposed user fee accounts for the time and personnel necessary to oversee the development and administration of the EA SEE and to ensure that the contractor complies with the terms of its contract. The IRS's oversight costs include costs associated with: (1) review and approval of materials used by the contractor in developing the EA SEE; (2) review of surveys of existing enrolled agents, which help to determine the topics to be covered in the EA SEE; (3) composition of potential EA SEE questions in coordination with the contractor's external tax law experts; and (4) analysis of the answers and raw scores of a testing population to determine a passing score.

In addition, IRS personnel ensure the contractor's compliance with its contract by reviewing the work of the contractor using an annual Work Breakdown Structure—a project management tool—and reviewing and verifying that the contractor is in compliance with a Quality Assurance Plan measuring customer satisfaction and accuracy. The IRS incurs additional costs associated with enforcing compliance with the Treasury contractor personnel security and training policies, Federal Information Security Modernization Act (FISMA), Section 508 of the Rehabilitation Act of 1973 and other laws, regulations and policies in the scope of the EA SEE contract; monitoring the contractor's help desk; and the resolution of test-related issues such as cheating incidents, appeals regarding test scores, refund requests, and customer service complaints that are not resolved by the contractor.

The government is authorized to charge an EA SEE user fee under the IOAA because, in exchange for the fee, it provides a service by developing and administering the EA SEE, which allows individuals to become enrolled agents and gain the ability to practice before the IRS under Circular 230. OMB Circular A-25 states that user fees should be collected in advance of or simultaneously with the provision of a service. The

EA SEE user fee is collected when potential enrolled agents apply to take the examination during the examination season, which begins annually in May.

Explanation of Provisions

The IRS follows generally accepted accounting principles (GAAP) in calculating the full cost of overseeing the EA SEE. The Federal Accounting Standards Advisory Board (FASAB) is the body that establishes GAAP that apply for Federal reporting entities, such as the IRS. FASAB publishes the FASAB Handbook of Accounting Standards and Other Pronouncements, as Amended (Current Handbook), which is available at https://files.fasab.gov/pdf/2025_FASAB_Handbook.pdf. The Current Handbook includes the *Statement of Federal Financial Accounting Standards (SFFAS) No. 4: Managerial Cost Accounting Standards and Concepts*. SFFAS No. 4 establishes internal costing standards under GAAP to accurately measure and manage the full cost of Federal programs, and the methodology below is in accordance with SFFAS No. 4.

1. Cost Estimation of Direct Labor

The IRS uses various cost-measurement techniques to estimate the cost attributable to the program. These techniques include using various timekeeping systems to measure the time required to accomplish activities, or using information provided by subject-matter experts on the time devoted to a program. To determine the labor and benefits cost attributable to oversight of the EA SEE, the IRS estimated the number of full-time employees required to conduct activities related to the costs of overseeing the EA SEE. The number of full-time employees is based on both current employment numbers and future hiring estimates. Other direct costs associated with overseeing the EA SEE include travel, training, and supplies. When the indirect cost of a service or activity is not specifically identified from the cost accounting system, an overhead rate is added to the identifiable direct cost to arrive at full cost.

2. Overhead

Overhead is an indirect cost of operating an organization that is not specifically identifiable with an activity. Overhead includes costs of resources that are jointly or commonly consumed by one or more organizational unit's activities but are not specifically identifiable to a single activity. These costs can include:

- General management and administration
- Rent, security, utilities and maintenance
- Procurement and contracting
- Financial management and accounting
- Information technology
- Research, analytical and statistical

To calculate the overhead allocable to a service, the IRS applies an overhead rate to the identified direct labor and benefits and other direct costs. The overhead rate is the ratio of the IRS's indirect labor, benefits, and non-labor costs of business divisions that do not interact with taxpayers to the labor and benefits costs of business divisions that interact with taxpayers. The IRS calculates an overhead rate annually. For the FY 2025 user fee review, an overhead rate of 62.92 percent was used.

3. Calculation of EA SEE User FEE

The IRS used projections for FYs 2026 through 2028 to determine the direct and indirect costs associated with overseeing the EA SEE that are includible in the EA SEE user fee calculation. Direct costs are incurred by the RPO and include staffing and contract-related costs for activities, processes, and procedures related to overseeing the EA SEE.

The labor and benefits for the work performed related to overseeing the EA SEE is projected to be \$3,505,101 in total over FYs 2026 through 2028. In addition to labor and benefits and overhead expenses, the IRS projects incurring travel, training, and supplies costs of \$16,182.82 in each of FYs 2026 through 2028. The total labor and

benefits, travel, training, and supplies, and overhead expenses projected are shown below:

Expense	FY 2026	FY 2027	FY 2028	Total
Labor and benefits	\$1,136,817.91	\$1,168,080.40	\$1,200,202.61	\$3,505,101
Travel, training, and supplies	\$16,182.82	\$16,182.82	\$16,182.82	\$48,548
Overhead (62.92 percent)	\$715,286.00	\$734,956.00	\$755,167.00	\$2,205,409

The total cost for FYs 2026 through 2028 are therefore projected to be \$5,759,058. The number of examination parts provided during FYs 2022, 2023, and 2024 were 27,313; 29,797; 29,584, respectively. The total number of examination parts provided during the three years was 86,694. The IRS used this historical three-year volume to estimate the number of examination parts it expects to provide in FYs 2026, 2027, and 2028. Dividing this total cost by the projected examinations for FYs 2026 through 2028 results in a cost per examination of \$66 as shown below:

Total Costs		\$5,759,058
Number of Applications	÷	<u>86,694</u>
Cost Per Application		<u>\$66.43</u>

Taking into account the full amount of these costs, the amount of the EA SEE user fee per part is \$66.

As noted in section B, the contractor who administers the EA SEE also charges individuals taking the EA SEE an additional fee for its services. For the May 2026 to February 2027, May 2027 to February 2028, May 2028 to February 2029 testing periods, the contractor's fee is \$251 for each part of the EA SEE. For the May 2029 to February 2030 testing period, the contractor's fee is \$211 for each part of the EA SEE. The fee charged by the contractor is fixed by the current contract terms and therefore

cannot be reduced or renegotiated at this time. The contract was subject to public procurement procedures, and there were no tenders that were more competitive. The contract will expire on February 28, 2030. The fee charged by the contractor may change when the contract expires. Any future contract will be subject to the public procurement procedures.

Special Analyses

I. Regulatory Planning and Review

These interim final regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and OMB regarding review of tax regulations.

II. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these interim final regulations will not have a significant economic impact on a substantial number of small entities. The EA SEE user fee primarily affects individuals who take the EA SEE. Only individuals, not businesses, can be enrolled agents. Thus, the economic impact of these regulations on any small entity would be a result of an individual enrolled agent owning a small entity or a small entity employing an enrolled agent who must take the EA SEE. The Treasury Department and the IRS estimate that an average of 28,898 EA SEE examination parts will be taken by individuals annually. Therefore, a substantial number of small entities is not likely to be affected. Additionally, the economic impact on those entities is not significant. These regulations will establish a \$66 fee per examination part (plus \$251 payable directly to the third-party contractor), and will not have a significant economic impact on a small entity. Accordingly, the rule is not expected to have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

III. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

IV. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These interim final regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

V. Good Cause

The annual EA SEE testing period for May 2026-February 2027 will begin shortly. It would be unnecessary and contrary to the public interest for the IRS to continue to charge the current, higher user fee pending public comment after the IRS has determined pursuant to the biennial review conducted under OMB Circular A-25 that the EA SEE user fee should be reduced going forward. To enable the reduced fee amount to be in effect for the upcoming EA SEE test period beginning in May 2026, the Treasury Department and the IRS find that there is good cause to dispense with (1) notice and public comment pursuant to 5 U.S.C. 553(b) and (c) and (2) a delayed effective date pursuant to 5 U.S.C. 553(d). The Treasury Department and the IRS will consider public comments submitted in response to the cross-referenced notice of

proposed rulemaking published in the Proposed Rules section of this issue of the *Federal Register* and will promulgate a final rule after considering those comments.

VI. Submission to Small Business Administration

Pursuant to section 7805(f) of the Code, this Treasury decision has been submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Drafting Information

The principal author of these regulations is Sean Dix, Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 300

Estate taxes, Excise taxes, Fees, Gift taxes, Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 300 as follows:

PART 300—USER FEES

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

Authority: 31 U.S.C. 9701.

Par. 2. Section 300.4 is amended by revising paragraphs (b) and (d) to read as follows:

§300.4 Enrolled agent special enrollment examination fee.

* * * * *

(b) *Fee.* The fee for taking the enrolled agent special enrollment examination is \$66 per part, which is the cost to the government for overseeing the development and administration of the examination and is in addition to the fees charged by the administrator of the examination.

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(d) *Applicability date.* This section applies to registrations for the enrolled agent special enrollment examination that occur on or after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Frank J. Bisignano,
Chief Executive Officer.

Approved: March 30, 2026.

Kenneth J. Kies,
Assistant Secretary of the Treasury (Tax Policy).