

address the disclosure of composition, including mercury content, and precautions regarding use of the device in sensitive subpopulations composed of individuals who respond biologically at lower levels of exposure to mercury than the general population? If so, which subpopulations should be included (e.g., children under age 6, pregnant and lactating women, hypersensitive or immunocompromised individuals)? Should the labeling controls require more specific patient labeling (e.g., informing patients of identified sensitive subpopulations of the mercury content, the alternatives to the device and their relative costs, and health risks associated with the failure to obtain dental care)?

For the agency's future analysis of benefits and costs of the regulatory options for dental amalgams, FDA also requests comments, including available data, on the following questions:

(1) How many annual procedures use mercury amalgams? What are the trends?

(2) What are the differences in cost between amalgams and alternative materials (e.g., composite, other metals, ceramics, etc.)? Are there differences in replacement lives?

(3) What are reimbursement rates for dental amalgam and the alternative materials?

(4) How would labeling describing the risks of amalgam for certain subpopulations (e.g., children under age 6, pregnant and lactating women, hypersensitive or immunocompromised individuals) affect the demand for, and use of, mercury amalgam? How would the risks included in the labeling be communicated to those subpopulations?

(5) What is the current exposure to mercury for patients? For professionals? What would be the reduction in exposure associated with the alternatives described previously in this section of this document?

### III. How to Submit Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments to <http://www.regulations.gov> or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Division of Dockets

Management Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Governmental-wide, electronic docket management system. Electronic comments or submissions will be accepted by FDA only through FDMS at <http://www.regulations.gov>.

### IV. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Review and Analysis of the Literature on the Potential Adverse Health Effects of Dental Amalgam, LSRO, July 2004.

2. Brownawell, A.M., et al., "The Potential Adverse Health Effects of Dental Amalgam," *Toxicological Reviews*, 24(1):1-10, 2006.

3. Draft FDA Update/Review of Potential Adverse Health Risks Associated With Exposure to Mercury in Dental Amalgam, National Center for Toxicological Research, FDA, August 2006.

4. Transcripts from the Joint Meeting of Dental Products Panel and Central Nervous System Drugs Advisory Committee, September 6 and 7, 2006.

5. Bellinger, D.C., et al., "Neuropsychological and Renal Effects of Dental Amalgam in Children: A Randomized Trial," *Journal of the American Medical Association*, 295:1775-1783, 2006.

6. DeRouen, T.A., et al., "Neurobehavioral Effects of Dental Amalgam in Children: A Randomized Clinical Trial," *Journal of the American Medical Association*, 295:1784-1792, 2006.

7. Dunn, Julie E., "Scalp hair and urine mercury content of children in the Northeast United States: The New England Children's Amalgam Trial," *Environmental Research*, Vol. 107, Issue 1, pages 79 to 88, May 2008.

Dated: April 22, 2008.

**Randall W. Lutter,**

*Deputy Commissioner for Policy.*

[FR Doc. 08-1187 Filed 4-23-08; 10:15 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG-208199-91]

RIN 1545-BC55

#### Suspension of Running of Period of Limitations During a Proceeding to Enforce or Quash a Designated or Related Summons

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

**ACTION:** Notice of proposed rulemaking and withdrawal of notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations regarding the use of designated summonses and related summonses and the effect on the period of limitations on assessment when a case is brought with respect to a designated or related summons. This document also withdraws the previous proposed regulations published in the **Federal Register** on July 31, 2003 (68 FR 44905). These proposed regulations reflect changes to section 6503 of the Internal Revenue Code of 1986 made by the Omnibus Budget Reconciliation Act of 1990 and the Small Business Job Protection Act of 1996. These regulations affect corporate taxpayers that are examined under the coordinated issue case (CIC) program and are served with designated or related summonses. These regulations also affect third parties that are served with designated or related summonses for information pertaining to the corporate examination.

**DATES:** Written or electronic comments and requests for a public hearing must be received by July 28, 2008.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-208199-91), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Alternatively, submissions may be hand delivered between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-208199-91), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Comments may also be submitted electronically to the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-208199-91).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Elizabeth Rawlins, (202) 622-3630; concerning submissions of comments, Richard Hurst, (202) 622-7180 or [Richard.A.Hurst@IRSCounsel.Treas.Gov](mailto:Richard.A.Hurst@IRSCounsel.Treas.Gov) (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains proposed regulations amending the Procedure and Administration regulations (26 CFR part 301) under section 6503. Section 11311 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508, 104 Stat. 1388) amended section 6503(k) to suspend the period of limitations on assessment when a case is brought with respect to a designated or related summons. Section 6503(k) was

redesignated as section 6503(j) by section 1702(h)(17)(A) of the Small Business Job Protection Act of 1996 (Pub. L. 104-188, 110 Stat. 1874).

Proposed regulations under section 6503(j) were previously published in the **Federal Register** on July 31, 2003 (68 FR 44905) (the 2003 proposed regulations). The 2003 proposed regulations contained a procedure for determining the date of compliance with a designated or related summons issued with respect to a taxpayer whose statute of limitations on assessment was suspended under section 6503(j) because a court proceeding was brought. No comments were received with respect to this procedure or any other aspect of the 2003 proposed regulations, and no hearing was requested or held. The IRS and the Treasury Department have determined that, in the interest of effective tax administration, the procedure in the 2003 proposed regulations is not warranted. Instead, the IRS intends to create procedures by which taxpayers can inquire about the suspension of their periods of limitations under section 6503(j), including the date of compliance with the summons, and to publish these procedures in the Internal Revenue Manual. In addition, the IRS has established administrative procedures in the Internal Revenue Manual that ensure substantial IRS executive involvement and oversight of any designated and related summons issued. Additionally, § 301.6503(j)-1(c)(1)(i) of these proposed regulations requires that any designated summons be reviewed by the IRS Division Commissioner and Division Counsel of the Office of Chief Counsel before it is issued. Accordingly, the 2003 proposed regulations are withdrawn.

### Explanation of Provisions

These proposed regulations generally provide that the period of limitations on assessment provided for in section 6501 is suspended with respect to any return of tax by a corporation that is the subject of a designated or related summons if a court proceeding to enforce or quash is instituted with respect to that summons.

#### *Designated Summonses and Related Summonses*

A designated summons is a summons issued to determine the amount of any internal revenue tax of a corporation for which a return was filed if certain additional requirements are satisfied. A designated summons may only be issued to a corporation (or any other person to whom the corporation has transferred records) if the corporation is being examined under the IRS's

coordinated examination program or "any successor program." The existing successor program to the coordinated examination program is the coordinated issue case (CIC) program.

Section 6503(j)(2)(A)(i) requires that the issuance of the summons be preceded by a review by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted. The office of regional counsel was eliminated by the IRS reorganization implemented pursuant to the IRS Reform and Restructuring Act of 1998. Because the office of regional counsel no longer exists, these proposed regulations provide that the review must be completed by the Division Commissioner and the Division Counsel of the Office of Chief Counsel (or their successors) for the organizations that have jurisdiction over the corporation whose liability is the subject of the summons. The summons also must be issued at least 60 days before the day on which the statute of limitations on assessment under section 6501 would otherwise expire. Finally, the summons must clearly state that it is a designated summons for purposes of section 6503(j).

A related summons is any other summons that is issued with respect to the same tax return of the corporation as a designated summons and is issued during the 30-day period that begins on the date the designated summons is issued.

#### *Suspension of Period of Limitations on Assessment*

Section 6503(j)(1) suspends the period of limitations on assessment under section 6501 for the applicable tax period when a court proceeding is brought with respect to a designated or related summons. For purposes of these proposed regulations, a court proceeding is a proceeding brought in a United States district court either to quash a designated or related summons under section 7609(b)(2) or to enforce a designated or related summons under section 7604. The court proceeding must be brought within the otherwise applicable period of limitations in order to suspend that period under section 6503(j).

The proposed regulations provide that the suspension begins on the day that a court proceeding is brought and continues until there is a final resolution as to the summoned party's response to the summons (discussed in the next section), plus an additional 120 days if a court requires any compliance with the summons at issue. If a court does not require any compliance, then

the period of limitations on assessment resumes running on the day following the date of the final resolution and in no event shall expire before the 60th day following the date of final resolution.

#### *Final Resolution of a Summoned Party's Response to a Summons*

Under section 6503(j)(3)(B), the length of the suspension under section 6503(j) depends on when "final resolution" of a summoned party's response to the designated or related summons occurs. The term "final resolution" is not defined in the statute. The legislative history states that the term "final resolution" has the same meaning it has under section 7609(e)(2)(B), relating to third-party summonses. H.R. Conf. Rep. No. 101-964 (1990). Specifically, the conference report states that final resolution means that no court proceeding remains pending and that the summoned party has complied with the summons to the extent required by a court.

Accordingly, the proposed regulations provide that final resolution occurs when no court proceeding remains pending and the summoned party complies with the summons to the extent required by the court. If the summoned party has complied with the summons to the extent required by the court but there still remains time to appeal that order, final resolution occurs when all appeals have been either disposed of or the period in which an appeal may be taken or a request for further review may be made has expired. If all appeal periods have expired but the summoned party has not complied with the summons to the extent required by the court, the proposed regulations provide that final resolution does not occur until the summoned party has complied with the summons to the extent required by the court. Whether a party has complied with the terms of the summons as enforced by a court cannot be determined until the completeness of the materials produced and the testimony given has been evaluated. The IRS intends to create administrative procedures by which the taxpayer can inquire about the suspension of its period of limitations under section 6503(j) and to publish these procedures in the Internal Revenue Manual.

In cases in which a court wholly denies enforcement or orders that the summons in its entirety be quashed, the date of compliance with the court's order is treated as occurring on the date when all appeals are disposed of or when all appeal periods expire. In cases in which a court orders the summons enforced, in whole or in part, the

determination of whether there has been full compliance will be made within a reasonable time after the later of the giving of all testimony or the production of all records required by the order. What constitutes a reasonable time will depend on the volume and complexity of the records produced.

If, following an enforcement order, collateral proceedings are brought challenging whether the production made by the summoned party fully satisfied the court order and whether sanctions should be imposed against the summoned party for a failing to do so, the suspension of the periods of limitations shall continue until the order enforcing any part of the summons is fully complied with and the decision in the collateral proceeding becomes final. A decision in a collateral proceeding becomes final when all appeals are disposed of or when the period for appeal or further review has expired.

#### Other Rules

These proposed regulations provide additional rules regarding the number of designated and related summonses that may be issued with respect to a return for any taxable period, the time within which a court proceeding must be brought to enforce or quash a designated or related summons, the computation of the suspension period in cases of multiple court proceedings, and the computation of the 60-day period for assessment when the last day falls on a weekend or holiday.

The proposed regulations also address the relationship of the suspension period provided for in section 6503(j) with other suspension provisions in the Code. The proposed regulations provide that if a designated or related summons also could be subject to the suspension rules governing third-party summonses under section 7609(e), then the suspension rules in section 6503(j) govern. In addition, the proposed regulations provide that the section 6503(j) suspension period is independent of, and may run concurrently with, any other period of suspension, such as the suspension period for third-party summonses under section 7609(e) if a separate third-party summons also was issued in a case. Examples of these rules are contained in the proposed regulations.

#### Proposed Effective Date

These regulations are proposed to be applicable on the date final regulations are published in the **Federal Register**.

#### 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 been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation, and because the regulation does not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the 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 may be scheduled if requested in writing by a person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

#### Drafting Information

The principal author of these regulations is Elizabeth Rawlins of the Office of the Associate Chief Counsel, Procedure and Administration.

#### Lists of Subjects in 26 CFR Part 301

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

#### Withdrawal of Proposed Regulations

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-208199-91) that was published in the **Federal Register** on Thursday, July 31, 2003 (68 FR 44905) is withdrawn.

#### Proposed 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 in part as follows:

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

**Par. 2.** Section 301.6503(j)-1 is added to read as follows:

#### § 301.6503(j)-1 Suspension of running of period of limitations; extension in case of designated and related summonses.

(a) *General rule.* The running of the applicable period of limitations on assessment provided for in section 6501 is suspended with respect to any return of tax by a corporation that is the subject of a designated or related summons if a court proceeding is instituted with respect to that summons.

(b) *Period of suspension.* The period of suspension is the time during which the running of the applicable period of limitations on assessment provided for in section 6501 is suspended under section 6503(j). If a court requires any compliance with a designated or related summons by ordering that any record, document, paper, object, or items be produced, or the testimony of any person be given, the period of suspension consists of the judicial enforcement period plus 120 days. If a court does not require any compliance with a designated or related summons, the period of suspension consists of the judicial enforcement period, and the period of limitations on assessment provided in section 6501 shall not expire before the 60th day after the close of the judicial enforcement period.

(c) *Definitions—(1) A designated summons* is a summons issued to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable period for which such corporation is being examined under the coordinated industry case program or any other successor to the coordinated examination program if—

(i) The Division Commissioner and the Division Counsel of the Office of Chief Counsel (or their successors) for the organizations that have jurisdiction over the corporation whose tax liability is the subject of the summons have reviewed the summons before it is issued;

(ii) The IRS issues the summons at least 60 days before the day the period prescribed in section 6501 for the assessment of tax expires (determined with regard to extensions); and

(iii) The summons states that it is a designated summons for purposes of section 6503(j).

(2) A *related summons* is any summons issued that—

(i) Relates to the same return of the corporation under examination as the designated summons; and

(ii) Is issued to any person, including the person to whom the designated summons was issued, during the 30-day period that begins on the day the designated summons is issued.

(3) The *judicial enforcement period* is the period that begins on the day on which a court proceeding is instituted with respect to a designated or related summons and ends on the day on which there is a final resolution as to the summoned person's response to that summons.

(4) *Court proceeding*—(i) *In general.*

For purposes of this section, a *court proceeding* is a proceeding filed in a United States district court either to quash a designated or related summons under section 7609(b)(2) or to enforce a designated or related summons under section 7604. A court proceeding includes any collateral proceeding, such as a civil contempt proceeding.

(ii) *Date when proceeding is no longer pending.* A proceeding to quash or to enforce a designated or related summons is no longer pending when all appeals (including review by the Supreme Court) are disposed of or after the expiration of the period in which an appeal may be taken or a request for further review (including review by the Supreme Court) may be made. If, however, following an enforcement order, a collateral proceeding is brought challenging whether the testimony given or production made by the summoned party fully satisfied the court order and whether sanctions should be imposed against the summoned party for a failure to so testify or produce, the proceeding to quash or to enforce the summons shall include the time from which the proceeding to quash or to enforce the summons was brought until the decision in the collateral proceeding becomes final. The decision becomes final on the date when all appeals (including review by the Supreme Court) are disposed of or when all appeal periods or all periods for further review (including review by the Supreme Court) expire. A decision in a collateral proceeding becomes final when all appeals (including review by the Supreme Court) are disposed of or when all appeal periods or all periods for further review (including review by the Supreme Court) expire.

(5) *Compliance*—(i) *In general.* *Compliance* is the giving of testimony or the performance of an act or acts of production, or both, in response to a

court order concerning the designated or related summons and the determination that the terms of the court order have been satisfied.

(ii) *Date compliance occurs.*

Compliance with a court order that wholly denies enforcement of a designated or related summons is deemed to occur on the date when all appeals (including review by the Supreme Court) are disposed of or when the period in which an appeal may be taken or a request for further review (including review by the Supreme Court) may be made expires.

Compliance with a court order that grants enforcement, in whole or in part, of a designated or related summons, occurs on the date it is determined that the testimony given, or the books, papers, records, or other data produced, or both, by the summoned party fully satisfy the court order concerning the summons. The determination of whether there has been full compliance will be made within a reasonable time, given the volume and complexity of the records produced, after the later of the giving of all testimony or the production of all records requested by the summons or required by any order enforcing any part of the summons. If, following an enforcement order, collateral proceedings are brought challenging whether the production made by the summoned party fully satisfied the court order and whether sanctions should be imposed against the summoned party for a failure to do so, the suspension of the periods of limitations shall continue until the order enforcing any part of the summons is fully complied with and the decision in the collateral proceeding becomes final. A decision in a collateral proceeding becomes final when all appeals are disposed of, the period in which an appeal may be taken has expired or the period in which a request for further review may be made has expired.

(6) *Final resolution* occurs when the designated or related summons or any order enforcing any part of the designated or related summons is fully complied with and all appeals or requests for further review are disposed of, the period in which an appeal may be taken has expired or the period in which a request for further review may be made has expired.

(d) *Special rules*—(1) *Number of summonses that may be issued*—(i) *Designated summons.* Only one designated summons may be issued in connection with the examination of a specific taxable year or other period of a corporation. A designated summons may cover more than one year or other

period of a corporation. The designated summons may require production of information that was previously sought in a summons (other than a designated summons) issued in the course of the examination of that particular corporation if that information was not previously produced.

(ii) *Related summonses.* There is no restriction on the number of related summonses that may be issued in connection with the examination of a corporation. As provided in paragraph (c)(2) of this section, however, a related summons must be issued within the 30-day period that begins on the date on which the designated summons to which it relates is issued and must relate to the same return as the designated summons. A related summons may request the same information as the designated summons.

(2) *Time within which court proceedings must be brought.* In order for the period of limitations on assessment to be suspended under section 6503(j), a court proceeding to enforce or to quash a designated or related summons must be instituted within the period of limitations on assessment provided in section 6501 that is otherwise applicable to the tax return.

(3) *Computation of suspension period if multiple court proceedings are instituted.* If multiple court proceedings are instituted to enforce or to quash a designated or one or more related summonses concerning the same tax return, the period of limitations on assessment is suspended beginning on the date the first court proceeding is brought. The suspension shall end on the date that is the latest date on which the judicial enforcement period, plus the 120-day or 60-day period (depending on whether the court requires any compliance) as provided in paragraph (b) of this section, expires with respect to each summons.

(4) *Effect on other suspension periods*—(i) *In general.* Suspensions of the period of limitations under section 6501 provided for under subsections 7609(e)(1) and (e)(2) do not apply to any summons that is issued pursuant to section 6503(j). The suspension under section 6503(j) of the running of the period of limitations on assessment under section 6501 is independent of, and may run concurrent with, any other suspension of the period of limitations on assessment that applies to the tax return to which the designated or related summons relates.

(ii) *Examples.* The rules of paragraph (d)(4)(i) of this section are illustrated by the following examples:

*Example 1.* The period of limitations on assessment against Corporation P, a calendar year taxpayer, for its 2007 return is scheduled to end on March 17, 2011. (Ordinarily, Corporation P's returns are filed on March 15th of the following year, but March 15, 2008 was a Saturday, and Corporation P timely filed its return on the subsequent Monday, March 17, 2008, making March 17, 2011 the last day of the period of limitations on assessment for Corporation P's 2007 tax year.) On January 4, 2011, a designated summons is issued to Corporation P concerning its 2007 return. On March 3, 2011 (14 days before the period of limitations on assessment would otherwise expire with respect to Corporation P's 2007 return), a court proceeding is brought to enforce the designated summons issued to Corporation P. On June 6, 2011, the court orders Corporation P to comply with the designated summons. Corporation P does not appeal the court's order. On September 6, 2011, agents for Corporation P deliver material that they state are the records requested by the designated summons. On October 13, 2011, a final resolution to Corporation P's response to the designated summons occurs when it is determined that Corporation P has fully complied with the court's order. The suspension period applicable with respect to the designated summons issued to Corporation P consists of the judicial enforcement period (March 3, 2011 through October 13, 2011) and an additional 120-day period under section 6503(j)(1)(B), because the court required Corporation P to comply with the designated summons. Thus, the suspension period applicable with respect to the designated summons issued to Corporation P begins on March 3, 2011, and ends on February 10, 2012. Under the facts of this *Example 1*, the period of limitations on assessment against Corporation P further extends to February 24, 2012, to account for the additional 14 days that remained on the period of limitations on assessment under section 6501 when the suspension period under section 6503(j) began.

*Example 2.* Assume the same facts set forth in *Example 1*, except that in addition to the issuance of the designated summons and related enforcement proceedings, on April 5, 2011, a summons concerning Corporation P's 2007 return is issued and served on individual A, a third party. This summons is not a related summons because it was not issued during the 30-day period that began on the date the designated summons was issued. The third-party summons served on individual A is subject to the notice requirements of section 7609(a). Final resolution of individual A's response to this summons does not occur until February 15, 2012. Because there is no final resolution of individual A's response to this summons by October 5, 2011, which is six months from the date of service of the summons, the period of limitations on assessment against Corporation P is suspended under section 7609(e)(2) to the date on which there is a final resolution to that response for the purposes of section 7609(e)(2). Moreover, because final resolution to the summons served on individual A does not occur until after February 10, 2012, the end of the

suspension period for the designated summons, the period of limitations on assessment against Corporation P expires 14 days after the date that the final resolution as provided for in section 7609(e)(2) occurs with respect to the summons served on individual A.

(5) *Computation of 60-day period when last day of assessment period falls on a weekend or holiday.* For purposes of paragraph (c)(1)(ii) of this section, in determining whether a designated summons has been issued at least 60 days before the date on which the period of limitations on assessment prescribed in section 6501 expires, the provisions of section 7503 apply when the last day of the assessment period falls on a Saturday, Sunday, or legal holiday.

(e) *Effective/applicability date.* This section is applicable on the date the final regulations are published in the **Federal Register**.

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E8-9147 Filed 4-25-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB-2008-0003; Notice No. 82]

RIN 1513-AB51

#### Proposed Establishment of the Snipes Mountain Viticultural Area (2007R-300P)

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 4,145-acre "Snipes Mountain" viticultural area in Yakima County, Washington. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

**DATES:** We must receive written comments on or before June 27, 2008.

**ADDRESSES:** You may send comments on this notice to one of the following addresses:

- <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB-2008-

0003 on Regulations.gov, the Federal e-rulemaking portal); or

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments we receive about this proposal at <http://www.regulations.gov>. A direct link to the appropriate Regulations.gov docket is available under Notice No. 82 on the TTB Web site at [http://www.ttb.gov/wine/wine\\_rulemaking.shtml](http://www.ttb.gov/wine/wine_rulemaking.shtml). You also may view copies of this notice, all related petitions, maps or other supporting materials, and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-927-2400.

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415-271-1254.

#### SUPPLEMENTARY INFORMATION:

##### Background on Viticultural Areas

##### TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

##### Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region