

beginning in 2009, then to qualify, the individual's adjusted gross income shown on the preceding year's return must be less than \$250,000, rather than \$500,000. See section 6654(d)(1)(D)(iv). Pursuant to section 6654(d)(1)(D)(ii)(II), the Secretary shall prescribe by regulation the form, manner, and time for filing a certification. Additionally, section 6654(m) authorizes the Secretary to prescribe regulations as necessary to carry out the purposes of section 6654.

Income from a small business is defined in general terms in section 6654(d)(1)(D)(iii) as income from a trade or business the average number of employees of which was less than 500 for calendar year 2008. The temporary regulations specify that the trade or business must be a bona fide trade or business of which the individual was an owner. The temporary regulations provide that a trade or business may be organized as, or take the legal form of, a corporation, partnership, limited liability company, or sole proprietorship.

The temporary regulations also provide that a qualified individual shall file a certification with the IRS in the manner and at the time prescribed in forms, publications, or other guidance, such as Form 2210, "Underpayment of Estimated Tax by Individuals, Estates, and Trusts" (or any successor form and its instructions).

The temporary regulations will be applicable for taxable years beginning in 2009. The reduced percentage in section 6654(d)(1)(D) is limited to taxable years beginning in 2009 and does not apply to taxable years beginning before or after 2009.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. For the applicability of the Regulatory Flexibility Act, see the cross-referenced notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

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

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

■ **Par. 2.** Section 1.6654-2 is amended by:

■ 1. Revising paragraph (a) introductory text.

■ 2. Redesignating paragraph (a)(1) as paragraph (a)(1)(i).

■ 3. Adding new paragraphs (a)(1)(ii) and (f).

The additions and revision read as follows:

§ 1.6654-2 Exceptions to imposition of the addition to the tax in the case of individuals.

(a) [Reserved]. For further guidance, see § 1.6654-2T(a).

(1)(i) * * *

(ii) [Reserved]. For further guidance, see § 1.6654-2T(a)(1)(ii).

* * * * *

(f) [Reserved]. For further guidance, see § 1.6654-2T(f).

■ **Par. 3.** Section 1.6654-2T is added to read as follows:

§ 1.6654-2T Exceptions to imposition of the addition to the tax in the case of individuals (temporary).

(a) *In general.* The addition to the tax under section 6654 will not be imposed for any underpayment of any installment of estimated tax if, on or before the date prescribed for payment of the installment, the total amount of all payments of estimated tax made equals or exceeds the lesser of the amount in § 1.6654-2(a)(1) or the amount in § 1.6654-2(a)(2).

(1)(i) [Reserved]. For further guidance, see § 1.6654-2(a)(1)(i).

(ii) *Special rule for taxable years beginning in 2009.* For any taxable year beginning in 2009, for a qualified individual, the amount described in § 1.6654-2(a)(1)(i) is reduced to 90 percent of that amount.

(A) *Qualified individual* means any individual whose adjusted gross income shown on the individual's return for the preceding taxable year is less than \$500,000 and who certifies, as prescribed in paragraph (a)(1)(ii)(D) of this section, that more than 50 percent

of the gross income shown on the return for the preceding taxable year was income from a small business.

(B) *Income from a small business* means income from the operation of a bona fide trade or business of which the individual was an owner during calendar year 2009, and that on average had fewer than 500 employees in calendar year 2008.

(C) The trade or business may be organized as, or take the legal form of, a corporation, partnership, limited liability company, or sole proprietorship.

(D) A qualified individual shall file a certification of the individual's qualification in the manner and at the time prescribed by the Internal Revenue Service in forms, publications, or other guidance.

(a)(2) through (e) [Reserved]. For further guidance, see § 1.6654-2(a)(2) through (e).

(f) *Effective/applicability date.*

Paragraph (a) of this section applies to any taxable year beginning in 2009.

(g) *Expiration date.* The applicability of paragraph (a) of this section expires on or before February 26, 2013.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: February 18, 2010.

Michael F. Mundaca,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2010-4126 Filed 2-26-10; 8:45 am]

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DEPARTMENT OF JUSTICE

28 CFR Part 43

[AG Order No. 3141-2010]

Recovery of Cost of Hospital and Medical Care and Treatment Furnished by the United States; Delegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends Department of Justice regulations to increase the settlement and waiver authority delegated to heads of departments and agencies of the United States responsible for the furnishing of hospital, medical, surgical, or dental care. This change responds to the increase in medical costs since 1992, when the current level of delegated settlement and waiver authority was established, and will further the efficient operation of the government.

DATES: *Effective Date:* March 1, 2010.

FOR FURTHER INFORMATION CONTACT: Phyllis J. Pyles, Director, Torts Branch, Civil Division, Department of Justice, Washington, DC 20530, telephone (202) 616-4252.

SUPPLEMENTARY INFORMATION: This rule amending 28 CFR part 43 represents the first increase since 1992 of the settlement and waiver authority delegated to the departments and agencies of the United States responsible for the furnishing of hospital, medical, surgical, or dental care. During the intervening period, the cost of medical care and treatment has increased substantially. That increase warrants a corresponding increase in settlement and waiver authority to further the efficient operation of the government.

Administrative Procedure Act

This rule relates to a matter of agency management or personnel and therefore is exempt from the usual requirements of prior notice and comment and a thirty-day delay in effective date. See 5 U.S.C. 553(a)(2).

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. A Regulatory Flexibility Analysis was not required to be prepared for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

Executive Order 12866: Regulatory Planning and Review

This rule has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, § 1(b), "Principles of Regulation." This rule is limited to agency organization, management, and personnel as described by Executive Order 12866, § (3)(d)(3), and therefore is not a "regulation" or "rule" as defined by that Executive Order. Accordingly, this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132: Federalism

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132,

the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, or innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a "rule" for purposes of the reporting requirement of 5 U.S.C. 801.

List of Subjects in 28 CFR Part 43

Claims, Health care.

■ Accordingly, by virtue of the authority vested in the Attorney General by law, including 42 U.S.C. 2651-2653, Executive Order 11060 (3 CFR, 1959-1963 Comp. p. 651), part 43 of title 28 of the Code of Federal Regulations is amended as follows:

PART 43—RECOVERY OF COST OF HOSPITAL AND MEDICAL CARE AND TREATMENT FURNISHED BY THE UNITED STATES

■ 1. The authority citation for part 43 continues to read as follows:

Authority: Sec. 2, 76 Stat. 593; 42 U.S.C. 2651-2653; E.O. 11060, 3 CFR, 1959-1963 Comp. p. 651.

■ 2. In § 43.3, paragraphs (a)(2), (a)(3), and (b) are revised to read as follows:

§ 43.3 Settlement and waiver of claims.

- (a) * * *
- (2) Compromise or settle and execute a release of any claim, not in excess of \$300,000, which the United States has for the reasonable value of such care and treatment; or
- (3) Waive and in this connection release any claim, not in excess of \$300,000, in whole or in part, either for the convenience of the Government, or if the head of the Department or Agency, or his or her designee, determines that collection would result in undue hardship upon the person who suffered the injury or disease resulting in the care and treatment described in § 43.1.
- (b) Claims in excess of \$300,000 may be compromised, settled, waived, and released only with the prior approval of the Department of Justice.

* * * * *

Dated: February 23, 2010.

Eric H. Holder, Jr.,

Attorney General.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2009-0964; FRL-9116-8]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; NO_x Budget Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Illinois State Implementation Plan (SIP) that would terminate the provisions of the Nitrogen Oxides (NO_x) Budget Trading Program that apply to electric generating units. EPA is no longer operating the NO_x Budget Trading Program as a compliance option under the NO_x SIP Call. These sources are now subject to provisions in a newer set of approved Illinois rules that address EPA's Clean Air Interstate Rule (CAIR). For these reasons, the sunset of the NO_x Budget Trading Program for these sources merely deactivates duplicative rule language.

DATES: This direct final rule will be effective April 30, 2010, unless EPA receives adverse comments by March