

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Parts 1 and 602**

[TD 9174]

RIN 1545-BD75

**Substantial Understatement of Income Tax Liability**

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

**ACTION:** Final regulations.

**SUMMARY:** This document removes regulations relating to the addition to tax in the case of a substantial understatement of income tax liability and corrects an obsolete cross reference. The Internal Revenue Code (Code) provision imposing the addition to tax and cited in the cross reference was repealed in 1989. The changes made by this document will not affect taxpayers because the addition to tax does not apply to returns with a due date after December 31, 1989 (determined without regard to extensions).

**DATES:** The changes made by this document are effective January 5, 2005.

**FOR FURTHER INFORMATION CONTACT:** Audra M. Dineen, (202) 622-4940 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background and Explanation of Provisions**

Section 6661 of the Code, as in effect before its repeal in 1989, imposed an addition to tax equal to 25 percent of the amount of the underpayment of tax attributable to any substantial understatement of income tax liability for a taxable year. Sections 1.6661-1 through 1.6661-6 of the Income Tax Regulations (26 CFR part 1) provided rules for determining whether an addition to tax should be imposed and for computing the amount of any such addition.

The Omnibus Budget Reconciliation Act of 1989, Public Law 101-239 (103 Stat. 2106), repealed section 6661 effective for tax returns due after December 31, 1989 (determined without regard to extensions) and substituted, in section 6662, an accuracy-related penalty applicable to those returns. The repeal of section 6661 has rendered §§ 1.6661-1 through 1.6661-6 obsolete. This Treasury decision removes those provisions and corrects an obsolete cross reference to section 6661 in the regulations under section 448 (relating to the limitation on the use of the cash method of accounting).

**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 also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this document has been submitted to the Small Business Administration for comment on its impact on small business.

**Drafting Information**

The principal author of this document is Audra M. Dineen of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division).

**List of Subjects**

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

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

**PART 1—INCOME TAXES**

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

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

■ **Par. 2.** In § 1.448-1T, paragraph (b)(1)(iii) is revised to read as follows:

**§ 1.448-1T Limitation on the use of the cash receipts and disbursements method of accounting (temporary).**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) Tax shelter within the meaning of section 6662(d)(2)(C).

\* \* \* \* \*

**§§ 1.6661-1 through 1.6661-6 [Removed]**

■ **Par. 3.** Sections 1.6661-1 through 1.6661-6 are removed.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

■ **Par. 4.** The authority citation for part 602 continues to read as follows:

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

■ **Par. 5.** In § 602.101, paragraph (b) is amended by removing the entries for “1.6661-3” and “1.6661-4” from the table.

Approved: December 9, 2004.

**Mark Matthews,**

*Deputy Commissioner for Services and Enforcement.*

**Gregory Jenner,**

*Acting Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 05-200 Filed 1-4-05; 8:45 am]

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 301**

[TD 9173]

RIN 1545-BB22

**Authority To Charge Fees for Furnishing Copies of Exempt Organizations' Material Open to Public Inspection**

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

**ACTION:** Final regulations.

**SUMMARY:** These final regulations adopt as final without change the temporary regulations published in the **Federal Register** on July 9, 2003, which amended the then-existing regulations regarding fees for copies of exempt organizations' material the IRS must make available to the public under section 6104 of the Internal Revenue Code (Code). These final regulations also adopt as final without change the conforming amendment included in the temporary regulations concerning the fees that an exempt organization may charge for furnishing copies of such material when required to do so.

**DATES:** These final regulations are effective January 5, 2005.

**FOR FURTHER INFORMATION CONTACT:** Sarah Tate, 202-622-4560 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

The temporary regulations published at 68 FR 40768, July 9, 2003, amended the then-existing regulations to make clear that any fee assessed by the IRS for

furnishing copies of documents required to be made publicly available under section 6104 of the Code shall be no more than the fee under the IRS' Freedom of Information Act (FOIA) fee schedule. Those temporary regulations also amended the then-existing regulations to make clear that that an exempt organization may charge the applicable per-page copying fee under the IRS' FOIA fee schedule for any number of pages, without regard to the fee exclusion applicable to the IRS for the first 100 pages.

The IRS simultaneously published a notice of proposed rulemaking at 68 FR 40849, July 9, 2003, with a cross-reference to the text of the temporary regulations. The notice of proposed rulemaking invited public comment on the temporary regulations. The IRS has not received any public comments or any request for a public hearing. The IRS has not identified any reason that the text of the temporary regulations should be altered. The text of the temporary rule, now adopted as final, is identical to the text of that proposed rule.

### Special Analyses

It has been determined that these final regulations are 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 final regulations, and because these final regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for comment on their impact on small businesses.

### Drafting Information

The principal author of these final regulations is Sarah Tate, Office of the Associate Chief Counsel (Procedure and Administration), Disclosure and Privacy Law Division. However, other personnel from the IRS and Treasury Department participated in their development.

### PART 301—PROCEDURE AND ADMINISTRATION

■ Accordingly, the IRS and the Department of the Treasury adopt as final without change the temporary regulations, amending 26 CFR part 301, which were published July 9, 2003.

Approved: December 28, 2004.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

**Eric Solomon,**

*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. 05-199 Filed 1-4-05; 8:45 am]

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## POSTAL SERVICE

### 39 CFR Part 501

#### Authorization to Manufacturer and Distribute Postage Meters

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This rule clarifies and enhances cautionary label markings required by Postal Service regulation to be placed on all postage meters to provide meter users with basic reminders on leasing, meter movement, and misuse. It also removes the obsolete requirement for the placement of a barcode label containing representation of meter serial numbers.

The meter manufacturer must promptly develop and implement a plan to change out the labels on existing meters leased or rented, including rebuilding, manufacturing, servicing, and inspection programs to expedite application of the new label. These plans must be approved by the Postage Technology Management office.

**DATES:** This rule is effective January 5, 2005.

**FOR FURTHER INFORMATION CONTACT:** Wayne Wilkerson, manager of Postage Technology Management, at 1735 N. Lynn Street, Rosslyn, VA 22209 or by telephone at 703-292-3691 or fax at 703-292-4073.

**SUPPLEMENTARY INFORMATION:** Title 39, *Code of Federal Regulations* (CFR) Part 501.23, Distribution Controls, section (r) requires postage meter manufacturers to affix a cautionary label to all postage meters to provide meter users with basic reminders on leasing, meter movement, and misuse. Further, section (r)(1) illustrates specific markings to be placed on cautionary labels. Experience with inadvertent use of the U.S. Postal Inspection Service telephone number to obtain general information has led to the need to clarify the label in order to emphasize manufacturer information and enhance direction to the customer. Section (2) currently requires a barcode label that is no longer relevant as a Postal Service requirement because of technology advances. The Postal Service

has determined to remove the barcode label as an explicit requirement and leave it to the manufacturers' discretion depending on independent use of the barcode label.

### List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

### The Amendment

■ For the reasons set out in this document, the Postal Service is amending 39 CFR part 501 as follows:

### PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

■ 1. The authority citation for Part 501 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95-452, as amended); 5 U.S.C. App. 3.

■ 2. Revise § 501.23(r) to read as follows:

#### § 501.23 Distribution controls.

\* \* \* \* \*

(r) Affix to all meters a cautionary label providing the meter user with basic reminders on leasing and meter movement.

(1) The cautionary label must be placed on all meters in a conspicuous and highly visible location. "PROPERTY OF [NAME OF MANUFACTURER]" as well as the manufacturer's toll-free number must be emphasized by capitalized bold type and preferably printed in red. The minimum width of the label should be 3.25 inches, and the minimum height should be 1.75 inches. The label should read as follows:

RENTED POSTAGE METER—NOT FOR SALE

PROPERTY OF [NAME OF MANUFACTURER]

(800) ###-####

Use of this meter is permissible only under U.S. Postal Service authorization. Call [Name of Manufacturer] at (800) ###-#### to relocate/return this meter.

WARNING! METER TAMPERING IS A FEDERAL OFFENSE.

IF YOU SUSPECT METER TAMPERING, CALL POSTAL INSPECTORS AT 1-800-372-8347

REWARD UP TO \$50,000 for information leading to the conviction of any person who misuses postage meters resulting in the Postal Service not receiving correct postage payments.

(2) Exceptions to the formatting of required labeling are determined on a case-by-case basis. Any deviation from standardized meter labeling