

credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . .” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c).¹

A comment filed in paper form should include the “Cooling-Off Rule Regulatory Review, 16 CFR 429, Comment, Project No. P087109” reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex M), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

You also may consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by following the instructions on the web-based form at the weblink (<https://secure.commentworks.com/ftc-cooling-offrulereview>). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at (<https://secure.commentworks.com/ftc-cooling-offrulereview>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you also may file an electronic comment through that website. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it. You also may visit the FTC website at (<http://www.ftc.gov>) to read the Notice and the news release describing it.

The Federal Trade Commission Act (“FTC Act”) and other laws the

Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. To read our policy on how we handle the information you submit – including routine uses permitted by the Privacy Act – please review the FTC’s privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

FOR FURTHER INFORMATION CONTACT: Sana Coleman Chriss, Attorney, (404) 656-1364, Federal Trade Commission, Southeast Region, 225 Peachtree Street, NE, Suite 1500, Atlanta, Georgia 30303.

SUPPLEMENTARY INFORMATION: The Commission’s April 21, 2009 *Federal Register* notice sought comments on a number of general issues, including the continuing need for the Rule, its economic impact, and the effect of any technological, economic, or industry changes on the Rule.

The comment period closed on June 22, 2009. Three comments were received during the comment period. On that date, the Commission also received a request from Consumers for Auto Reliability and Safety, Consumers Union, and the National Consumer Law Center to extend the comment period for an additional sixty days. To provide all interested parties with additional time for filing comments, the Commission has decided to reopen the comment period. The Commission believes that the benefit of enhancing the record by reopening the comment period outweighs any delay. Accordingly, the Commission has decided to reopen the comment period for sixty days.

By direction of the Commission.

Donald S. Clark

Secretary

[FR Doc. E9-17758 Filed 7-24-09; 2:30 pm]

BILLING CODE 6750-01-S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-152166-05]

RIN 1545-BF33

Taxpayer Assistance Orders

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking and notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking published on April 19, 1996, in the *Federal Register* and contains proposed regulations relating to the issuance of Taxpayer Assistance Orders (TAOs). The IRS is issuing these proposed regulations to provide guidance relating to the issuance of a TAO. These proposed regulations are necessary because the existing regulations do not reflect changes to the law made by the Taxpayer Bill of Rights II (TBOR 2), the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98), the Community Renewal Tax Relief Act of 2000, and the American Jobs Creation Act of 2004 (AJCA). The action taken in these proposed regulations will affect IRS employees in cases where a TAO is being considered or issued.

DATES: Written or electronic comments and requests for a public hearing must be received by October 26, 2009.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-152166-05), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20224. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-152166-05), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20044, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov/> (IRS REG-152166-05).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Janice R. Feldman, (202) 622-8488; concerning submissions of comments, *Richard.A.Hurst@irs.counsel.treas.gov* (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 7811 of the Internal Revenue Code (Code) authorizes the NTA to issue a TAO when a taxpayer is suffering or is about to suffer a significant hardship

¹The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

as a result of the manner in which the internal revenue laws are being administered by the IRS and the law and the facts support relief. A TAO may be issued to direct that the operating division or function take a specific action, cease a specific action, or refrain from taking a specific action or to order the IRS to review at a higher level, expedite consideration of, or reconsider a taxpayer's case. The IRS will comply with a TAO unless it is appealed and then modified or rescinded by the Commissioner, the Deputy Commissioner, or the NTA. Appeal procedures are provided in the Internal Revenue Manual (IRM).

Proposed regulations were published on April 19, 1996, in the **Federal Register** (61 FR 17265). The proposed regulations limited the authority to modify or rescind TAOs to the Ombudsman, the Commissioner, and the Deputy Commissioner, and, with the written authorization of one of these officials, a district director, a service center director, a compliance center director, a regional director of appeals (director), or the superiors of a director. Following the publication of the proposed regulations, Congress enacted TBOR 2, Public Law 104-168, 110 Stat. 1452 (1996), which, among other things, authorized only the Taxpayer Advocate, the Commissioner, or the Deputy Commissioner to modify or rescind a TAO. In light of the enactment of TBOR 2, this document withdraws the proposed regulations published in the **Federal Register** on April 19, 1996.

This document also contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) relating to TAOs under section 7811. Temporary regulations (TD 8246) were published on March 22, 1989, in the **Federal Register** (54 FR 11699). Final regulations (TD 8403) were published on March 23, 1992, in the **Federal Register** (57 FR 9975). After the final regulations were published, sections 101 and 102 of TBOR 2, Public Law 104-168, 110 Stat. 1452 (1996), amended section 7811 by changing the name of the Ombudsman to the Taxpayer Advocate, providing that TAOs may order the IRS to take certain affirmative actions, and restricting who may modify or rescind a TAO. Section 1102 of RRA 98, Public Law 105-206, 112 Stat. 685 (1998), further amended section 7811, by providing examples of significant hardship and replacing "Taxpayer Advocate" with "National Taxpayer Advocate." Section 881(c) of AJCA, Public Law 108-357, 118 Stat. 1418 (2004) clarified that a TAO applies to personnel performing services under a qualified tax collection contract to the

same extent as it applies to IRS personnel. Thus, this document contains a new notice of proposed rulemaking implementing the amendments under section 7811 pursuant to the enactment of TBOR 2, RRA 98, the Community Renewal Tax Relief Act of 2000, and AJCA and also to provide guidance on issues that have arisen in the administration of section 7811. Section 301.7811-1(e) of the existing regulations, which concerns the suspension of statutes of limitations, is not being revised as part of this proposed rulemaking as changes to that section may involve changes to IRS computer processing systems and will be dealt with at a later date.

Explanation of Provision

1. Significant Hardship

Under Section 301.7811-1(a)(4)(ii) of the existing regulations, *significant hardship* means "serious privation caused or about to be caused to the taxpayer as the result of the particular manner in which the internal revenue laws are being administered by the Internal Revenue Service." RRA 98 clarified the meaning of the term *significant hardship* by providing a nonexclusive list of types. Section 7811(a)(2) provides that *significant hardship* includes: (1) An immediate threat of adverse action; (2) a delay of more than 30 days in resolving taxpayer account problems; (3) the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; or (4) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted. Thus, the proposed regulations list the statutory types and also provide guidance with regard to what constitutes significant hardship under the delay standard and other criteria. Significant hardship under the 30-day delay standard is met when a taxpayer does not receive a response by the date promised by the IRS, or when the IRS has established a normal processing time for taking an action and the taxpayer experiences a delay of more than 30 days beyond the normal processing time.

2. Distinction Between Significant Hardship and Issuance of TAO

The proposed regulations discuss the distinction between a finding of "significant hardship" and "the issuance of a TAO." The proposed regulations are designed to clarify that a finding by the NTA that a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are

being administered by the IRS will not automatically result in the issuance of a TAO. After making a determination of significant hardship, the NTA must determine whether the facts and the law support relief.

3. Compliance With the TAO

The proposed regulations explain that a TAO is an order by the NTA to the IRS and that the IRS will comply with the terms of the TAO unless it is appealed and then modified or rescinded by the Commissioner, the Deputy Commissioner, or the NTA. If a TAO is modified or rescinded by the Commissioner or Deputy Commissioner, a written explanation of the reasons for the modification or rescission must be provided to the NTA. Furthermore, the proposed regulations clarify that a TAO is not intended to be a substitute for an established administrative or judicial review procedure, but rather is intended to supplement these procedures if a taxpayer is about to suffer or is suffering a significant hardship. Thus, a taxpayer's right to administrative or judicial review will not be diminished or expanded in any way as a result of the taxpayer's seeking assistance from the Taxpayer Advocate Service (TAS).

4. Form of Request

The proposed regulations provide that a request for a TAO shall be made on a Form 911, "Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order)" (or other specified form) or in a written statement that provides sufficient information for TAS to determine the nature of the harm or the need for assistance.

5. Scope of the TAO

The proposed regulations provide that the NTA can issue a TAO directing an action in the circumstances outlined in section 7811(b). Section 7811(b) provides that the NTA may issue a TAO ordering the IRS within a specified time to (i) release levied property, or (ii) cease any action, take any action as permitted by law, or refrain from taking any action with respect to a taxpayer under: (A) Chapter 64 (relating to collection); (B) chapter 70, subchapter B (relating to bankruptcy and receiverships); (C) chapter 78 (relating to discovery of liability and enforcement of title); or (D) any other provision of law specifically described by the NTA in the TAO. Consistent with the list of specific subchapter and chapters of the Code in section 7811(b), the proposed regulations provide that the phrase "any provision of law" refers to other provisions of the internal revenue laws

similar to the provisions enumerated in the statute.

The proposed regulations further provide that in circumstances where the statute does not authorize the issuance of a TAO to order a specific action, if the NTA determines that the taxpayer is suffering or about to suffer a significant hardship and that the issuance of a TAO is appropriate, the NTA may issue a TAO seeking to expedite, review, or reconsider an action at a higher level. Although the statute does not expressly state that a TAO may be issued to request that the IRS expedite, review, or reconsider at a higher level an action, the statute and the legislative history support this interpretation.

As initially enacted, section 7811(b) did not grant the Ombudsman (the predecessor to the NTA) the authority to order affirmative actions. At that time, section 7811(b) provided that a TAO could order either the release of levy or could order the IRS to cease or refrain from taking an action under the three enumerated chapters of the Code listed in the statute. Thus, under the initial version of section 7811(b)(2), except for releasing levies, TAOs could not be issued to take affirmative actions. For example, a TAO could order the IRS to refrain from filing a Notice of Federal Tax Lien (NFTL), but it could not require the IRS to release an NFTL. Delegation Order (DO) 239 (01-31-92) remedied this problem by delegating to the Ombudsman the authority to order affirmative acts. Congress also recognized the deficiency in the law and amended section 7811(b) as part of TBOR 2 to allow TAOs to be issued with respect to affirmative acts by inserting the words "take any action as permitted by law" into the statute. The Committee Report to TBOR 2, H. Rep. No. 104-506, 104th Cong., 2nd Sess., at 1148 (1996), explains how the existing law was deficient in that, for example, it did not allow a TAO to be issued to expedite a refund or review the validity of a tax deficiency. The report explains that the reason for amendment to section 7811(b) was to allow a TAO to be issued "for a review of the appropriateness of the proposed action." Thus, consistent with the legislative history and the statutory amendments, the proposed regulations provide that where the statute does not authorize the issuance of a TAO to order a specific action, if the NTA determines that a taxpayer is suffering or about to suffer a significant hardship and that relief is appropriate, the NTA may issue a TAO seeking to expedite, review, or reconsider an action at a higher level.

6. Who Is Subject to a TAO?

The proposed regulations provide rules regarding who is subject to a TAO. Generally, a TAO can be issued to any operating division or function of the IRS. Due to the sensitivity and importance of criminal investigations, the proposed regulations provide that a TAO may not be issued if the action ordered in the TAO could reasonably be expected to impede a criminal investigation. The IRS Criminal Investigation division (CI) will determine whether the action ordered in the TAO could reasonably be expected to impede an investigation. Procedures for handling cases where the NTA questions CI's initial determination will be added to the IRM.

The rule for issuing a TAO to the Office of Chief Counsel has been updated to reflect the reorganization of the IRS as well as statutory changes. The existing regulations provide that: "[a] taxpayer assistance order may generally not be issued * * * to enjoin an act of the Office of Chief Counsel (with the exception of Appeals)." Due to a reorganization of the Office of Chief Counsel, effective October 1, 1995, Appeals is no longer a component of the Office of Chief Counsel. Accordingly, the proposed regulations eliminate the parenthetical reference to Appeals in § 301.7811-1(c)(3). The NTA continues to have the authority to issue TAOs to Appeals. Additionally, at the time that the existing regulations were finalized, the Ombudsman could not issue a TAO to order an affirmative act, other than a release of levy. As discussed in this preamble, under the current version of the statute, the NTA has much broader authority regarding the ability to order an affirmative act. Thus, the term "enjoin" has also been eliminated, and the rule under the proposed regulations is that: "[g]enerally a TAO may not be issued to the Office of Chief Counsel."

Special Analyses

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 also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. The information required under these proposed regulations is already required by the current regulations and the Form 911, "Request for Taxpayer Advocate

Service Assistance (and Application for Taxpayer Assistance order)." In addition, the Form 911 takes minimal time and expense to prepare, and the filing of a Form 911 is optional. Therefore, preparing the Form 911 does not significantly increase the burden on taxpayers. Based on these facts, the Treasury Department and the IRS have determined that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Furthermore, the substance of the regulations does not concern the Form 911, but the procedures the Taxpayer Advocate Service (TAS) or the Internal Revenue Service (IRS) must follow with respect to taxpayer assistance orders. Therefore, any burden created by these regulations is on the TAS or IRS, not taxpayers. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking 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 or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who 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 these regulations is Janice R. Feldman, Office of the Special Counsel (National Taxpayer Advocate Program) (CC:NTA).

List 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 that was published in the **Federal Register** on April 19, 1996 (61 FR 17265) 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 301.7811-1 is amended by revising paragraphs (a), (b), (c) and (d), removing paragraphs (f), (g), (h) and redesignating paragraph (h) as (f) and revising newly designated paragraph (f) to read as follows:

§ 301.7811-1 Taxpayer Assistance Orders.

(a) *Authority to issue*—(1) *In general.* When an application for a Taxpayer Assistance Order (TAO) is filed by the taxpayer or the taxpayer's authorized representative in the form, manner and time specified in paragraph (b) of this section, the National Taxpayer Advocate (NTA) may issue a TAO if, in the determination of the NTA, the taxpayer is suffering or is about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Internal Revenue Service (IRS), including action or inaction on the part of the IRS.

(2) *The National Taxpayer Advocate defined.* The term *National Taxpayer Advocate* includes any designee of the NTA, such as a Local Taxpayer Advocate.

(3) *Issuance without a written application.* The NTA may issue a TAO in the absence of a written application by the taxpayer under section 7811(a).

(4) *Significant hardship*—(i) *Determination required.* Before a TAO may be issued, the NTA is required to make a determination regarding significant hardship.

(ii) *Term Defined.* The term *significant hardship* means a serious privation caused or about to be caused to the taxpayer as the result of the particular manner in which the revenue laws are being administered by the IRS. Significant hardship includes situations in which a system or procedure fails to operate as intended or fails to resolve the taxpayer's problem or dispute with the IRS. A significant hardship also includes, but is not limited to:

(A) An immediate threat of adverse action;

(B) A delay of more than 30 days in resolving taxpayer account problems;

(C) The incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; or

(D) Irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.

(iii) *A delay of more than 30 days in resolving taxpayer account problems is further defined.* A delay of more than 30 days in resolving taxpayer account problems exists under the following conditions:

(A) When a taxpayer does not receive a response by the date promised by the IRS; or

(B) When the IRS has established a normal processing time for taking an action and the taxpayer experiences a delay of more than 30 days beyond the normal processing time.

(iv) *Examples of significant hardship.* The provisions of this section are illustrated by the following examples:

Example 1. Immediate threat of adverse action. The IRS serves a levy on A's bank account. A needs the bank funds to pay for a medically necessary surgical procedure that is scheduled to take place in one week. If the levy is not released, A will lack the funds necessary to have the procedure. A is experiencing an immediate threat of adverse action.

Example 2. Delay of more than 30 days. B files a Form 4506, "Request for a Copy of Tax Return." B does not receive the photocopy of the tax return after waiting more than 30 days beyond the normal time for processing. B is experiencing a delay of more than 30 days.

Example 3. Significant costs. The IRS sends XYZ, Inc. several notices requesting payment of the outstanding employment taxes owed by XYZ, Inc. and four of its subsidiaries. The IRS contends that XYZ, Inc. and the four subsidiaries have small employment tax balances with respect to 12 employment tax quarters totaling \$10X. XYZ, Inc. provides documentation to the IRS which it contends shows that if all payments were applied to each entity correctly, there would be no balance due. The IRS requests additional records and documentation. Because there are 60 tax periods (12 quarters for each of the five entities) involved, to comply with this request XYZ, Inc. will need to hire an accountant, who estimates he will charge at least \$5X to organize all the records and provide a detailed analysis of how the payments should have been applied. XYZ, Inc. is facing significant costs.

Example 4. Irreparable injury. D has arranged with a bank to refinance his mortgage to lower his monthly payment. D is unable to make the current monthly payment. Unless the monthly payment amount is lowered, D will lose his residence to foreclosure. The IRS refuses to subordinate the Federal tax lien, as permitted by IRC section 6325(d), or discharge the property subject to the lien, as permitted by IRC section 6325(b). As a result, the bank will not allow D to refinance. D is facing an irreparable injury if relief is not granted.

(5) *Distinction Between Significant Hardship and the Issuance of a TAO.* A finding that a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the IRS will not automatically result in the issuance of a

TAO. After making a determination of significant hardship, the NTA must determine whether the facts and the law support relief for the taxpayer. In cases where any IRS employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the NTA shall construe the factors taken into account in determining whether to issue a TAO in the manner most favorable to the taxpayer.

(b) *Generally.* A TAO is an order by the NTA to the IRS. The IRS will comply with a TAO unless it is appealed and then modified or rescinded by the NTA, Commissioner or the Deputy Commissioner. If a TAO is modified or rescinded by the Commissioner or Deputy Commissioner, a written explanation of the reasons for the modification or rescission must be provided to the NTA. The NTA may not make a substantive determination of any tax liability. A TAO is also not intended to be a substitute for an established administrative or judicial review procedure, but rather is intended to supplement existing procedures if a taxpayer is about to suffer or is suffering a significant hardship. A request for a TAO shall be made on a Form 911, "Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)" (or other specified form) or in a written statement that provides sufficient information for TAS to determine the nature of the harm or the need for assistance. A taxpayer's right to administrative or judicial review will not be diminished or expanded in any way as a result of the taxpayer's seeking assistance from TAS.

(c) *Contents of Taxpayer Assistance Orders.* After establishing that the taxpayer is facing significant hardship and determining that the facts and law support relief to the taxpayer, the NTA may issue a TAO ordering the IRS within a specified time to—

(1) *Release a Levy.* Release levied property (to the extent that the IRS may by law release such property); or

(2) *Take Certain Other Actions.* Cease any action, take any action as permitted by law, or refrain from taking any action with respect to a taxpayer pursuant to—

(i) Chapter 64 (relating to collection);

(ii) Chapter 70, subchapter B (relating to bankruptcy and receiverships);

(iii) Chapter 78 (relating to discovery of liability and enforcement of title); or

(iv) Any other provision of the internal revenue laws specifically described by the NTA in the TAO.

(3) *Expedite, Review or Reconsider an Action at a Higher Level.* Although the NTA may not make the substantive determination, a TAO may be issued to

require the IRS to expedite, reconsider, or review at a higher level an action taken with respect to a determination or collection of a tax liability.

(4) *Examples.* The following examples assume the existence of significant hardship:

Example 1. J contacts a local taxpayer advocate because a wage levy is causing financial difficulties. The NTA determines that the levy should be released as it is causing economic hardship (within the meaning of section 6343(a) and Treas. Reg. § 301.6343-1(b)(4)). The NTA may issue a TAO ordering the IRS to release the levy in whole or in part by a specified date.

Example 2. The IRS rejects K's offer in compromise. K files a Form 911, "Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order)." The NTA discovers facts that support acceptance of the offer in compromise. The NTA may issue a TAO ordering the IRS to reconsider its rejection of the offer or to review the rejection of the offer at a higher level. The TAO may include NTA analysis of and recommendation for resolving the case.

Example 3. L files a protest requesting Appeals consideration of IRS's proposed denial of L's request for innocent spouse relief. Appeals advises L that it is going to issue a Final Determination denying the request for innocent spouse relief. L files a Form 911, "Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order)." The NTA reviews the administrative record and concludes that the facts support granting innocent spouse relief. The NTA may issue a TAO ordering Appeals to refrain from issuing a Final Determination and reconsider or review at a higher level its decision to deny innocent spouse relief. The TAO may include TAS analysis of and recommendation for resolving the case.

(d) *Issuance.* A TAO may be issued to any office, operating division, or function of the IRS. A TAO shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as the order applies to IRS employees. A TAO will not be issued to IRS Criminal Investigation division (CI), or any successor IRS division responsible for the criminal investigation function, if the action ordered in the TAO could reasonably be expected to impede a criminal investigation. CI will determine whether the action ordered in the TAO could reasonably be expected to impede an investigation. Generally, a TAO may not be issued to the Office of Chief Counsel.

* * * * *

(f) *Effective applicability date.* These regulations are applicable for TAOs issued on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal**

Register, except that paragraph (e) is applicable beginning March 20, 1992.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E9-17747 Filed 7-24-09; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2009-0023; FRL-8935-2]

Approval and Promulgation of Implementation Plans; Kentucky; Variance of Avis Rent-A-Car and Budget Rent-A-Car Facilities Located at the Cincinnati/Northern Kentucky International Airport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the source-specific State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky on February 4, 2009, for the purpose of removing Stage II vapor control requirements at Avis Rent-A-Car, and Budget Rent-A-Car facilities located at the Cincinnati/Northern Kentucky International Airport. This proposed revision to the SIP is approvable based on the December 12, 2006, EPA policy memorandum from Stephen D. Page entitled *Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Refueling Vapor Recovery is Demonstrated*. This action is being taken pursuant to Section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before August 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0023 by one of the following method:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. *E-mail:* benjamin.lynorae@epa.gov.
3. *Fax:* (404) 562-9019.
4. *Mail:* "EPA-R04-OAR-2009-0023", Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management

Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. 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 ID No. "EPA-R04-OAR-2009-0023". EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access", which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticide and