applicant. Grant funds will be disbursed by using multiple advances.

§§ 1778.24–1778.30 [Reserved]

§ 1778.31 Performing development.

(a) Applicable provisions of subpart C of part 1780 of this chapter will be followed in performing development for grants made under this part.

(b) After filing an application in accordance with § 1778.21 and when immediate action is necessary, the State Program Official may concur in an applicant's request to proceed with construction before funds are obligated provided the RUS environmental requirements are complied with. The applicant must be advised in writing that:

(1) Any authorization to proceed or any concurrence in bid awards, contract concurrence, or other project development activity, is not a commitment by the Agency to provide grant funds under this part.

(2) The Agency is not liable for any debt incurred by the applicant in the event that funds are not provided under this part.

§ 1778.32–33 [Reserved]

§ 1778.34 Grant servicing.

(a) Grants will be serviced in accordance with § 1951.215 of subpart E of part 1951 of this title and subpart O of part 1951 of this title.

(b) The grantee will provide an audit report in accordance with § 1780.47 of part 1780 of this chapter.

§ 1778.35 Subsequent grants.

Subsequent grants will be processed in accordance with the requirements set forth in this part. The initial and subsequent grants made to complete a previously approved project must comply with the maximum grant requirements set forth in § 1778.11.

§ 1778.36 [Reserved]

§ 1778.37 Forms, Instructions and Bulletins.

Bulletins, instructions and forms referenced are for use in administering grants made under this part and are available from any USDA/Rural Development office or the Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250–1500.

§§ 1778.38–1778.99 [Reserved]

§ 1778.100 OMB control number.

The information collection requirements contained in this part have been approved by the Office of Management and Budget and assigned OMB control number 0572–0110.

Dated: July 3, 2003.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 03–19696 Filed 8–4–03; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301 and 602

[TD 9082]

RIN 1545–AY24

Revision of Income Tax Regulations Under Sections 897, 1445, and 6109 To Require Use of Taxpayer Identifying Numbers on Submissions Under the Section 897 and 1445 Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations to require the use of taxpayer identifying numbers on submissions under sections 897 and 1445. The regulations are necessary to properly identify foreign taxpayers for which submissions are made for the reduction or elimination of tax under sections 897 and 1445. The regulations also address certain additional issues under section 1445.

DATES: *Effective Date:* These regulations are effective August 5, 2003.

Applicability Date: For dates of applicability, see §§ 1.897–3(h), 1.897–5(e), 1.1445–1(h), 1.1445–2(b)(2)(iii), 1.1445–2(d)(2)(iv), 1.1445–2(e), 1.1445–3(h), 1.1445–5(b)(8)(iii), 1.1445–5(h), and 1.1445–6(h).

FOR FURTHER INFORMATION CONTACT: Robert W. Lorence, Jr. (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1797. The collection of information in these final regulations are in §§ 1.1445–2(d)(2) and 1.1445–3. These collections of information are required to notify the IRS of dispositions of U.S. real property interests by foreign persons that otherwise are subject to taxation under section 897 and the collection of a withholding tax under section 1445.

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 assigned by the Office of Management and Budget.

The estimated annual burden per respondent varies from 3 to 5 hours, depending on individual circumstances, with an estimated average of 4 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:T:T:SP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to these collections 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 and 301. On July 26, 2002, a notice of proposed rule-making (REG–106876–00), relating to the use of taxpayer identifying numbers on submissions under sections 897 and 1445 of the Internal Revenue Code (Code), was published in the **Federal Register** (67 FR 48823). No public hearing was requested or held. Written comments responding to the notice of proposed rule-making were received. After consideration of the comments, the proposed regulations are adopted as amended by this Treasury decision. The revisions are discussed below.

Summary of Public Comments and Explanation of Revisions

A. Use of Taxpayer Identifying Number

This document contains final regulations under sections 897, 1445, and 6109 that require foreign transferors of U.S. real property interests (and transferees where applicable) to provide their taxpayer identifying numbers (TINs) on withholding tax returns, applications for withholding certificates, and other notices and elections under sections 897 and 1445 and the regulations thereunder. TINs are required so that the IRS can identify foreign taxpayers and more easily match applications, withholding tax returns, notices, and elections with the transferors' income tax returns.

Applications for withholding certificates, and other notices and elections under section 897 and 1445 will be considered incomplete and generally will not be processed by the IRS unless the TIN of the transferor is provided. Amounts withheld under section 1445 must still be reported and paid to the IRS on withholding tax returns (Form 8288, ''U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests'', and Form 8288–A, ''Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests'') if the appropriate TINs are not provided. The final regulations provide that although such amounts have been paid, if the transferor's TIN is not included, a receipt (Form 8288–A) for withholding tax paid to the Service will not be stamped to show receipt and will not be mailed to the transferor.

In many cases, the foreign taxpayer will already have a TIN, because the taxpayer will have already filed a U.S. tax return. If the taxpayer does not already have a TIN, the TIN requirement under the regulations merely accelerates the time to obtain a TIN, because the foreign taxpayer must have a TIN to file its U.S. income tax return for the year of the disposition of the U.S. real property interest. In the case of foreign entities (such as foreign corporations) that are required to have employee identification numbers (EINs), the EINs can be obtained without delay through existing procedures.

Commentators have expressed concern about the time it takes nonresident alien individuals to obtain TINs and how it could effect the timing of transactions. The IRS is aware of this concern and is exploring approaches for addressing it. For example, the IRS is considering implementing a program in which applications for withholding certificates will be processed in conjunction with applications for TINs. The need to obtain a TIN generally should not delay the time it takes to get a withholding certificate under § 1.1445–3. In addition, the portion of these regulations that imposes a requirement concerning TINs, will not be applicable until 90 days after the date of publication in the **Federal Register** in order to permit taxpayers that currently own real property additional time to obtain a TIN, if necessary.

B. Section 1031 Like-Kind Exchanges

Section 1031(a) provides for the nonrecognition of gain or loss on the exchange of like-kind property which is held for productive use in a trade or business or held for investment. Section 1031(a)(3) provides for the exchange of like-kind property in deferred exchanges, where the taxpayer has 45 days after it relinquishes the property to the transferee to identify replacement property and the transferee has until the earlier of 180 days or the due date of the tax return for the year of transfer to deliver such property to the transferor.

Notices of nonrecognition under § 1.1445–2(d) are limited to exchanges (including section 1031 exchanges) that qualify for nonrecognition treatment in their entirety (thus, a notice of nonrecognition may not be used if the transferor receives money or other property, *i.e.*, boot). Consistent with the proposed regulations, these final regulations provide that in the case of a simultaneous exchange of like-kind U.S. real property interests (where there is no boot), the foreign transferor can provide a notice of nonrecognition under § 1.1445–2(d)(2) to the transferee, and the transferee can rely on such notice, because the like-kind exchange will be fully completed on the day of the exchange. In the case of a deferred like-kind exchange of U.S. real property interests, the transferee cannot rely on a notice of nonrecognition, because the transferee cannot be assured that the exchange will qualify for nonrecognition treatment under section 1031 (*e.g.*, that the property to be received by the foreign transferor will be identified within the 45-day period required under section 1031(a)), or even if the exchange qualifies under section 1031, that the foreign transferor will not receive boot in the transaction. Although a notice of nonrecognition is not available in a deferred like-kind exchange, the transferee may withhold a reduced amount based on a claim of nonrecognition upon receipt of a withholding certificate pursuant to the procedures of § 1.1445–3.

Commentators have proposed that using a notice of nonrecognition for deferred like-kind exchanges should be permitted if a ''claim of intent'' to engage in an exchange qualifying for nonrecognition under section 1031 is provided. The IRS continues to believe that notices of nonrecognition are inappropriate for deferred like-kind exchanges. In a deferred like-kind exchange, until the replacement property has been identified and a contract for its purchase is executed, the transferor does not know with certainty that the exchange will qualify for nonrecognition under section 1031. Moreover, it is uncertain whether boot will be received in the exchange if the replacement property is not identified at the time the relinquished property is transferred to the transferee. Accordingly, the regulations do not permit a notice of nonrecognition in the case of a deferred like-kind exchange and require the taxpayer to obtain a withholding certificate.

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 these regulations. These regulations impose no new collection of information on small entities; therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Robert W. Lorence, Jr., Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting, and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1, 301 and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

§ 1.897–1 [Amended]

■ 2. In § 1.897–1, paragraph (p), the first sentence is amended by adding the language ''or the identification number assigned by the Internal Revenue Service (see § 301.6109–1 of this chapter)''

immediately after the language ''United States social security number''.

§ 1.897–2 [Amended]

■ **3.** Section 1.897–2 is amended as follows:

■ For each of the paragraphs listed in the first column, remove the language in the second column and add in its place the language in the third column:

Paragraphs	Remove	Add
(g)(1)(i)(B)	Director, Foreign Operations District (''Director'').	Commissioner, Small Business/Self Employed Division (SB/SE).
(g)(1)(i), fourth sentence of concluding text immediately following paragraph (g)(1)(i)(B).	Director	Commissioner.
(g)(1)(iii) heading	Director	Commissioner.
(g)(1)(iii)(A), first, fourth, and last sentences	Director	Commissioner.
(g)(1)(iii)(A), third sentence	Director, Foreign Operations District; 1325 K St. NW; Washington, DC 20225.	Commissioner, Small Business/Self Employed Division (SB/SE); S C3–413 NCFB, 500 Ellin Road, Lanham, MD 20706.
(g)(1)(iii)(B) heading	Director's	Commissioner's.
(g)(1)(iii)(B) introductory text	Director	Commissioner.
(g)(1)(iii)(B) concluding text immediately following (g)(1)(iii)(B)(2).	Director	Commissioner.
(g)(1)(iii)(C) both places it appears	Director	Commissioner.
(g)(1)(iii)(D) heading	Director	Commissioner.
(g)(1)(iii)(D)	Director	Commissioner.
(g)(2)(i)(B)	Director	Commissioner.
(g)(2)(iii) heading	Director	Commissioner.
(g)(2)(iii)(A), first, fourth, and fifth sentence (both places it appears).	Director	Commissioner.
(g)(2)(iii)(A), third sentence	Director, Foreign Operations District; 1325 K St. NW.; Washington, DC 20225.	Commissioner, Small Business/Self Employed Division (SB/SE); S C3–413 NCFB, 500 Ellin Road, Lanham, MD 20706.
(g)(2)(iii)(B) heading	Director's	Commissioner's.
(g)(2)(iii)(B) introductory text	Director	Commissioner.
(g)(2)(iii)(B) concluding text immediately following (g)(2)(iii)(B)(2).	Director	Commissioner.
(g)(2)(iii)(C), first and second sentences	Director	Commissioner.
(g)(2)(iii)(D) heading	Director	Commissioner.
(g)(2)(iii)(D)	Director	Commissioner.
(g)(2)(iv), fourth sentence	Director	Commissioner.
(h)(2)(v), third sentence	Assistant Commissioner (International), Director, Office of Compliance, OP:I:C:E:666, 950 L'Enfant Plaza South, SW., COMSAT Building, Washington, D.C. 20024.	Director, Philadelphia Service Center, P.O. Box 21086, Drop Point 8731, FIRPTA Unit, Philadelphia, PA 19114–0586.
(h)(4)(ii), first sentence	Assistant Commissioner (International), Director, Office of Compliance, OP:I:C:E:666, 950 L'Enfant Plaza South, SW., COMSAT Building, Washington, D.C. 20024.	Director, Philadelphia Service Center, P.O. Box 21086, Drop Point 8731, FIRPTA Unit, Philadelphia, PA 19114–0586.

4. Section 1.897–3 is amended as follows:

■ 1. For each of the paragraphs listed in the first column, remove the language in the second column and add in its place the language in the third column:

Paragraphs	Remove	Add
(c), introductory text	Director of the Foreign Operations District, 1325 K St., NW, Washington, DC 20225.	Director, Philadelphia Service Center, P.O. Box 21086, Drop Point 8731, FIRPTA Unit, Philadelphia, PA 19114–0586.
(c)(1), introductory text, last sentence.	which must set forth	which must contain all the following information.
(d)(1), fourth sentence	Foreign Operations District	Philadelphia Service Center.
(d)(2)(i), penultimate sentence	Director, Foreign Operations District	U.S. Treasury.
(f)(1), second sentence	Director, Foreign Operations District, 1325 K St., NW., Washington, DC 20225.	Director, Philadelphia Service Center, P.O. Box 21086, Drop Point 8731, FIRPTA Unit, Philadelphia, PA 19114–0586.
(f)(1), fifth sentence	Foreign Operations District	Philadelphia Service Center
(g)(1), second sentence	Director of the Foreign Operations District	Director, Philadelphia Service Center.

■ 2. In paragraph (c)(1)(i), remove the parenthetical ''(if any)'' after the words ''identifying number''.

■ 3. Paragraph (h) is added to read as follows:

§ 1.897–3 Election by foreign corporation to be treated as a domestic corporation under section 897(i).

* * * * *

(h) *Effective date.* The requirement in paragraph (c)(1)(i) of this section that the statement making the section 897(i) election contain the identifying number of the foreign corporation (in all cases) is applicable November 3, 2003.

■ 5. Section 1.897–5 is added to read as follows:

§ 1.897–5 Corporate distributions.

(a) through (d)(1)(iii)(E) [Reserved]. For further guidance, see § 1.897–5T(a) through (d)(1)(iii)(E).

(d)(1)(iii)(F) Identification by name and address of the distributee or transferee, including the distributee's or transferee's taxpayer identification number;

(d)(1)(iii)(G) through (d)(4) [Reserved]. For further guidance, see § 1.897–5T(d)(1)(iii)(G) through (d)(4).

(e) *Effective date.* This section is applicable to transfers and distributions after November 3, 2003.

■ 6. In § 1.897–5T, paragraph (d)(1)(iii)(F) is revised to read as follows:

§ 1.897–5T Corporate distributions (temporary).

* * * * *

(d) * * * (1) * * *

(iii) * * *

(F) [Reserved]. For further guidance, see § 1.897–5(d)(1)(iii)(F).

* * * * *

§ 1.897–6T [Amended]

■ 7. Section 1.897–6T is amended as follows:

■ 1. In paragraph (a)(2), second sentence, the language ''*,* 1034'' is removed.

■ 2. Paragraph (a)(5) (including the undesignated paragraph at the end) is removed and reserved.

■ 3. Paragraph (a)(7), *Example* 2 and *Example* 3 are removed and reserved.

■ 8. Section 1.1445–1 is amended as follows:

■ 1. In paragraph (c)(1), second sentence, remove the language ''filed with the Internal Revenue Service Center, Philadelphia, PA 19255'' and add in its place the language ''filed at the location as provided in the instructions to Forms 8288 and 8288–A''.

■ 2. In paragraph (c)(1), two sentences are added at the end.

■ 3. In paragraph (c)(2)(i)(B), second sentence, remove the phrase ''*,* if any,'' after the words ''taxpayer identification number''.

■ 4. In paragraphs (d)(1)(i) and (d)(1)(ii), remove the parenthetical ''(if any)'' after the words ''identifying number''.

■ 5. In paragraphs (d)(2)(i), (d)(2)(iv)(B), and (d)(2)(vi)(B), remove the parenthetical ''(if any)'' after the words ''identifying number''.

■ 6. In paragraph (f)(2), the first sentence is revised, and a sentence is added after the first sentence.

■ 7. In paragraph (f)(3)(i), the last sentence is revised.

■ 8. Paragraphs (g)(9) and (g)(10) are revised.

■ 9. Paragraph (h) is added.

■ The additions and revisions read as follows:

§ 1.1445–1 Withholding on dispositions of U.S. real property interests by foreign persons: In general.

* * * * *

(c) * * *

(1) * * * Forms 8288 and 8288–A are required to include the identifying numbers of both the transferor and the transferee, as provided in paragraph (d) of this section. If any identifying number as required by such forms is not provided, the transferee must still report and pay over any tax withheld on Form 8288, although the transferor cannot obtain a credit or refund of tax on the basis of a Form 8288–A that does not include the transferor's identifying number (see paragraph (f)(2) of this section).

* * * * *

(f) * * *

(2) * * * A stamped copy of Form 8288–A will be provided to the transferor by the Service (under paragraph (c) of this section) if the Form 8288–A is complete, including the transferor's identifying number. Except as provided in paragraph (f)(3) of this section, a stamped copy of Form 8288–A must be attached to the transferor's return to establish the amount withheld that is available as a credit. * * *

(3) * * *

(i) * * * Such a transferor must attach to its return a statement which supplies all of the information required by § 1.1445–1(d), including the transferor's identifying number.

* * * * *

(g) * * *

(9) *Identifying number.* Pursuant to § 1.897–1(p), an individual's identifying number is the social security number or the identification number assigned by the Internal Revenue Service (see § 301.6109–1 of this chapter). The identifying number of any other person is its United States employer identification number.

(10) *Address of the Director, Philadelphia Service Center.* Any written communication directed to the Director, Philadelphia Service Center is to be addressed as follows: P.O. Box 21086, Drop Point 8731, FIRPTA Unit, Philadelphia, PA 19114–0586.

(h) *Effective date for taxpayer identification numbers.* The requirement in paragraphs (c)(2)(i)(B), (d)(1)(i) and (ii), (d)(2)(i), (d)(2)(iv)(B), and (d)(2)(vi)(B) of this section that taxpayer identification numbers be provided (in all cases) is applicable for dispositions of U.S. real property interests occurring after November 3, 2003.

■ 9. Section 1.1445–2 is amended as follows:

■ 1. Paragraph (b)(2)(iii) is redesignated as paragraph (b)(2)(iv), and new paragraph (b)(2)(iii) is added.

■ 2. Newly designated paragraph (b)(2)(iv)(B) is revised.

■ 3. In paragraph (d)(2)(i)(B), the language ''Assistant Commissioner (International)'' is removed, and ''Director, Philadelphia Service Center'' is added in its place, and the parenthetical ''(if any),'' is removed after the words ''identifying number''.

■ 4. Paragraphs (d)(2)(iii) and (d)(2)(iv) are added immediately following the concluding text following paragraph (d)(2)(ii)(B).

■ 5. In paragraphs (d)(3)(iii)(A)(*2*) and (d)(3)(iii)(A)(*3*), the parenthetical ''(if any)'' is removed after the words ''identifying number''.

6. Paragraph (e) is added.

The revision and additions read as follows:

§ 1.1445–2 Situations in which withholding is not required under section 1445(a).

* * * * *

(b) * * *

(2) * * *

(iii) *Disregarded entities.* A disregarded entity may not certify that it is the transferor of a U.S. real property interest, as the disregarded entity is not the transferor for U.S. tax purposes, including sections 897 and 1445. Rather, the owner of the disregarded entity is treated as the transferor of property and must provide a certificate of non-foreign status to avoid withholding under section 1445. A disregarded entity for these purposes means an entity that is disregarded as an entity separate from its owner under § 301.7701–3 of this chapter, a qualified REIT subsidiary as defined in section 856(i), or a qualified subchapter S subsidiary under section 1361(b)(3)(B). Any domestic entity must include in its certification of non-foreign status with respect to the transfer a certification that it is not a disregarded entity. This paragraph (b)(2)(iii) and the sample certification provided in paragraph (b)(2)(iv)(B) of this section (to the extent it addresses disregarded entities) is applicable for dispositions occurring September 4, 2003.

(iv) * * *

(B) *Entity transferor.*

''Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real

property interest by [name of transferor] , the undersigned hereby certifies the following on behalf of [name of transferor]:

1. [Name of transferor] is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. [Name of transferor] is not a disregarded entity as defined in § 1.1445–2(b)(2)(iii);

3. [Name of transferor]'s U.S. employer identification number is ___; and

4. [Name of transferor]'s office address is _____.

[Name of transferor] understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of [name of transferor].

[Signature(s) and date]

[Title(s)]''

* * * * *

(d) * * *

(2) * * *

(iii) *Contents of the notice.* No particular form is required for a transferor's notice to a transferee that the transferor is not required to recognize gain or loss with respect to a transfer. The notice must be verified as true and signed under penalties of perjury by the transferor, by a responsible officer in the case of a corporation, by a general partner in the case of a partnership, and by a trustee or equivalent fiduciary in the case of a trust or estate. The following information must be set forth in paragraphs labeled to correspond with the designation set forth as follows—

(A) A statement that the document submitted constitutes a notice of a nonrecognition transaction or a treaty provision pursuant to the requirements of § 1.1445–2(d)(2);

(B) The name, identifying number, and home address (in the case of an individual) or office address (in the case of an entity) of the transferor submitting the notice;

(C) A statement that the transferor is not required to recognize any gain or loss with respect to the transfer;

(D) A brief description of the transfer; and

(E) A brief summary of the law and facts supporting the claim that recognition of gain or loss is not required with respect to the transfer.

(iv) *No notice allowed.* The provisions of this paragraph (d)(2) do not apply to exclusions from income under section 121, to simultaneous like-kind exchanges under section 1031 that do not qualify for nonrecognition treatment in their entirety (see paragraph (d)(2)(ii)(A) of this section), and to non-simultaneous like-kind exchanges under section 1031 where the transferee cannot determine that the exchange has been completed and all the conditions for nonrecognition have been satisfied at the time it is otherwise required to pay the section 1445 withholding tax and file the withholding tax return (Form 8288, ''U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests''). In these cases, the transferee is excused from withholding only upon the timely application for and receipt of a withholding certificate under § 1.1445–3 (see § 1.1445–3(b)(5) and (6) for specific rules applicable to transactions under sections 121 and 1031). This paragraph (d)(2)(iv) is applicable for dispositions and exchanges occurring September 4, 2003.

* * * * *

(e) *Effective date for taxpayer identification numbers.* The requirement in paragraphs (d)(2)(i)(B), (d)(2)(iii)(B), and (d)(3)(iii)(A)(*2*) and (*3*) of this section that taxpayer identification numbers be provided (in all cases) is applicable for dispositions of U.S. real property interests occurring after November 3, 2003.

* * * * *

■ 10. Section 1.1445–3 is amended as follows:

■ 1. In paragraph (a), after the seventh sentence, one sentence is added.

■ 2. For each of the paragraphs listed in the column below, remove the language ''Assistant Commissioner (International)'', and add ''Director, Philadelphia Service Center'' in its place.

Paragraphs

(b)(1), first sentence

(f)(1), first sentence

(f)(2)(iii), heading

(f)(2)(iii), first sentence

(g), third sentence, introductory text

■ 3. In paragraph (b)(1), last sentence, remove the language ''of this section'' and add '', and to the extent applicable, paragraph (b)(5) or (6) of this section'' in its place.

■ 4. Paragraph (b)(2) is revised.

■ 5. Paragraphs (b)(5) and (b)(6) are added.

■ 6. In paragraphs (f)(3)(i) and (g)(1), remove the parenthetical ''(if any)'' after the words ''identifying number''.

■ 7. Paragraph (h) is added.

The revision and additions read as follows:

§ 1.1445–3 Adjustments to amount required to be withheld pursuant to withholding certificate.

(a) * * * In no event, however, will a withholding certificate be issued without the transferor's identifying number. * * *

(b) * * *

(2) *Parties to the transaction.* The application must set forth the name, address, and identifying number of the person submitting the application (specifying whether that person is the transferee or transferor), and the name, address, and identifying number of other parties to the transaction (specifying whether each such party is a transferee or transferor). The Service will deny the application if complete information, including the identifying numbers of all the parties, is not provided. Thus, for example, the applicant should determine if an identifying number exists for each party, and, if none exists for a particular party, the applicant should notify the particular party of the obligation to get an identifying number before the application can be submitted to the Service. The address provided in the case of an individual must be that individual's home address, and the address provided in the case of an entity must be that entity's office address. A mailing address may be provided in addition to, but not in lieu of, a home address or office address.

* * * * *

(5) *Special rule for exclusions from income under section 121.* A withholding certificate may be sought on the basis of a section 121 exclusion as a reduction in the amount of tax due under paragraph (c)(2)(v) of this section. The application must include information establishing that the transferor, who is a nonresident alien individual at the time of the sale (and is therefore subject to sections 897 and 1445) is entitled to claim the benefits of section 121. For example, a claim for reduced withholding as a result of section 121 must include information that the transferor occupied the U.S. real property interest as his or her personal residence for the required period of time.

(6) *Special rule for like-kind exchanges under Section 1031.* A withholding certificate may be requested with respect to a like-kind exchange under section 1031 as a transaction subject to a nonrecognition provision under paragraph (c)(2)(ii) of this section. The application must include information substantiating the requirements of section 1031. The IRS may require additional information during the course of the application

process to determine that the requirements of section 1031 are satisfied. In the case of a deferred like-kind exchange, the withholding agent is excused from reporting and paying the withholding tax to the IRS within 20 days after the transfer only if an application for a withholding certificate is submitted prior to or on the date of transfer. See § 1.1445–1(c)(2) for rules concerning delayed reporting and payment where an application for a withholding certificate has been submitted to the IRS prior to or on the date of transfer.

* * * * *

(h) *Effective date for taxpayer identification numbers.* The requirement in paragraphs (b)(2), (f)(3)(i), and (g)(1) of this section that taxpayer identification numbers be provided (in all cases) is applicable for dispositions of U.S. real property interests occurring after November 3, 2003.

* * * * *

§ 1.1445–4 [Amended]

■ 11. In § 1.1445–4, paragraph (c)(2), second sentence, is amended by removing the language ''Assistant Commissioner (International)'' and adding ''Director, Philadelphia Service Center'' in its place.

■ 12. Section 1.1445–5 is amended as follows:

■ 1. In paragraph (b)(2)(ii), first sentence, remove the language ''Assistant Commissioner (International)'' and add ''Director, Philadelphia Service Center'' in its place.

■ 2. In paragraphs (b)(2)(ii)(B) and (b)(2)(ii)(C), remove the parenthetical ''(if any)'' after the words ''identifying number''.

■ 3. In paragraph (b)(5)(i), second sentence, remove the language ''filed with the Internal Revenue Service Center, Philadelphia, PA 19255'' and add in its place the language ''filed at the location as provided in the instructions to Forms 8288 and 8288–A''.

■ 4. In paragraph (b)(5)(i), the fifth sentence is revised.

■ 5. In paragraph (b)(7), the fifth sentence is revised.

■ 6. Paragraph (b)(8)(iii) is revised.

■ 7. In paragraph (c)(3)(v), first and fifth sentences, remove the language ''Assistant Commissioner (International)'' and add ''Director, Philadelphia Service Center'' in its place.

■ 8. Paragraph (e)(1)(ii) is revised.

■ 9. Paragraph (e)(2) is redesignated as paragraph (e)(3), and new paragraph (e)(2) is added.

■ 10. In newly designated paragraph (e)(3)(iii)(B), remove the language ''§ 1.1445–5(e)(2)(iii)(B)'' and add ''§ 1.1445–5(e)(3)(iii)(B)'' in its place; and remove the language ''paragraph (e)(2)(iii)(B)'' and add ''paragraph (e)(3)(iii)(B)'' in its place.

■ 11. Paragraph (h) is added.

The revisions and additions read as follows:

§ 1.1445–5 Special rules concerning distributions and other transactions by corporations, partnerships, trusts and estates.

* * * * *

(b) * * *

(5) * * *

(i) * * * Form 8288–A will be stamped by the Internal Revenue Service to show receipt, and a stamped copy will be mailed by the Service to the interest holder if the Form 8288 is complete, including the transferor's identifying number, at the address shown on the form, for the interest-holder's use. * * *

(7) * * * Such an interest-holder must attach to its return a statement which supplies all of the information required by § 1.1445–1(d)(2). * * *

(8) * * *

(iii) *Distributions by certain domestic corporations to foreign shareholders.* The provisions of section 1445(e)(3) and paragraph (e)(1) of this section, requiring withholding upon distributions in redemption of stock under section 302(a) or liquidating distributions under Part II of subchapter C of the Internal Revenue Code by U.S. real property holding corporations to foreign shareholders, shall apply to distributions made on or after January 1, 1985. The provisions of section 1445(e)(3) and paragraph (e)(1) of this section requiring withholding on distributions under section 301 by U.S. real property holding corporations to foreign shareholders shall apply to distributions made after August 20, 1996. The provisions of paragraph (e) of this section providing for the coordination of withholding between sections 1445 and 1441 (or 1442 or 1443) for distributions under section 301 by U.S. real property holding corporations to foreign shareholders apply to distributions after December 31, 2000 (see § 1.1441–3(c)(4) and (h)).

* * * * *

(e) * * * (1) * * *

(ii) There is a distribution of property in redemption of stock treated as an exchange under section 302(a), in liquidation of the corporation pursuant to the provisions of Part II of subchapter C of the Internal Revenue Code (sections 331 through section 346), or with respect to stock under section 301 that is not made out of earnings and profits of the corporation.

(2) *Coordination rules for Section 301 distributions.* If a domestic corporation makes a distribution of property under section 301 to a foreign person whose interest in such corporation constitutes a U.S. real property interest under the provisions of section 897 and the regulations thereunder, then see § 1.1441–3(c)(4) for rules coordinating withholding obligations under sections 1445 and 1441 (or 1442 or 1443)).

* * * * *

(h) *Effective date for taxpayer identification numbers.* The requirement in paragraphs (b)(2)(ii)(B) and (C) of this section that taxpayer identification numbers be provided (in all cases) is applicable for dispositions of U.S. real property interests occurring after November 3, 2003.

* * * * *

■ 13. Section 1.1445–6 is amended as follows:

■ 1. The section heading is revised.

■ 2. In paragraph (a), after the seventh sentence, one sentence is added.

■ 3. Paragraph (b)(3) is revised.

■ 4. For each of the paragraphs listed in the column below, remove the language ''Assistant Commissioner (International)'' and add ''Director, Philadelphia Service Center'' in its place.

Paragraphs

(f)(1), first sentence
(f)(2)(iii), heading
(f)(2)(iii)
(g), introductory text, second sentence

■ 5. Paragraphs (f)(3)(i) and (g)(1) are amended by removing the parenthetical ''(if any)'' after the words ''identifying number''.

■ 6. Paragraph (h) is added.

The revision and additions read as follows:

§ 1.1445–6 Adjustments pursuant to withholding certificate of amount required to be withheld under section 1445(e).

* * * * *

(a) * * * In no event, however, will a withholding certificate be issued without the transferor's identifying number.* * *

(b) * * *

(3) *Relevant taxpayers.* An application for withholding certificate pursuant to this section must include all of the following information: the name, identifying number, and home address (in the case of an individual) or office address (in the case of an entity) of each relevant taxpayer with respect to which adjusted withholding is sought.

* * * * *

(h) *Effective date for taxpayer identification numbers.* The requirement in paragraphs (b)(3), (f)(3)(i), and (g)(1) of this section that taxpayer identification numbers be provided (in all cases) is applicable for dispositions of U.S. real property interests occurring after November 3, 2003.

* * * * *

§ 1.1445–9T [Removed]

■ 14. Section 1.1445–9T is removed.

PART 301—PROCEDURE AND ADMINISTRATION

■ 15. The authority for part 301 continues to read in part as follows:

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

■ 16. Section 301.6109–1 is amended as follows:

■ 1. In paragraph (b)(2)(v), remove the word ''and''.

■ 2. In paragraph (b)(2)(vi), remove the period at the end of the paragraph and add ''; and'' in its place.

■ 3. Paragraph (b)(2)(vii) is added.

■ 4. In paragraph (c), first and third sentences, remove the language ''or (vi) of this section'' and add ''(vi), or (vii) of this section'' in its place.

The addition reads as follows:

§ 301.6109–1 Identifying numbers.

* * * * *

(b) * * *

(2) * * *

(vii) A foreign person whose taxpayer identifying number is required to be furnished on any return, statement, or other document as required by the income tax regulations under section 897 or 1445. This paragraph (b)(2)(vii) applies as of November 3, 2003.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ 17. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ 18. In § 602.101, paragraph (b) is amended by revising the entries for 1.1445–2 and 1.1445–3 to read as follows:

§ 601.601 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1445–2	1545–0902 1545–1060 1545–1797
1.1445–3	1545–0902 1545–1060 1545–1797
* * * * *	

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

Approved: July 9, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–19273 Filed 8–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD07–03–098]

RIN 1625–AA08

Special Local Regulations; Race Week Miami Super Boat Race, Miami Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being established for the Race Week Miami Super Boat Race held offshore of Miami Beach, Florida. These regulations restrict the movement of non-participating vessels in the regulated area centered around the race course located in the vicinity of Miami Beach, Florida. These are needed to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective from 11 a.m. EST on September 21, 2003 through 4 p.m. EST on September 21, 2003.

ADDRESSES: Documents indicated in the preamble as being available in the docket, are part of docket [CGD07–03–098] and are available for inspection or copying at Coast Guard Group Miami, 100 MacArthur Causeway, Miami Beach, Florida 33139 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BMC D. Vaughn, Coast Guard Group Miami, Florida at (305) 535–4317.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a temporary rule could be issued, would be contrary to public safety interests. Immediate action is needed to minimize potential danger to the public, because there will be numerous spectator craft in the vicinity of the powerboat race.

Background and Purpose

Super Boat International Productions Inc. is sponsoring a high speed power boat race that will take place on September 21, 2003 in the Atlantic Ocean off Miami Beach, Florida. The race organizers anticipate 35 participants and 200 spectator watercraft. The event will take place outside of the marked channel and will not interfere with commercial shipping. Recreational vessels and fishing vessels normally operate in the waters being used for the event. This rule is required to provide for the safety of life on navigable waters because of the inherent danger associated with a power boat race. The rule prohibits non-participating vessels from entering the regulated area offshore of Miami Beach, Florida, during the event. A Coast Guard Patrol Commander will be present during this event to monitor compliance with this regulation.

Discussion of Rule

This rule is required to provide for the safety of life on navigable waters because of the inherent danger associated with a power boat race.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). This rule only temporarily modifies the existing published rule.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities.