

diseases and other medical conditions that invariably qualify under the Listing of Impairments based on minimal objective medical information.

### Will We Respond to Your Comments?

We will carefully consider your comments, although we will not respond directly to comments sent in response to this notice or the hearing.

### Additional Hearings

We held a hearing on rare diseases on December 4 and 5, 2007, and a hearing on cancers on April 7, 2008. You may access the transcripts of both hearings at <http://www.socialsecurity.gov/compassionateallowances>. We plan to hold additional hearings on other conditions and will announce those hearings later with notices in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.006, Supplemental Security Income. (72 Fed. Reg. at 62608)).

Dated: November 3, 2008.

**Michael J. Astrue,**

*Commissioner of Social Security.*

[FR Doc. E8–26682 Filed 11–7–08; 8:45 am]

BILLING CODE 4191–02–P

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Parts 404 and 416

[Docket No. SSA 2008–0033]

RIN 0960–AG61

### Setting the Time and Place for a Hearing before an Administrative Law Judge

**AGENCY:** Social Security Administration.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We propose to amend our rules to clarify that the agency is responsible for setting the time and place for a hearing before an administrative law judge (ALJ). Consistent with our regulations at lower levels of the administrative process, we propose to use “we” or “us” in the rules setting the time and place for a hearing. These changes will ensure greater flexibility in scheduling hearings both in person and via video teleconferencing and will aid us in our effort to increase efficiency in the hearing process and reduce the number of pending hearings. The number of cases awaiting a hearing has reached historic proportions, and efforts toward greater efficiency are critical to addressing this problem.

**DATES:** To be sure that we consider your comments, we must receive them no later than January 9, 2009.

**ADDRESSES:** You may submit comments by any one of four methods—Internet, facsimile, regular mail, or hand-delivery. Commenters should not submit the same comments multiple times or by more than one method. Regardless of which of the following methods you choose, please state that your comments refer to Docket No. SSA–2008–0033 to ensure that we can associate your comments with the correct regulation:

1. Federal eRulemaking portal at <http://www.regulations.gov>. (This is the most expedient method for submitting your comments, and we strongly urge you to use it.) In the “Search Documents” section of the webpage, type “SSA–2008–0033”, select “Go,” and then click “Send a Comment or Submission.” The Federal eRulemaking portal issues you a tracking number when you submit a comment.

2. Telefax to (410) 966–2830.

3. Letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703.

4. Deliver your comments to the Office of Regulations, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days.

All comments are posted on the Federal eRulemaking portal, although they may not appear for several days after receipt of the comment. You may also inspect the comments on regular business days by making arrangements with the contact person shown in this preamble.

**Caution:** All comments we receive from members of the public are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov>. Therefore, you should be careful to include in your comments only information that you wish to make publicly available on the Internet. We strongly urge you not to include any personal information, such as your Social Security number or medical information, in your comments.

### FOR FURTHER INFORMATION CONTACT:

Brent Hillman, Social Security Administration, 5107 Leesburg Pike, Falls Church, Virginia 22041–3260, (703) 605–8280, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

### SUPPLEMENTARY INFORMATION:

### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

### Introduction

We are committed to improving the efficiency of the hearing process under the Old Age, Survivors, and Disability Insurance (OASDI) programs under title II of the Social Security Act (Act) and the Supplemental Security Income (SSI) program under title XVI of the Act. As part of our plan to carry out that commitment, we propose to amend our rules and clarify that the agency is responsible for setting the time and place for an administrative law judge hearing.

The growth of our pending workloads at the ALJ-hearing level has been well-publicized, and we are attempting to address this growth and prepare for anticipated increases in hearing requests. Our Inspector General audited ALJ productivity and concluded that we must increase productivity if we are to eliminate the hearings backlog. This proposal, in connection with other proposed rule changes, will aid us in increasing the productivity of those ALJs who are not processing a sufficient number of cases and allow us to meet our goal to provide better service to claimants seeking a hearing before an ALJ. We anticipate exercising this authority only in those situations where productivity is below what we need to meet our goal to drive down the backlog.

We recognize that the amendment to clarify that the agency sets the time and place of the hearing may be perceived as unwarranted by the small number of ALJs who may be affected by it. The agency’s responsibility to set the time and place of the hearing in no way interferes with the well-respected role of the ALJs to hear and decide cases. While we believe ALJs will accept this principle, we will continue to monitor productivity closely. If hearings are not being performed in a prompt and professional manner, we will use all available existing authorities to correct that situation. We will also monitor the success of this regulation on an agency-wide basis to ensure that it does not produce unintended consequences. Where we do exercise authority to set the time and place for a hearing before an ALJ, we will carefully monitor quality, productivity and accuracy.

### Explanation of Changes

In testimony before various congressional committees, we have

described the significant challenges that we face in dealing with the historically large number of pending hearing requests. We have explained to the committees that we must process a sufficient number of cases at the hearing level if we are to reduce the hearings backlog. We have testified that a minority of ALJs do not schedule enough hearings, and that our current rules do not provide adequate avenues for addressing these workload issues. This proposed rule would help us reduce the number of pending hearing requests and meet the needs of the public.

In addition, Social Security's Inspector General conducted an audit of ALJ caseload performance. In the final report of his findings, the Inspector General stated that in fiscal year (FY) 2006, 502 of the 895 fully available ALJs processed fewer than 500 cases. "If the 502 ALJs processed 500 cases each and the remaining fully and partially available ALJs' production remained constant, [we] would be able to stay abreast of incoming hearing requests and make progress in reducing the backlog through FY 2012."

*Administrative Law Judges' Caseload Performance*, A-07-07-17072 p. 8 (Feb. 6, 2008). Nevertheless, even at that level of production, we would need 87 additional ALJs over the FY 2006 ALJ level to eliminate the backlog by 2013.

*Id.* We now expect that over the coming years, we will receive a significant increase in the number of hearing requests over the number that the Inspector General had accounted for in his report. As a consequence, we expect that ALJs will need to process at least 500 cases per year in order to meet our goals for 2013.

Under our current rules, ALJs may set the time and place for hearings. In practice, each ALJ presents hearing office staff with a schedule of times that he or she is available to conduct administrative hearings. We know that under this process, some ALJs, but certainly not all, do not always present the scheduling staff with sufficient available hours to process the number of cases needed to reduce the backlog of pending hearing requests.

Conflicts with medical and vocational experts' and contract hearing recorders' schedules may further impede our ability to schedule a sufficient number of hearings to drive down the backlog. The hearing office staff also attempts to coordinate scheduling with the claimant's representative, if any, to avoid potential scheduling conflicts. These conflicts escalate when an ALJ does not allot sufficient available times

to hold hearings. Consequently, through this proposed rule, we could ensure that those ALJs who do not process a sufficient number of cases have enough of them docketed for hearings to drive down and eliminate the backlog by 2013.

By using a broader range of available times and dates, we will more efficiently schedule an adequate number of hearings to meet our goals. The proposed changes would permit us to more uniformly distribute the hearings workload to meet the needs of the entire hearing office. We expect that we will need to exercise this authority in only those situations where an ALJ is not scheduling the number of hearings that we consider sufficient.

Further, this proposal would assist in the development of the electronic scheduling initiative. We are planning to implement electronic scheduling of hearings which will ease the integration of the schedules of ALJs, experts, claimants, claimants' representatives, hearing recorders, and the availability of hearing rooms.

#### Relation to Other Proposed Changes

We recognize that we have already proposed changes to some of these rules (72 FR 61218 (2007)), but have not finalized those proposed changes to sections 404.936, 404.938, 404.950, 416.1436, 416.1438, and 416.1450. Should those proposed changes become final, we intend to modify the changes proposed herein accordingly as necessary.

#### Clarity of These Proposed Rules

Executive Order 12866, as amended, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

#### When Will We Start To Use These Rules?

We will not use these rules until we evaluate the public comments we receive on them, determine whether they should be issued as final rules, and issue final rules in the **Federal Register**. If we publish final rules, we will explain in the preamble how we will apply them, and summarize and respond to the public comments. Until the effective date of any final rules, we will continue to use our current rules.

#### Regulatory Procedures

##### *Executive Order 12866, As Amended*

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended. Thus, they were subject to OMB review.

The Office of the Chief Actuary estimates that this proposed rule, if finalized, would increase the program costs of the OASDI and SSI programs by \$1.2 billion. The table below presents our estimates of the increases in OASDI benefit payments and Federal SSI payments over the fiscal year period 2009–18 resulting from the increases in ALJ dispositions assumed to occur as a result of the proposed rule change. The estimates are consistent with the assumptions underlying the Mid-Session Review of the President's FY 2009 Budget, and assume that the proposed rule will be published as a final rule on July 1, 2009.

TABLE 1—ESTIMATED INCREASES IN OASDI BENEFITS AND FEDERAL SSI PAYMENTS

[In millions]

Fiscal year	OASDI	SSI	Total
2009 .....	.....	.....	.....
2010 .....	\$16	\$4	\$19
2011 .....	40	11	50
2012 .....	68	15	83
2013 .....	97	24	121
2014 .....	127	32	159
2015 .....	158	40	198
2016 .....	159	46	205
2017 .....	155	45	200
2018 .....	146	44	189
Totals:			
2009–13 .....	219	54	273
2009–18 .....	964	261	1,225

(Totals may not equal the sum of components due to rounding.)

In providing estimates of the effects of this change on benefits, we assume that under the proposed rule the agency would begin scheduling hearings for a small number of judges in FY 2010,

resulting in a modest increase in the number of ALJ dispositions that year.

Through 2018, we project that the additional benefit outlays associated with this regulation would be about \$964 million for OASDI and about \$261 million for SSI. Over the long-range 75-year projection period, we estimate that this rule would increase benefits by a negligible amount (i.e., less than 0.005 percent of taxable payroll).

**TABLE 2—ACCOUNTING STATEMENT: ESTIMATED ECONOMIC IMPACT OF PROVIDING AUTHORITY FOR SSA TO SCHEDULE ADMINISTRATIVE LAW JUDGE HEARINGS, FISCAL YEARS 2009–2018 IN 2008 DOLLARS**

Category	Transfers
Annualized Monetized Transfers.	\$91.3 million (7% discount rate). \$97.7 million (3% discount rate).
From Whom To Whom?	From the Social Security trust funds and the general fund to SSA beneficiaries.

#### *Regulatory Flexibility Act*

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities as they affect individuals only. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

#### *Paperwork Reduction Act*

These proposed rules contain reporting requirements in the regulation sections listed below. We previously accounted for these public reporting burdens in the Information Collection Requests for the various forms or regulations the public uses to submit the information to SSA. Consequently, we are inserting a 1-hour placeholder burden in these sections.

Regulation section	Description of public reporting requirement	Number of respondents (annually)	Frequency of response	Average burden per response (minutes)	Estimated annual burden
404.932/416.1432 .....	SSA may notify a person to appear at an ALJ hearing or present evidence if SSA decides the person will be affected by the ALJ's decision.	.....	.....	.....	1 hour.
404.936(d)–(e)/ 416.1436(d)–(e).	If someone objects to the time/place of the scheduled ALJ hearing, the person must notify SSA and provide good cause for changing the hearing's time or place.	.....	.....	.....	1 hour.
404.938(a)/416.1438(a) .....	SSA will notify affected parties of the time/place of an ALJ hearing, unless those parties have previously stated in writing they do not want to receive this notice.	.....	.....	.....	1 hour.

SSA submitted an Information Collection Request for clearance of these regulation sections to OMB. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated techniques or other forms of information technology. If you would like to submit comments, please send them to the following: Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202–395–6974, E-mail address: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov). Social Security Administration, Attn: Reports Clearance Officer, 6401 Security Blvd., Baltimore, MD 21235–0001, Fax Number: 410–965–6400, E-mail: [OPLM.RCO@ssa.gov](mailto:OPLM.RCO@ssa.gov).

You can submit comments for up to 60 days after the publication of this notice; however, your comments will be most useful if you send them to SSA within 30 days of publication. To receive a copy of the OMB clearance package, contact the SSA Reports

Clearance Officer using any of the above contact methods.

(Catalog of Federal Domestic Assistance Program No. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

#### **List of Subjects**

##### *20 CFR Part 404*

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors, and Disability insurance, Reporting and recordkeeping requirements, Social Security.

##### *20 CFR Part 416*

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: November 3, 2008.

**Michael J. Astrue,**

*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

#### **PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950– )**

1. The authority citation for subpart J of part 404 continues to read as follows:

**Authority:** Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

2. Amend § 404.932 by revising the second sentence of paragraph (b) to read as follows:

**§ 404.932 Parties to a hearing before an administrative law judge.**

\* \* \*

(b) \* \* \* In addition, any other person may be made a party to the hearing if his or her rights may be adversely affected by the decision, and we notify the person to appear at the hearing or to present evidence supporting his or her interest.

3. Amend § 404.936 by revising the first and second sentences of paragraph (a) and paragraphs (c), (d), and (e) introductory text to read as follows:

**§ 404.936 Time and place for a hearing before an administrative law judge.**

(a) *General.* We set the time and place for the hearing. We may change the time and place, if it is necessary. \* \* \*

\* \* \*

(c) *Determining how appearances will be made.* In setting the time and place of the hearing, we will consult with the administrative law judge, who will determine whether your appearance or that of any other individual who is to appear at the hearing will be made in person or by video teleconferencing. The administrative law judge will determine that the appearance of an individual be conducted by video teleconferencing if video teleconferencing technology is available to conduct the appearance, use of video teleconferencing to conduct the appearance would be more efficient than conducting the appearance in person, and the administrative law judge determines that there is no circumstance in the particular case that prevents the use of video teleconferencing to conduct the appearance. Section 404.950 sets forth procedures under which parties to the hearing and witnesses appear and present evidence at hearings.

(d) *Objecting to the time and place of the hearing.* If you object to the time or place of your hearing, you must notify us at the earliest possible opportunity before the time set for the hearing. You must state the reason for your objection and state the time and place you want the hearing to be held. If at all possible, the request should be in writing. We will change the time or place of the hearing if the administrative law judge finds you have good cause, as determined under paragraph (e) and (f) of this section. Section 404.938 provides procedures we will follow when you do not respond to a notice of hearing.

(e) *Good cause for changing the time or place.* If you have been scheduled to appear for your hearing by video teleconferencing and you notify us as provided in paragraph (d) of this section that you object to appearing in that way,

the administrative law judge will find your wish not to appear by video teleconferencing to be a good reason for changing the time or place of your scheduled hearing and we will reschedule your hearing for a time and place at which you may make your appearance before the administrative law judge in person. The administrative law judge will also find good cause for changing the time or place of your scheduled hearing, and we will reschedule your hearing, if your reason is one of the following circumstances and is supported by the evidence:

\* \* \*

4. Amend § 404.938 by revising the first sentence of paragraph (a) to read as follows:

**§ 404.938 Notice of a hearing before an administrative law judge.**

(a) *Issuing the notice.* After we set the time and place of the hearing, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. \* \* \*

\* \* \*

5. Revise the third sentence of § 404.950(b) to read as follows:

**§ 404.950 Presenting evidence at a hearing before an administrative law judge.**

\* \* \*

(b) \* \* \* Even if all of the parties waive their right to appear at a hearing, we may notify them of a time and a place for an oral hearing, if the administrative law judge believes that a personal appearance and testimony by you or any other party is necessary to decide the case.

\* \* \*

**PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED****Subpart N—[Amended]**

6. The authority citation for subpart N of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383(b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note)).

7. Amend § 416.1432 by revising the second sentence of paragraph (b) to read as follows:

**§ 416.1432 Parties to a hearing before an administrative law judge.**

\* \* \*

(b) \* \* \* In addition, any other person may be made a party to the hearing if his or her rights may be adversely affected by the decision, and

we notify the person to appear at the hearing or to present evidence supporting his or her interest.

8. Amend § 416.1436 by revising the first and second sentences of paragraph (a) and paragraphs (c), (d), and (e) introductory text to read as follows:

**§ 416.1436 Time and place for a hearing before an administrative law judge.**

(a) *General.* We set the time and place for the hearing. We may change the time and place, if it is necessary. \* \* \*

\* \* \*

(c) *Determining how appearances will be made.* In setting the time and place of the hearing, we will consult with the administrative law judge, who will determine whether your appearance or that of any other individual who is to appear at the hearing will be made in person or by video teleconferencing. The administrative law judge will determine that the appearance of an individual be conducted by video teleconferencing if video teleconferencing technology is available to conduct the appearance, use of video teleconferencing to conduct the appearance would be more efficient than conducting the appearance in person, and the administrative law judge determines that there is no circumstance in the particular case that prevents the use of video teleconferencing to conduct the appearance. Section 416.1450 sets forth procedures under which parties to the hearing and witnesses appear and present evidence at hearings.

(d) *Objecting to the time and place of the hearing.* If you object to the time or place of your hearing, you must notify us at the earliest possible opportunity before the time set for the hearing. You must state the reason for your objection and state the time and place you want the hearing to be held. If at all possible, the request should be in writing. We will change the time or place of the hearing if the administrative law judge finds you have good cause, as determined under paragraph (e) and (f) of this section. Section 416.1438 provides procedures we will follow when you do not respond to a notice of hearing.

(e) *Good cause for changing the time or place.* If you have been scheduled to appear for your hearing by video teleconferencing and you notify us as provided in paragraph (d) of this section that you object to appearing in that way, the administrative law judge will find your wish not to appear by video teleconferencing to be a good reason for changing the time or place of your scheduled hearing and we will reschedule your hearing for a time and

place at which you may make your appearance before the administrative law judge in person. The administrative law judge will also find good cause for changing the time or place of your scheduled hearing, and we will reschedule your hearing, if your reason is one of the following circumstances and is supported by the evidence:

\* \* \* \* \*

9. Amend § 416.1438 by revising the first sentence of paragraph (a) to read as follows:

**§ 416.1438 Notice of a hearing before an administrative law judge.**

(a) *Issuing the notice.* After we set the time and place of the hearing, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. \* \* \*

\* \* \* \* \*

10. Revise the third sentence of § 416.1450(b) to read as follows:

**§ 416.1450 Presenting evidence at a hearing before an administrative law judge.**

\* \* \* \* \*

(b) \* \* \* Even if all of the parties waive their right to appear at a hearing, we may notify them of a time and a place for an oral hearing, if the administrative law judge believes that a personal appearance and testimony by you or any other party is necessary to decide the case.

\* \* \* \* \*

[FR Doc. E8-26681 Filed 11-7-08; 8:45 am]

BILLING CODE 4191-02-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-118327-08]

RIN 1545-BH98

#### Information Reporting for Discharges of Indebtedness

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing final and temporary regulations relating to information returns for cancellation of indebtedness by certain entities. The temporary regulations will avoid premature information reporting from

certain businesses that are currently required to report and will reduce the number of information returns required to be filed. The regulations will impact certain lenders who are currently required to file information returns under the existing regulations. The text of those temporary regulations also serves as text of these proposed regulations. This document also provides a notice of public hearing on these proposed regulations.

**DATES:** Written or electronic comments must be received by February 9, 2009. Outlines of topics to be discussed at the public hearing scheduled for March 13, 2009, must be received by February 13, 2009.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-118327-08), 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-118327-08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG 118327-08). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Barbara Pettoni at (202) 622-4910; concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo Taylor at (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations (26 CFR Part 1) under section 6050P relating to information reporting for cancellation of indebtedness by certain entities. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

##### Special Analyses

It has been determined that this notice of proposed rulemaking 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. The proposed regulations under section 6050P do not impose a collection of information on small entities. Therefore, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. The proposed regulations will reduce the number of information returns required to be filed under section 6050P rather than impose a collection of information on entities. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The Treasury Department and the IRS request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing has been scheduled for March 13, 2009, beginning at 10:00 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments by February 9, 2009 and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by February 13, 2009.

A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.