

air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during regular business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA, 30337.

Incorporation by Reference

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023. These updates will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class E airspace by adding airspace extending upward from 700 feet above the surface within a 6.1-mile radius of the point in space (lat 30°27'26" N, long 84°15'40" W) for Tallahassee Memorial Hospital Heliport, Tallahassee, FL. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is

certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," prior to any final regulatory action by the FAA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows: Paragraph 6005. Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO FL E5 Tallahassee, FL [Amended]

Tallahassee Regional Airport
(Lat 30°23'48" N, long 84°21'02" W)
Quincy Municipal Airport
(Lat 30°35'53" N, long 84°33'27" W)
Tallahassee Memorial Hospital Heliport
(Lat 30°27'26" N, long 84°15'40" W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Tallahassee Regional Airport within a 6.3-mile radius of Quincy Municipal Airport and within a 6-mile radius of Tallahassee Memorial Hospital Heliport.

* * * * *

Issued in College Park, Georgia, on June 25, 2024

Andree C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2024–14271 Filed 7–1–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[REG–109032–23]

RIN 1545–BQ79

Recapture of Interest on Excess Credits Under the Families First Act, CARES Act, and ARP

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed regulations providing that the IRS will assess as an underpayment of tax any overpayment interest paid to a taxpayer on an erroneous refund of the employment tax credits provided under the Families First Coronavirus Response Act, the Coronavirus Aid, Relief, and Economic Security Act, and the American Rescue Plan Act of 2021. These proposed regulations affect businesses, tax-exempt organizations, and certain governmental entities that claim the paid sick leave credit and the paid family leave credit under the Families First Coronavirus Response Act and the American Rescue Plan Act of 2021, and that claim the employee retention credit under the Coronavirus Aid, Relief, and Economic Security Act and the American Rescue Plan Act of 2021.

DATES: Written or electronic comments and requests for a public hearing must be received by August 16, 2024.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (indicate IRS and REG–109032–23) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the "Comments and Requests for a Public Hearing" section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS's public docket. Send paper submissions to CC:PA:01:PR (REG–109032–23), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning these proposed regulations, Andrew Holubeck at (202) 317–4774 (not a toll-free number); concerning

submissions of comments and/or requests for a public hearing, Vivian Hayes by email at publichearings@irs.gov (preferred) or by phone at (202) 317-6901 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

I. Statutes Providing Employment Tax Credits for COVID-19 Relief

The Families First Coronavirus Response Act (Families First Act), Public Law 116-127, 134 Stat. 178 (March 18, 2020), as amended and extended by the COVID-related Tax Relief Act of 2020 (Tax Relief Act), enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021, Public Law 116-260, 134 Stat. 1182 (December 27, 2020), provided COVID-19 related economic relief that included paid sick and family leave credits to eligible employers with respect to qualified leave wages paid for a period of leave taken beginning April 1, 2020, and ending March 31, 2021. The American Rescue Plan Act of 2021 (ARP), Public Law 117-2, 135 Stat. 4 (March 11, 2021), provided similar paid leave credits under sections 3131, 3132, and 3133 of the Code with respect to qualified leave wages paid for a period of leave taken beginning April 1, 2021, and ending September 30, 2021.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281 (March 27, 2020), as amended and extended by the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Relief Act), enacted as Division EE of the Consolidated Appropriations Act, 2021, provided an employee retention credit (ERC) with respect to qualified wages paid after March 12, 2020, and before July 1, 2021, respectively. The ARP provided a substantially similar ERC under section 3134 of the Code with respect to qualified wages paid after June 30, 2021, and before January 1, 2022.¹

¹ Section 80604 of the Infrastructure Investment and Jobs Act (Infrastructure Act), Public Law 117-68, 135 Stat. 429 (November 15, 2021), amended section 3134(n) of the Code to provide that the ERC under section 3134 applies only to wages paid after June 30, 2021, and before October 1, 2021 (or, in the case of wages paid by an eligible employer which is a recovery startup business, January 1, 2022). Therefore, the only type of employer eligible for the ERC for wages paid after September 30, 2021, and before January 1, 2022, is an employer that meets the definition of a recovery startup business under section 3134(c)(5). See Notice 2021-65, 2021-51 IRB 880 (December 20, 2021) for guidance for employers that received an advance payment of the ERC or reduced tax deposits in anticipation of the credit for the fourth quarter of 2021 prior to the amendments made by the Infrastructure Act.

The paid sick and family leave credits under the Families First Act and sections 3131 through 3133 of the Code and the ERC under the CARES Act and section 3134 of the Code (collectively, COVID-19 credits) are refundable credits, meaning that if the amount of the credits exceeds the taxes against which the credits are taken, then this excess is treated as an overpayment that is refunded under sections 6402(a) and 6413(b). Any amount of the COVID-19 credits claimed by a taxpayer that is treated as an overpayment under section 6402(a) or section 6413(b), is refunded or credited to the taxpayer. Any such refund to which the taxpayer is not entitled, is an erroneous refund that the taxpayer must repay.

II. Assessment Authority

Section 6201 authorizes and requires the Secretary to determine and assess tax liabilities, including interest, additional amounts, additions to the tax, and assessable penalties. The Code or other statutory authority described herein provides for the administrative recapture of certain erroneous refunds of the COVID-19 credits either by directly authorizing the assessment of the erroneous refunds or by authorizing the promulgation of regulations or other guidance to do so.

Specifically, regarding paid sick and family leave credits, sections 7001(f) and 7003(f) of the Families First Act and sections 3131(g) and 3132(g) of the Code provide, in relevant part, that the Secretary shall provide such regulations or other guidance as may be necessary to carry out the purposes of the credits, including regulations or other guidance to prevent the avoidance of the purposes of the limitations under those provisions and to recapture the benefit of the credit where there is a subsequent adjustment to the credit.

Regarding the ERC, section 2301(l) of the CARES Act, as amended by sections 206 and 207 of the Relief Act, provides that the Secretary shall issue such forms, instructions, regulations, and other guidance as are necessary to prevent the avoidance of the purposes of the limitations under section 2301 of the CARES Act. Correspondingly, section 3134(m)(3) of the Code provides, in relevant part, that the Secretary shall issue such forms, instructions, regulations, and other guidance as are necessary to prevent the avoidance of the purposes of the limitations under section 3134.

III. Regulations for the Recapture of Erroneous Refunds of COVID-19 Credits

Under the authority provided by the Families First Act, the CARES Act, and

the ARP, the Treasury Department and the IRS published regulations (TD 9978) in the **Federal Register** on July 26, 2023 (88 FR 48118) under sections 3111, 3131, 3132, 3134, and 3221 of the Code (collectively, Recapture Regulations) that provide for the administrative recapture of erroneously refunded COVID-19 credits. Under the Recapture Regulations, erroneous refunds of COVID-19 credits are treated as underpayments of the taxes imposed under section 3111(a) or (b), as applicable, and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(a) or (b), as applicable, and are, therefore, subject to assessment and administrative collection procedures. The Recapture Regulations allow the IRS to prevent the avoidance of the purposes of the limitations under the credit provisions and to recover the erroneous refund amounts efficiently while also preserving administrative protections afforded to taxpayers with respect to contesting their tax liabilities under the Code and avoiding unnecessary costs and burdens associated with litigation.

IV. Interest on Overpayments Under Section 6611

Section 6611 provides that interest shall be allowed and paid on any overpayment in respect of any Internal Revenue tax at the overpayment rate established under section 6621. Section 6611(b)(2) provides that interest shall be allowed and paid in the case of a refund from the date of the overpayment to a date (determined by the Secretary) preceding the date of the refund check by not more than 30 days. When a taxpayer files an amended return, such as Form 941-X, *Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund*, claiming COVID-19 credits that were not claimed on the originally filed return and resulting in an overpayment, interest is allowed under section 6611 on any overpayment refunded to the taxpayer.

While the Recapture Regulations provide for the assessment of erroneous refunds of COVID-19 credits as an underpayment of certain employment taxes, they do not address overpayment interest paid to a taxpayer on an erroneous refund. These proposed regulations provide for the assessment of this interest as an underpayment of tax.

The Families First Act, CARES Act, and the Code as amended by the ARP authorize and require the Secretary to issue regulations to prevent the avoidance of the limitations placed on the credits by these statutes. When a

taxpayer is issued an erroneous refund of COVID-19 credits for which the taxpayer is not eligible, the taxpayer incurs a liability to repay that refund. The taxpayer also incurs a liability to repay any overpayment interest paid on the erroneous refund. In pursuing collection of these liabilities, the IRS is enforcing the statutory limitations on the COVID-19 credits that made the taxpayer's refund, and any accompanying overpayment interest, erroneous. Regulations providing for the administrative recapture of overpayment interest paid on refunds subsequently determined to be erroneous assist in resolving taxpayers' repayment liabilities while also preserving administrative protections afforded to these taxpayers with respect to contesting their tax liabilities under the Code and avoiding unnecessary costs and burdens associated with litigation.

Accordingly, under the authority granted by the Families First Act, CARES Act, and the Code, these proposed regulations would amend the Employment Tax Regulations (26 CFR part 31) under sections 3111, 3131, 3132, 3134, and 3221 to provide that overpayment interest paid to taxpayers on erroneous refunds of COVID-19 credits is treated as an underpayment of the applicable employment taxes and may be assessed and collected by the IRS in the same manner as the taxes.

Explanation of Provisions

These proposed regulations would provide that any overpayment interest paid under section 6611 to an employer for an erroneous refund of the COVID-19 credits will be treated as an underpayment of the taxes imposed under section 3111(a) or (b), as applicable, and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(a) or (b), as applicable, and may be assessed and collected by the Secretary in the same manner as the taxes. These proposed regulations would be applicable to all interest amounts paid under section 6611 on or after July 2, 2024 for any erroneous refund of the COVID-19 credits.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended.

Therefore, a regulatory impact assessment is not required.

II. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), the Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities because these proposed regulations impose no compliance burden on any business entities, including small entities. Although these proposed regulations would apply to all taxpayers eligible for the employment tax credits under the Families First Act, the CARES Act, and sections 3131, 3132, and 3134 of the Code, including small businesses and tax-exempt organizations with fewer than 500 employees, and would therefore be likely to affect a substantial number of small entities, the economic impact would not be significant. These proposed regulations do not affect the taxpayer's employment tax reporting or the necessary information to substantiate entitlement to the credits. Rather, these proposed regulations merely implement the statutory authority granted under the Families First Act, the CARES Act, and the Code as amended by the ARP to issue regulations or other guidance to prevent the avoidance of the purposes of the limitations under these provisions by providing that overpayment interest paid to taxpayers on erroneous refunds of COVID-19 credits is treated as an underpayment of the applicable employment taxes and may be assessed and collected by the IRS in the same manner as the taxes.

III. Section 7805(f)

Pursuant to section 7805(f) of the Code, these proposed regulations have been submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 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. These proposed regulations do 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.

V. 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 proposed regulations do not have federalism implications, do not impose substantial direct compliance costs on State and local governments, and do not preempt State law within the meaning of the Executive order.

Statement of Availability of IRS Documents

IRS notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Comments and Requests for a Public Hearing

Before these proposed amendments to the final regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any comments submitted will be available at <https://www.regulations.gov> or upon request. A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is NaLee Park, Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the Treasury Department and the IRS participated in the development of these proposed regulations.

List of Subjects in 26 CFR 31

Employment taxes, Fishing vessels, Gambling, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 31 as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 31.3111–6 also issued under secs. 7001 and 7003, Public Law 116–127, 134 Stat. 178, and sec. 2301, Public Law 116–136, 134 Stat. 281.

* * * * *

Section 31.3131–1 also issued under 26 U.S.C. 3131(g).

Section 31.3132–1 also issued under 26 U.S.C. 3132(g).

Section 31.3134–1 also issued under 26 U.S.C. 3134(m)(3).

Section 31.3221–5 also issued under secs. 7001 and 7003, Public Law 116–127, 134 Stat. 178, and sec. 2301, Public Law 116–136, 134 Stat. 281.

* * * * *

■ **Par. 2.** Section 31.3111–6 is amended by:

■ a. Redesignating paragraph (e) as paragraph (f) and adding new paragraph (e); and

■ b. Revising newly redesignated paragraph (f).

The addition and revision read as follows:

§ 31.3111–6 Recapture of credits under the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security Act.

* * * * *

(e) *Recapture of interest on erroneously refunded credits under the Families First Act and CARES Act.* For purposes of this section, any overpayment interest paid under section 6611 to an employer, or any third party payor as described in paragraph (d) of this section, with respect to an erroneous refund amount described in paragraph (a) or (b) of this section shall also be treated as an underpayment of the taxes imposed under section 3111(a) of the Code and may be assessed and collected by the Secretary in the same manner as the taxes.

(f) *Applicability date.* This section applies to all credit refunds under sections 7001 and 7003 of the Families First Act (including any increases in those credits under section 7005 of the Families First Act), as modified by section 3606 of the CARES Act, advanced or paid on or after July 24, 2020, and all credit refunds under

section 2301 of the CARES Act advanced or paid on or after July 24, 2020, except that paragraph (e) of this section applies to all interest amounts paid under section 6611 on or after July 2, 2024 for any erroneous refund described in paragraph (a) or (b) of this section.

■ **Par. 3.** Section 31.3131–1 is amended by:

■ a. Redesignating paragraph (d) as paragraph (e) and adding new paragraph (d); and

■ b. Revising the newly redesignated paragraph (e).

The addition and revision read as follows:

§ 31.3131–1 Recapture of credits.

* * * * *

(d) *Recapture of interest on erroneously refunded credits.* For purposes of this section, any overpayment interest paid under section 6611 to an employer, or any third party payor as described in paragraph (c) of this section, with respect to an erroneous refund amount described in paragraph (a) of this section shall also be treated as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, and may be assessed and collected by the Secretary in the same manner as the taxes.

(e) *Applicability date.* This section applies to all credit refunds under section 3131 (including any increases in those credits under section 3133), advanced or paid on or after September 8, 2021, except that paragraph (d) of this section applies to all interest amounts paid under section 6611 on or after July 2, 2024 for any erroneous refund described in paragraph (a) of this section.

■ **Par. 4.** Section 31.3132–1 is amended by:

■ a. Redesignating paragraph (d) as paragraph (e) and adding new paragraph (d); and

■ b. Revising the newly redesignated paragraph (e).

The addition and revision read as follows:

§ 31.3132–1 Recapture of credits.

* * * * *

(d) *Recapture of interest on erroneously refunded credits.* For purposes of this section, any overpayment interest paid under section 6611 to an employer, or any third party payor as described in paragraph (c) of this section, with respect to an erroneous refund amount described in paragraph (a) of this section shall also

be treated as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, and may be assessed and collected by the Secretary in the same manner as the taxes.

(e) *Applicability date.* This section applies to all credit refunds under section 3132 (including any increases in those credits under section 3133) advanced or paid on or after September 8, 2021, except that paragraph (d) of this section applies to all interest amounts paid under section 6611 on or after July 2, 2024 for any erroneous refund described in paragraph (a) of this section.

■ **Par. 5.** Section 31.3134–1 is amended by:

■ a. Redesignating paragraph (d) as paragraph (e) and adding new paragraph (d); and

■ b. Revising the newly redesignated paragraph (e).

The addition and revision read as follows:

§ 31.3134–1 Recapture of credits.

* * * * *

(d) *Recapture of interest on erroneously refunded credits.* For purposes of this section, any overpayment interest paid under section 6611 to an employer, or any third party payor as described in paragraph (c) of this section, with respect to an erroneous refund amount described in paragraph (a) of this section shall also be treated as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, and may be assessed and collected by the Secretary in the same manner as the taxes.

(e) *Applicability date.* This section applies to all credit refunds under section 3134 advanced or paid on or after September 8, 2021, except that paragraph (d) of this section applies to all interest amounts paid under section 6611 on or after July 2, 2024 for any erroneous refund described in paragraph (a) of this section.

■ **Par. 6.** Section 31.3221–5 is amended by:

■ a. Redesignating paragraph (e) as paragraph (f) and adding new paragraph (e); and

■ b. Revising the newly redesignated paragraph (f).

The addition and revision read as follows:

§ 31.3221–5 Recapture of credits under the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security Act.

* * * * *

(e) *Recapture of interest on erroneously refunded credits under the Families First Act and CARES Act.* For purposes of this section, any overpayment interest paid under section 6611 to an employer, or any third party payor as described in paragraph (d) of this section, with respect to an erroneous refund amount described in paragraph (a) or (b) of this section shall also be treated as an underpayment of the taxes imposed under section 3221(a) and may be assessed and collected by the Secretary in the same manner as the taxes.

(f) *Applicability date.* This section applies to all credit refunds under sections 7001 and 7003 of the Families First Act, as modified by section 3606 of the CARES Act, advanced or paid on or after July 24, 2020, and all credit refunds under section 2301 of the CARES Act advanced or paid on or after July 24, 2020, except paragraph (e) of this section applies to all interest amounts paid under section 6611 on or after July 2, 2024 for any erroneous refund described in paragraph (a) or (b) of this section.

Douglas W. O'Donnell,
Deputy Commissioner.

[FR Doc. 2024–14167 Filed 7–1–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–120137–19]

RIN 1545–BP66

Update of Regulations Regarding Payment of Tax by Commercially Acceptable Means

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to regulations regarding the payment of tax by commercially acceptable means. The proposed amendments would reflect changes to the law made by the Taxpayer First Act that would allow the IRS to directly accept payments of tax by credit or debit card, without having to connect taxpayers to third-party payment processors.

DATES: Electronic or written comments and requests for a public hearing must be received by September 3, 2024.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG–120137–19) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for any comments submitted electronically or on paper to the public docket. Send paper submissions to: CC:PA:01:PR (REG–120137–19), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Crystal Jackson-Kaloz of the Office of the Associate Chief Counsel (Procedure and Administration), (202) 317–5191 (not a toll-free number); concerning the submission of comments and requests for a public hearing, Publications and Regulations Section at (202) 317–6901 (not a toll-free number), or by sending an email at publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) under section 6311 of the Internal Revenue Code (Code). These proposed regulations would amend provisions of § 301.6311–2 of the existing regulations (existing § 301.6311–2) to implement the changes made to section 6311 of the Code by section 2303 of the Taxpayer First Act (TFA), Public Law 116–25, 133 Stat. 981, 1013 (2019).

Section 6311(a) provides that it is lawful for the Secretary of the Treasury or her delegate (Secretary) to receive payment for Internal Revenue taxes by any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary. Existing § 301.6311–2, which was adopted by the publication of TD 8969 in the **Federal Register** (66 FR 64740–01) on December 14, 2001, authorizes payment of Internal Revenue taxes by credit or debit card so long as

such payments are made in the manner and in accordance with the forms, instructions, and procedures prescribed by the Commissioner of Internal Revenue (Commissioner).

Prior to passage of the TFA, section 6311(d)(2) authorized the Secretary to enter into contracts to obtain services related to receiving payment of taxes by credit card or debit card, or charge card, but prohibited the Secretary from paying any fee or other consideration under any such contract. Existing § 301.6311–2(f) implements this rule. Existing § 301.6311–2(e) prohibits the IRS from imposing any fee or charge on persons making payment of taxes by credit card or debit card. Currently, the IRS utilizes third-party processors to process payment of taxes by credit cards, which includes charge cards, and debit cards for which taxpayers pay a processing fee directly to the third-party processor. Third-party processors charge a variable percentage fee for payment by credit card and a flat fee for payment by debit card.

Section 2303 of the TFA amended section 6311(d)(2) by adding a discretionary exception whereby the Secretary is no longer prohibited from paying a fee under a contract related to receiving payment of taxes by credit or debit card to the extent that the Secretary ensures that any such fee is fully recouped from the persons paying taxes by credit or debit card pursuant to such contract. This provision enables the IRS to receive similar benefits as other entities that accept credit or debit cards, including guaranteed receipt of funds and reduction of paper check processing costs. This provision also enables taxpayers to make a payment more easily by credit or debit card directly to the IRS, such as over the telephone, without having to separately wait for the IRS to connect them to third-party processors. *See* H.R. Rep. 116–39(I), 116th Cong., 1st Sess. at 90 (2019).¹ Section 2303 of the TFA now gives the IRS flexibility to enter into a

¹ In 2019, different versions of the TFA were introduced in the House and Senate and both bills contained provisions to amend section 6311 of the Code. H.R. 1957 was introduced in the House on March 28, 2019, and passed the House on April 9, 2019, but did not pass the Senate. Section 2303 of H.R. 1957 contained proposed statutory language amending section 6311(d) that was identical to the statutory language that was enacted a short time later on July 1, 2019, in section 2303 of H.R. 3151. Due to the procedural way in which H.R. 3151 became a vehicle for enacting the TFA, there are no separate House, Senate, or Conference Reports regarding H.R. 3151, which became the TFA, Public Law 116–25. Therefore, it is appropriate for the Treasury Department and the IRS to look to the House Ways and Means Committee Report for H.R. 1957, the immediate predecessor to H.R. 3151, to understand the intended scope of section 2303 of the TFA.