

under section 6675 will not be imposed with respect to the claim. If a person claims an income tax credit under section 34 in lieu of a payment under section 6427(e) with respect to sales and uses of mixtures during a calendar quarter and the aggregate amount claimed as an income tax credit with respect to such sales and uses exceeds the amount allowed under § 48.6426-7(a)(2), the income tax rules related to assessing an underpayment of income tax liability apply. The section 6675 penalty for excessive claims with respect to fuels does not apply in the case of section 34 income tax credits. Similar rules apply to excessive claims under sections 34 or 6427 with respect to sales and uses of alternative fuel.

(c) *Payment computation for certain blenders*—(1) *In general.* This paragraph (c) applies to a blender for any calendar quarter in which the blender's entire tax liability under section 4081 is based solely on the volume of alcohol in alcohol fuel mixtures, biodiesel in biodiesel mixtures, renewable diesel in renewable diesel mixtures, or alternative fuel in alternative fuel mixtures. If this paragraph (c) applies for a calendar quarter, the blender may use the following procedure to determine the amount it may claim as an income tax credit under section 34 or a payment under section 6427(e) with respect to each mixture that it sells or uses during the quarter:

(i) First, determine the amount allowed under section 6426 as a credit on Form 720 by multiplying the volume of untaxed liquid used to produce the mixture by the tax imposed per gallon on the untaxed liquid.

(ii) Then, determine the total credit and payment allowable by multiplying the volume of untaxed liquid used to produce the mixture by the tax credit rate per gallon.

(iii) Then, subtract the amount determined in paragraph (c)(1)(i) of this section (the section 6426 credit amount) from the amount determined in paragraph (c)(1)(ii) of this section. This difference is the amount of the payment or income tax credit that may be claimed with respect to that mixture.

(2) *Example.* The following example illustrates the provisions of this paragraph (c):

(i) P is a biodiesel mixture producer.

P produces blended taxable fuel outside of the bulk transfer/terminal system by adding biodiesel that is agri-biodiesel to taxed diesel fuel. See §§ 48.4081-1(c)(1) and 48.4081-3(g). P has no § 4081 liability other than its liability as a blender on its sale of the biodiesel mixture. During the period August 1 through August 10 (at which time the tax rate on diesel fuel is \$0.244 per gallon and

the claim amount on agri-biodiesel is \$1.00 per gallon), P uses 5,000 gallons of agri-biodiesel to produce a biodiesel mixture. P determines that it may claim \$3,780 as a payment under section 6427(e) with respect to this mixture. P computes this amount by—

(A) Multiplying 5,000 (gallons of agri-biodiesel) × \$0.244 (tax imposed per gallon) = \$1,220;

(B) Multiplying 5,000 (gallons of agri-biodiesel) × \$1.00 (tax credit rate per gallon) = \$5,000; and

(C) Subtracting \$1,220 from \$5,000 = \$3,780.

(ii) On August 11, P files Form 8849 for the period August 1–August 10. To avoid an excessive claim, P limits the claim on Form 8849 to \$3,780 reporting 3,780 gallons of agri-biodiesel.

(iii) On Form 720 P reports liability for IRS No. 60(c) of \$1,220 (5,000 gallons × \$.244) and claims a credit on Schedule C for \$1,220 for period August 1–August 10, reporting on Schedule C 1,220 gallons of agri-biodiesel.

(d) *Effective/applicability date.* This section is applicable on and after the date these regulations are published as final regulations in the **Federal Register**.

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 26 and 301

[REG-147775-06]

RIN 1545-BH63

#### Regulations Under Section 2642(g); Hearing

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

**ACTION:** Cancellation of notice of public hearing on proposed rulemaking.

**SUMMARY:** This document cancels a public hearing on proposed rulemaking providing guidance under section 2642(g)(1). The proposed regulations describe the circumstances and procedures under which an extension of time will be granted under section 2642(g)(1). The proposed guidance affects individuals (or their estates) who failed to make a timely allocation of generation-skipping transfer (GST) exemption to a transfer, and individuals (or their estates) who failed to make a timely election under section 2632(b)(3) or (c)(5).

**DATES:** The public hearing, originally scheduled for August 5, 2008, at 10 a.m., is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Hurst of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at *Richard.A.Hurst@irscounsel.treas.gov*.

**SUPPLEMENTARY INFORMATION:** A notice of public hearing that appeared in the **Federal Register** on Thursday, April 17, 2008 (73 FR 20870), announced that a public hearing was scheduled for August 5, 2008, at 10 a.m., in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is under sections 2642 and 9100 of the Internal Revenue Code.

The public comment period for these regulations expired on July 16, 2008. Outlines of topics to be discussed at the hearing were due on July 15, 2008. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Friday, July 18, 2008, no one has requested to speak. Therefore, the public hearing scheduled for August 5, 2008, is cancelled.

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 45 CFR Parts 1385, 1386, 1387, and 1388

RIN 0970-AB11

#### Developmental Disabilities Program

**AGENCY:** Administration on Developmental Disabilities, Administration for Children and Families, HHS.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** The Administration on Developmental Disabilities (ADD) reopens the public comment period on the proposed rule published in the **Federal Register** on April 10, 2008 (73 FR 19708) to propose clarifications and new requirements to implement the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act of 2000). During the comment period there were instances when the electronic system was not available and individuals were having difficulties using the system. ADD is reopening the