

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 these regulations is Molly K. Donnelly, Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 301

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

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 301.7216–2 is amended by revising paragraphs (n), (o), and (p) to read as follows:

§ 301.7216–2 Permissible disclosures or uses without consent of the taxpayer.

* * * * *

(n) [The text of proposed amendments to § 301.7216–2(n) is the same as the text for § 301.7216–2T(n) published elsewhere in this issue of the **Federal Register**].

(o) [The text of proposed amendments to § 301.7216–2(o) is the same as the text for § 301.7216–2T(o) published elsewhere in this issue of the **Federal Register**].

(p) [The text of proposed amendments to § 301.7216–2(p) is the same as the text for § 301.7216–2T(p) published elsewhere in this issue of the **Federal Register**].

* * * * *

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E9–31114 Filed 12–29–09; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 240

RIN 1510–AB25

Endorsement and Payment of Checks Drawn on the United States Treasury

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking, with request for comment.

SUMMARY: The Department of the Treasury, Financial Management Service (FMS), is proposing to amend its regulation governing the endorsement and payment of checks drawn on the United States Treasury, to provide that Treasury may direct Federal Reserve Banks to debit a financial institution's account at the financial institution's servicing Federal Reserve Bank for all check reclamations that the financial institution has not protested. Financial institutions will continue to have the right to file a protest with FMS if they believe a proposed reclamation is in error.

DATES: Comments on the proposed rule must be received by March 5, 2010.

ADDRESSES: The Financial Management Service (FMS) participates in the U.S. government's eRulemaking Initiative by publishing rulemaking information on <http://www.regulations.gov>. Regulations.gov offers the public the ability to comment on, search, and view publicly available rulemaking materials, including comments received on rules.

Comments on this rule, identified by docket FISCAL–FMS–2009–0002, should only be submitted using the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions on the Web site for submitting comments.

- **Mail:** Larry Phelps, Financial Management Service, 3700 East-West Highway, Room 7–D–24, Hyattsville, Maryland 20782.

The fax and e-mail methods of submitting comments on rules to FMS have been retired.

Instructions: All submissions received must include the agency name (“Financial Management Service”) and docket number FISCAL–FMS–2009–0002 for this rulemaking. In general, comments received will be published on Regulations.gov without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, are part of

the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may also inspect and copy this proposed rule at: Treasury Department Library, Freedom of Information Act (FOIA) Collection, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Before visiting, you must call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Larry Phelps, Management and Program Analyst, Check Resolution Division, at (202) 874–8263 or larry.phelps@fms.treas.gov; or William J. Erle, Senior Counsel, at (202) 874–6975 or william.erle@fms.treas.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Treasury (Treasury), Financial Management Service (FMS),¹ is proposing revisions to its regulation, 31 CFR part 240 (Part 240), governing the endorsement and payment of checks drawn on the United States Treasury. The rules in Part 240 set forth how checks may be endorsed, and the remedies available to Treasury when checks are improperly negotiated, such as a negotiation over a forged endorsement. Part 240 provides for the allocation of loss between the Government and endorsers of the check. The regulation also provides information on how Treasury will collect debts owed by financial institutions and other endorsers when they fail to pay check reclamations made by Treasury pursuant to the regulation.

FMS is proposing to amend Part 240 to provide that Treasury may direct Federal Reserve Banks to debit a financial institution's account at the financial institution's servicing Federal Reserve Bank for all check reclamations for which the financial institution has not submitted a valid protest with supporting documentation. Financial institutions will continue to have the right to file a protest with FMS if they believe a proposed reclamation is in error and are able to supply supporting documentation.

Under the existing regulation, Treasury sends a “Request for Refund (Reclamation)” to the financial institution that presented the check being reclaimed. The request advises the

¹ FMS is the bureau within Treasury that is charged with implementing Treasury's authority in this area. The terms Treasury and FMS are used interchangeably in this proposed rule.

financial institution of the amount demanded and the reason for the demand. If the debtor financial institution does not make payment, Treasury presents follow-up demands by sending monthly statements to the financial institution and begins to assess interest, penalties and administrative costs at intervals after the 60th calendar day.

Under the existing regulation, if the reclamation debt is not paid within 120 calendar days of the reclamation date, Treasury attempts to collect the debt through administrative offset. If administrative offset is unsuccessful, Treasury attempts to collect the debt through Treasury Check Offset (TCO). Finally, if administrative offset and TCO are unsuccessful, Treasury discharges the debt under 31 CFR 903.5 and reports the unpaid amount to the IRS. This is a time-consuming process that unnecessarily burdens both FMS systems and human resources.

FMS intends to expedite and streamline the process of collecting unpaid reclamations by instructing a financial institution's servicing Federal Reserve Bank to debit that financial institution's Federal Reserve account if that financial institution has neither paid nor filed a valid protest with supporting documentation within 30 days of the date of the reclamation. FMS will notify the financial institution of the reclamation by sending a Notice of Direct Debit, which will also inform the financial institution that, if the reclamation is not paid by the 30th calendar day from the direct debit notice date, the financial institution's reserve account will be debited by its servicing Federal Reserve Bank. FMS will allow, as FMS currently does for all reclamations, the ability to challenge the debit both before and after it occurs. The financial institution may protest within the 30 calendar days from the direct debit notice. After the direct debit occurs, the financial institution has an additional 30 calendar days from the direct debit date to submit a valid protest with supporting documentation.

The vast majority of reclamation debts (currently 91 percent) are already paid by financial institutions within 30 calendar days. The remaining 9% of reclamations either have protests pending, which means the debt would not be subject to direct debit, or are for financial institutions that have ignored repeated notices. In most cases, directly debiting the financial institution's reserve account would simply streamline the reclamation and collection processes. FMS believes this change would result in operational

efficiencies for both Treasury and the financial institutions.

If Treasury is unable to debit a financial institution's reserve account, the current procedures for assessing interest, penalty and administrative cost amounts and for attempting to collect the reclamation debt through administrative offset and TCO would continue to apply.

II. Procedural Analyses

Request for Comment on Plain Language

Executive Order 12866 requires each agency in the Executive branch to write regulations that are simple and easy to understand. We invite comment on how to make the rule clearer. For example, you may wish to discuss: (1) Whether we have organized the material to suit your needs; (2) whether the requirements of the rules are clear; or (3) whether there is something else we could do to make these rules easier to understand.

Regulatory Planning and Review

The proposed rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

Regulatory Flexibility Act Analysis

It is hereby certified that the rule will not have a significant economic impact on a substantial number of small entities. This rule would eliminate certain administrative fees and interest and penalty charges in order to streamline and automate reclamation procedures. The proposed changes to the regulation related to automating reclamations should have a minimal economic impact on small financial institutions and in fact, may reduce some costs for financial institutions affected by the changes. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. FMS invites comments on this determination.

List of Subjects in 31 CFR Part 240

Banks, Banking, Checks, Counterfeit checks, Federal Reserve system, Forgery, Guarantees.

For the reasons set forth in the preamble, we are amending 31 CFR part 240 as follows:

PART 240—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

1. The authority citation for part 240 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 321, 3327, 3328, 3331, 3334, 3711, 3712; 332 U.S. 234 (1947); 318 U.S. 363 (1942).

2. In § 240.1, add new paragraph (d) to read as follows:

§ 204.1 Scope of regulations.

* * * * *

(d) A financial institution's endorsement or presentment of a U.S. Treasury check shall constitute its agreement to this part. The financial institution hereby authorizes its servicing Federal Reserve Bank to debit its Federal Reserve account for the amount of the reclamation and any accrued interest, penalties and/or administrative costs in accordance with the provisions of § 240.9.

3. In § 240.9, revise paragraphs (a) and (b)(4)(iii) to read as follows:

§ 240.9 Reclamation procedures; reclamation protests.

(a) Reclamation procedures. (1) Treasury will send a "Notice of Direct Debit (Reclamation)" to the reclamation debtor in accordance with § 240.8(a). This notice will advise the reclamation debtor of the amount demanded and the reason for the demand. Treasury will provide notice to the reclamation debtor that:

(i) If the reclamation debt is not paid within 30 calendar days of the reclamation date, Treasury intends to collect the amount outstanding by instructing the appropriate Federal Reserve Bank to debit the account utilized by the reclamation debtor. The Federal Reserve Bank will provide advice of the debit to the reclamation debtor;

(ii) The reclamation debtor has an opportunity to inspect and copy Treasury's records with respect to the reclamation debt;

(iii) The reclamation debtor may, by filing a protest in accordance with § 240.9(b), request Treasury to review its decision that the reclamation debtor is liable for the reclamation debt. If such a protest is filed within 30 calendar days of the reclamation date, Treasury will not instruct the appropriate Federal Reserve Bank to debit the account utilized by the reclamation debtor while the protest is still pending; and

(iv) The reclamation debtor has an opportunity to enter into a written agreement with Treasury for the repayment of the reclamation debt. A request for a repayment agreement must be accompanied by documentary proof that satisfies Treasury that the reclamation debtor is unable to repay the entire amount owed when due.

(2) Requests by a reclamation debtor for an appointment to inspect and copy

Treasury's records with respect to a reclamation debt and requests to enter into repayment agreements must be sent in writing to: Department of the Treasury, Financial Management Service, Check Resolution Division, Reclamation Branch, Room 700D, P.O. Box 1849, Hyattsville, MD 20788, or to such other address as Treasury may publish in the Treasury Financial Manual, which can be found at <http://www.fms.treas.gov>.

(3) If the Federal Reserve Bank is unable to debit the financial institution's reserve account, FMS will assess interest, penalties, and administrative costs in accordance with § 240.8. Additionally, Treasury will proceed to collect the reclamation debt through offset in accordance with § 240.10 and Treasury Check Offset in accordance with § 240.11.

(4) If Treasury determines that a reclamation has been made in error, Treasury will abandon the reclamation. If Treasury already has collected the amount of the reclamation from the reclamation debtor, Treasury will promptly refund to the reclamation debtor the amount of its payment.

(b) * * *

(4) * * *

(iii) If the Director, Check Resolution Division, or an authorized designee, finds, by a preponderance of the evidence, that the reclamation debtor is liable for the reclamation debt, Treasury will notify the reclamation debtor, in writing, of his or her decision. If the reclamation debtor has not paid the reclamation in full, Treasury will direct the Federal Reserve Bank to debit the financial institution's reserve account immediately, provided that at least 30 calendar days have passed from the date of the Notice of Direct Debit. If at least 30 calendar days have not yet passed from the date of the Notice of Direct Debit, Treasury will direct the Federal Reserve Bank to debit the financial institution's reserve account on the 30th calendar day from the date of the Notice of Direct Debit. The Federal Reserve Bank will provide advice of the debit to the reclamation debtor. If the appropriate Federal Reserve Bank is unable to debit a reclamation debtor's reserve account, Treasury will proceed to collect the reclamation debt through offset in accordance with § 240.10 and § 240.11.

* * * * *

Dated: December 23, 2009.

Richard L. Gregg,

Acting Fiscal Assistant Secretary.

[FR Doc. E9-31166 Filed 12-31-09; 8:45 am]

BILLING CODE 4810-35-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2007-1186; FRL-9099-8]

Approval and Promulgation of Air Quality Implementation Plan: Kentucky; Approval Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for the Paducah Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Kentucky State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standard for the Paducah 8-hour ozone attainment area, which comprises Marshall County and a portion of Livingston County (hereafter referred to as the "Paducah Area"). This maintenance plan was submitted to EPA on May 27, 2008, by the Commonwealth of Kentucky, and ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) through the year 2020. On July 15, 2009, the Commonwealth of Kentucky submitted supplemental information with updated emissions tables for this Area to reflect actual emissions. EPA proposes to find that this plan meets the statutory and regulatory requirements, and is consistent with EPA's guidance. EPA is proposing to approve the revisions to the Kentucky SIP, pursuant to Section 110 of the Clean Air Act (CAA). On March 12, 2008, EPA issued a revised ozone standard. The current action, however, is being taken to address requirements under the 1997 ozone standard. Requirements for the Paducah Area under the 2008 standard will be addressed in the future.

DATES: Comments must be received on or before February 3, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2007-1186, by one of the following methods:

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-2007-1186, 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, Chief, 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-2007-1186. 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" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. 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 material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [http://](http://www.regulations.gov)