

paragraphs (c), (d), (f), (i), or (j) of this section and whose registration has not been revoked will continue to be so registered until the revocation or withdrawal of the registration of each of the registrant's sponsors, or until the cessation of the association of the registrant with each of his sponsors. Such person will be prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of his or his sponsor's registration. In accordance with § 3.31(c) of this part, each of the registrant's sponsors must file a notice with the National Futures Association on Form 8-T or on a Uniform Termination Notice for Securities Industry Registration reporting the termination of the association of the associated person within thirty days thereafter.

* * * * *

3. Section 3.31 is proposed to be amended by revising paragraphs (c)(1) introductory text and (c)(2) to read as follows:

§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.

* * * * *

(c)(1) After the filing of a Form 8-R or a Form 3-R by or on behalf of any person for the purpose of permitting that person to be an associated person of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or a leverage transaction merchant, that futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker or leverage transaction merchant must, within thirty days after the occurrence of either of the following, file a notice thereof with the National Futures Association indicating:

* * * * *

(2) Each person registered as, or applying for registration as, a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker or leverage transaction merchant must, within thirty days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the National Futures Association.

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Issued in Washington, DC, on August 8, 2007, by the Commission.

David A. Stawick,
Secretary of the Commission.

[FR Doc. E7-15869 Filed 8-13-07; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-116215-07]

RIN 1545-BG60

Public Inspection of Material Relating to Tax-Exempt Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that amend existing regulations issued under sections 6104 and 6110 of the Internal Revenue Code. The purpose of the proposed regulations is to clarify rules relating to information that is made available by the IRS for public inspection under section 6104(a) and materials that are made publicly available under section 6110. The changes reflect IRS practice as well as the United States Court of Appeals for the District of Columbia Circuit's decision in *Tax Analysts v. IRS*, 350 F.3d 100 (D.C. Cir. 2003). The *Tax Analysts* decision invalidated the portions of §§ 301.6104(a)-1(i) and 301.6110-1(a) that excepted rulings that denied or revoked an organization's tax exempt status from the public disclosure provisions of both sections 6104 and 6110. The proposed regulations will affect organizations exempt from Federal income tax under section 501(a) or 527, organizations that were exempt but are no longer exempt from Federal income tax, and organizations that were denied tax-exempt status.

DATES: Written or electronic comments and requests for a public hearing must be received by November 13, 2007.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-116215-07), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-116215-07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal

eRulemaking Portal at www.regulations.gov (IRS REG-116215-07).

FOR FURTHER INFORMATION CONTACT: Concerning submission of comments, Kelly Banks, (202) 622-7180 (not a toll-free number); concerning the proposed regulations, Mary Ellen Keys, (202) 622-4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Since 1950, the Internal Revenue Code has provided for the public inspection of information that is submitted to the IRS by certain exempt organizations and certain trusts. Under section 6104(a), the IRS makes available for public inspection approved applications for exemption from Federal income tax for organizations described in section 501(c) or (d) and exempt under section 501(a), notices of status filed under section 527(i) by political organizations exempt from taxation under section 527, and certain related documents. Section 6104(a) also permits the IRS to disclose whether an organization is currently recognized as exempt and the subsection and paragraph number of section 501 under which it is recognized. Section 6104(b) imposes an additional obligation on the IRS to make available for public inspection annual information returns filed by organizations exempt from Federal income tax. Section 6104(c) governs when the IRS may disclose certain information about charitable and certain other exempt organizations to state officials. Section 6104(d) imposes a parallel obligation on organizations and trusts to make available for public inspection annual returns, applications for exemption and notices of status. The proposed regulations do not address the obligations imposed by subsections (b), (c) and (d).

The decision in *Tax Analysts v. IRS*, 350 F.3d 100 (D.C. Cir. 2003), invalidated the portions of existing § 301.6104(a)-1(i)(1), (2), and (3) and § 301.6110-1(a) that excluded rulings that denied or revoked an organization's tax exempt status from the public disclosure provisions of both sections 6104 and 6110. Sections 301.6104(a)-1(i)(1), (2) and (3) excluded from disclosure by the IRS unfavorable rulings or determination letters in response to exemption applications, rulings or determination letters that make or modify a favorable determination letter, and technical advice memoranda that relate to a disapproved exemption application or the revocation or modification of a favorable determination letter. Thus,

because § 301.6110-1(a) provided that the disclosure of such rulings, determination letters and technical advice memoranda is to be determined under section 6104, they also were not available under section 6110. The IRS has already modified its administrative practice to follow the court's holding by making these documents available to the public. See AOD 2004-02, 2004-29 IRB 42, § 601.601(d)(2)(ii)(a). The Treasury Department and IRS now propose to revise the existing regulations at § 301.6104(a)-1 and § 301.6110-1(a) to conform to the court's holding in *Tax Analysts*.

Explanation of Provisions

The proposed regulations remove existing § 301.6104(a)-1(i) and portions of § 301.6110-1(a), in light of the holding in *Tax Analysts*. The proposed regulations clarify that the term "application" includes information submitted to the IRS relating to group exemption applications. The proposed regulations provide that notices of status filed under section 527(i) and the documents comprising the notices are available for public inspection under section 6104(a). The proposed regulations also add to the material that is available for public inspection the letters or documents filed with or issued by the IRS relating to an organization's status as an organization described in sections 509(a), 4942(j)(3), or 4943(f), including a final determination letter that the organization is or is not a private foundation.

The proposed regulations clarify that the IRS may disclose, in response to or in anticipation of a request, the subsection and paragraph number of section 501 under which an organization or group has been determined, on the basis of its application, to qualify for exemption from Federal income tax, and whether an organization or group is currently recognized as exempt.

Section 6104(a) applies to the publication of certain information related to organizations that are exempt from Federal income taxation under section 501(a). The information covered by section 6104(a) includes material for any taxable year during which the organization was exempt. Under the proposed regulations, written determinations issued by the IRS, including, for example, unfavorable rulings or determination letters issued in response to applications for tax exemption and rulings or determination letters revoking or modifying a favorable determination letter, are made available for public inspection under section 6110.

Other Changes to the Existing Regulations

The proposed regulations reorganize or revise certain provisions of the existing regulations to eliminate redundancy and/or to provide greater clarity. First, § 301.6104(a)-1(a) is revised to clarify that applications for exemption from Federal income tax and supporting documents shall be open for public inspection, even if the IRS subsequently revokes the organization's exempt status.

Second, new § 301.6104(a)-1(b) is added to clarify that notices of status filed by political organizations described in section 527 are open for public inspection.

Third, § 301.6104(a)-1(c) (formerly § 301.6104(a)-1(b)) is revised to clarify that group exemption letters are included among the information that is available for public inspection under section 6104(a).

Fourth, § 301.6104(a)-1(d) (formerly § 301.6104(a)-1(c)) is revised to clarify that, where an organization is determined to be exempt for any taxable year, material shall not be withheld on the basis that the organization is determined not to be exempt for any other taxable year.

Fifth, § 301.6104(a)-1(g) (formerly § 301.6104(a)-1(e)), which defines the term "supporting document" with respect to an application for exemption from Federal income tax, is revised to clarify that there are no supporting documents with respect to notices of status filed by political organizations.

Sixth, new § 301.6104(a)-1(h) is added to clarify that the IRS may disclose, in response to or anticipation of a request, the subsection and paragraph number of section 501 under which an organization or group has been determined to be exempt from Federal income taxation, whether an organization or group is exempt, or whether the IRS has revoked an organization's or group's exemption under section 501(c)(3).

Finally, new § 301.6104(a)-1(i) is added to refer the reader to section 6033(j), added to the Code by the Pension Protection Act of 2006, Pub. L. 109-280, 120 Stat. 780, which is an additional statutory provision that requires disclosure of information by the IRS regarding organizations formerly exempt from Federal income tax. Section 6033(j) governs the publication and maintenance of a list of organizations whose tax exempt status was revoked for failure to file required returns or notices for three consecutive years. Likewise, this paragraph cross-references section 7428(c), which relates

to the revocation of a determination of exempt status, and section 501(p), added to the Code by the Military Family Tax Relief Act of 2003, Pub. L. 108-121, 117 Stat. 1335, which relates to suspension of the tax-exempt status of terrorist organizations, including public notice of suspensions.

Special Analyses

It has been determined that the proposed 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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to the regulations, and, therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small businesses.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. 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 the regulations is Mary Ellen Keys, Office of the Associate Chief Counsel (Procedure & Administration).

List of Subjects in 26 CFR Part 301

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

Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read as follows:

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

Par. 2. § 301.6104(a)–1 is revised to read as follows:

§ 301.6104(a)–1 Public inspection of material relating to tax-exempt organizations.

(a) *Applications for exemption from Federal income tax, applications for a group exemption letter and supporting documents.* If the Internal Revenue Service determines that an organization described in section 501(c) or (d) is exempt from Federal income tax for any taxable year, the application upon which the determination is based, together with any supporting documents, shall be open to public inspection. Such applications and supporting documents shall be open for public inspection even after any revocation of the Internal Revenue Service's determination that the organization is exempt from Federal income tax. Some applications have been destroyed and therefore are not available for inspection. For purposes of determining the availability for public inspection, a claim for exemption from Federal income tax filed to reestablish exempt status after denial thereof under the provisions of section 503 or 504 (as in effect on December 31, 1969), or under the corresponding provisions of any prior revenue law, is considered an application for exemption from Federal income tax.

(b) *Notices of status filed by political organizations.* If, in accordance with section 527(i), an organization notifies the Internal Revenue Service that it is a political organization as described in section 527, exempt from Federal income tax for any taxable year, the notice of status filed by the political organization shall be open to public inspection.

(c) *Letters or documents issued by the Internal Revenue Service with respect to an application for exemption from Federal income tax.* If an application for exemption from Federal income tax is filed with the Internal Revenue Service after October 31, 1976, and is open to public inspection under paragraph (a) of this section, then any letter or document issued to the applicant by the Internal Revenue Service that relates to the application is also open to public inspection. For rules relating to when a letter or document is issued, see § 301.6110–2(h). Letters or documents to

which this paragraph applies include, but are not limited to—

(1) Favorable rulings and determination letters, including group exemption letters, issued in response to applications for exemption from Federal income tax;

(2) Technical advice memoranda issued with respect to the approval, or subsequent approval, of an application for exemption from Federal income tax;

(3) Letters issued in response to an application for exemption from Federal income tax (including applications for a group exemption letter) that propose a finding that the applicant is not entitled to be exempt from Federal income tax, if the applicant is subsequently determined, on the basis of that application, to be exempt from Federal income tax; and

(4) Any letter or document issued by the Internal Revenue Service relating to an organization's status as an organization described in sections 509(a), 4942(j)(3), or 4943(f), including a final determination letter that the organization is or is not a private foundation.

(d) *Requirement of exempt status.* An application for exemption from Federal income tax (including applications for a group exemption letter), supporting documents, and letters or documents issued by the Internal Revenue Service that relate to the application shall not be open to public inspection before the organization is determined, on the basis of that application, to be exempt from Federal income tax for any taxable year. If an organization is determined to be exempt from Federal income tax for any taxable year, these materials shall not be withheld from public inspection on the basis that the organization is subsequently determined not to be exempt for any other taxable year.

(e) *Documents included in the term "application for exemption from Federal income tax."* For purposes of this section—

(1) *Prescribed application form.* If a form is prescribed for an organization's application for exemption from Federal income tax, the application includes the form and all documents and statements that the Internal Revenue Service requires to be filed with the form, any amendments or revisions to the original application, or any resubmitted applications where the original application was submitted in draft form or was withdrawn. An application submitted in draft form or an application submitted and later withdrawn is not considered an application.

(2) *No prescribed application form.* If no form is prescribed for an

organization's application for exemption from Federal income tax, the application includes the submission by letter requesting recognition of tax exemption and any statements or documents as prescribed by Revenue Procedure 2007–52, 2007–30 IRB 222, and any successor guidance. (See § 601.201(n)(7)(i) of the Statement of Procedural Rules, 26 CFR part 601.)

(3) *Application for a Group Exemption Letter.* The application for a group exemption letter includes the letter submitted by or on behalf of subordinate organizations that seek exempt status pursuant to a group exemption letter and any statements or documents as prescribed by Revenue Procedure 80–27, 1980–1 CB 677, and any successor guidance. (See § 601.201(n)(8)(i) of the Statement of Procedural Rules, 26 CFR part 601.)

(4) *Notice of status filed under section 527(i).* For purposes of this section, documents included in the term "notice of status filed under section 527(i)" include—

(i) Form 8871, Political Organization Notice of Section 527 Status;

(ii) Form 8453–X, Declaration of Electronic Filing of Notice of Section 527 Status; and

(iii) Any other additional forms or documents that the Internal Revenue Service may prescribe.

(f) *Material open to public inspection under section 6110.* Under section 6110, certain written determinations issued by the Internal Revenue Service are made available for public inspection. Section 6110 does not apply, however, to material that is open to public inspection under section 6104. See section 6110(l)(1).

(g) *Supporting documents defined.* For purposes of this section, "supporting documents," with respect to an application for exemption from Federal income tax, means any statement or document not described in paragraph (e) of this section that is submitted by the organization or group in support of its application prior to a determination described in paragraph (c) of this section. Items submitted in connection with an application in draft form, or with an application submitted and later withdrawn, are not supporting documents. There are no supporting documents with respect to Notices of Status filed by political organizations.

(h) *Statement of exempt status.* For efficient tax administration, the Internal Revenue Service may publish, in paper or electronic format, the names of organizations currently recognized as exempt from Federal income tax, including organizations recognized as exempt from Federal income tax under

particular paragraphs of section 501(c) or section 501(d). In addition to having the opportunity to inspect material relating to an organization exempt from Federal income tax, a person may request a statement, or the Internal Revenue Service may disclose, in response to or in anticipation of a request, the following information—

(1) The subsection and paragraph of section 501 (or the corresponding provision of any prior revenue law) under which the organization or group has been determined, on the basis of an application open to public inspection, to qualify for exemption from Federal income tax; and

(2) Whether an organization or group is currently recognized as exempt from Federal income tax.

(i) *Publication of non-exempt status.*

(1) For publication of the notice of the revocation of a determination that an organization is described in section 501(c)(3), see section 7428(c).

(2) For publication of a list including any organization the tax exemption of which is revoked for failure to file required returns or notices for three consecutive years, see section 6033(j).

(3) For publication of notice of suspension of tax exemption of terrorist organizations, see section 501(p).

(j) *Withholding of certain information from public inspection.* For rules relating to certain information contained in an application for exemption from Federal income tax and supporting documents that will be withheld from public inspection, see § 301.6104(a)–5(a).

(k) *Procedures for inspection.* For rules relating to procedures for public inspection of applications for exemption from Federal income tax and supporting documents, see § 301.6104(a)–6.

(l) *Effective/applicability date.* The rules of this section apply to taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Par. 3. § 301.6110–1 is amended by:

1. Revising paragraph (a).

2. Adding paragraph (d).

The addition and revision read as follows:

§ 301.6110–1 Public inspection of written determinations and background file documents.

(a) *General rule.* Except as provided in § 301.6110–3, relating to deletion of certain information, § 301.6110–5(b), relating to actions to restrain disclosure, paragraph (b)(2) of this section, relating to technical advice memoranda involving civil fraud and criminal investigations, and jeopardy and

termination assessments, and paragraph (b)(3) of this section, relating to general written determinations relating to accounting or funding periods and methods, the text of any written determination (as defined in § 301.6110–2(a)) issued pursuant to a request postmarked or hand delivered after October 31, 1976, shall be open to public inspection in the places provided in paragraph (c)(1) of this section. The text of any written determination issued pursuant to a request postmarked or hand delivered before November 1, 1976, shall be open to public inspection pursuant to section 6110(h) and § 301.6110–6, when funds are appropriated by Congress for such purpose. The procedures and rules set forth in §§ 301.6110–1 through 301.6110–5 and § 301.6110–7 do not apply to written determinations issued pursuant to requests postmarked or hand delivered before November 1, 1976, unless § 301.6110–6 states otherwise. There shall also be open to public inspection in each place of public inspection an index to the written determinations subject to inspection at such place. Each such index shall be arranged by section of the Internal Revenue Code, related statute or tax treaty and by subject matter description within such section in such manner as the Commissioner may from time to time provide. The Commissioner shall not be required to make any written determination or background file document open to public inspection pursuant to section 6110 or refrain from disclosure of any such documents or any information therein, except as provided by section 6110 or with respect to a discovery order made in connection with a judicial proceeding. The provisions of section 6110 shall not apply to material that is open to public inspection under section 6104. See section 6110(l)(1).

* * * * *

(d) *Effective/applicability date.* The rules of paragraph (a) of this section apply to taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E7–15952 Filed 8–13–07; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[Docket No. EPA–R02–OAR–2004–TR–0001, FRL–8453–9]

Approval and Promulgation of Saint Regis Mohawk's Tribal Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of the proposed St. Regis Mohawk Tribe's (SRMT or the Tribe) tribal implementation plan (TIP) to improve air quality within the exterior boundaries of the St. Regis Mohawk Reservation (the Reservation) that are in accordance with federal requirements. EPA previously approved the Tribe for treatment-in-the-same-manner-as-a-state (TAS) under the Clean Air Act (Act) for purposes of administering a TIP on March 5, 2003. The proposed TIP establishes Tribal ambient air quality standards; includes an emissions inventory; provides regulations for permitting, source surveillance, open burning and enforcement; and defines the Tribe's program for review of state permits and regional haze planning. This action will make federally enforceable the approvable portions of the SRMT's proposed TIP.

DATES: Comments must be received on or before September 13, 2007.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R02–OAR–2004–TR–0001, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

- *E-mail:* Werner.Raymond@epa.gov.

- *Fax:* 212–637–3901.

- *Mail:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

- *Hand Delivery:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

Instructions: Direct your comments to Docket No. EPA–R02–OAR–2004–TR–0001. EPA's policy is that all comments