term capital gain because that would have been the character of the gain if the non-section 1256 position had been disposed of on the day prior to establishing the identified mixed straddle.

(iii) *Analysis of straddle gain and loss.* On February 10, Year 2, the gain of $475 ($975 proceeds minus $500 fair market value on the day prior to entering into the identified mixed straddle) on the non-section 1256 position attributable to the identified mixed straddle period is offset by the $500 loss on the section 1256 contract. The net loss of $25 from the identified mixed straddle is recognized and treated as 60% long-term capital loss and 40% short-term capital loss because it is attributable to the section 1256 contract. See § 1.1092(b)–3T(b)(4).

Example 3. (i) *Facts.* On January 3, Year 1, A purchases 100 shares of Index Fund for $1,000 ($10 per share). The Index Fund shares are actively traded personal property and are not section 1256 contracts. As of the close of the day on June 24, Year 2, the fair market value of 100 shares of Index Fund is $1,200. On June 25, Year 2, A enters into a short regulated futures contract (Futures Contract) referenced to the same index referenced by Index Fund. Futures Contract is a section 1256 contract and A makes a valid election to treat the shares of Index Fund and Futures Contract as an identified mixed straddle. On December 31, Year 2, the fair market value of A's shares of Index Fund is $1,520 and Futures Contract has lost $300. On January 10, Year 3, A closes out Futures Contract at a loss of $400 when the fair market value of 100 shares of Index Fund is $1,590. On November 20, Year 3, A disposes of all 100 shares of Index Fund for $1,600.

(ii) *Year 2 analysis.* On June 24, Year 2, A has held the Index Fund shares for longer than the long-term holding period, and the $200 of unrecognized gain on the Index Fund shares as of June 24, Year 2, will be characterized as long-term gain under paragraph (a) of this section when the gain is recognized. On December 31, Year 2, Futures Contract is marked to market under section 1256(a)(1). Under paragraph (a) of this section and § 1.1092(b)–3T(b)(4), the loss on Futures Contract of $300 is netted with the $320 unrecognized gain on the Index Fund shares that arose while the identified mixed straddle was in place. Because this unrecognized gain is greater than the deemed realized section 1256 loss, the loss on Futures Contract is treated as a short-term capital loss. The loss, however, will be disallowed in Year 2 under paragraph (c) of this section and the loss deferral rules of section 1092(a) because the unrecognized gain in the Index Fund shares that arose while the identified mixed straddle was in place exceeds the deemed realized loss. Even if this gain were only $250 on December 31, Year 2, the deemed realized loss on Futures Contract would be disallowed because there is $200 of unrecognized gain in the Index Fund shares from the time A held the shares prior to establishing the identified mixed straddle.

(iii) *Year 3 analysis.* When A closes out the Futures Contract on January 10, Year 3, the entire amount of the section 1256 $300 loss that was disallowed on December 31, Year 2, continues to be deferred under paragraph (c) of this section. On November 20, Year 3, A recognizes $200 long-term capital gain from the pre-identified mixed straddle period, and $400 short-term capital gain, $390 of which arose during the identified mixed straddle period and $10 of which arose after the identified mixed straddle was closed. See § 1.1092(b)–2T(a)(1) and paragraph (b) of this section. In Year 3, A recognizes the $300 short-term capital loss from Futures Contract disallowed in Year 2 and the $100 loss accrued on Futures Contract in Year 3 because A no longer holds any positions that were part of an identified mixed straddle.

Example 4. (i) *Facts.* On March 1, Year 1, A purchases a 10-year U.S. Treasury Note (Note) at original issue for $100, which is the stated redemption price at maturity of Note. As of the close of the day on March 1, Year 3, Note has a fair market value of $105. On March 2, Year 3, A enters into a regulated futures contract (Futures Contract) that provides A with a short position in U.S. Treasury Notes and A makes a valid election to treat Note and Futures Contract as an identified mixed straddle. A closes her position in Futures Contract on April 15, Year 3, at a $2 loss. On April 15, Year 3, Note has a fair market value of $108. On December 31, Year 3, Note has a fair market value of $106. A holds Note until it matures on February 28, Year 10.

(ii) *Year 3 analysis.* A has $5 of unrealized gain attributable to Note prior to the day the identified mixed straddle was established. Because A acquired a long-term holding period in Note by March 1, Year 3, the $5 of gain will be characterized as long-term capital gain under paragraph (a) of this section when it is recognized. Under § 1.1092(b)–3T(b)(4), when A closes out Futures Contract on April 15, Year 3, the loss of $2 on Futures Contract is netted with the gain of $3 on Note that arose while the identified mixed straddle was in place. Because this gain on Note exceeds the realized loss on Futures Contract, the loss on Futures Contract is disallowed in Year 3 under paragraph (c) of this section. Further, under paragraph (c) of this section and section 1092(a)(1), on December 31, Year 3, the disallowed loss of $2 on Futures Contract cannot be recognized because it is less than the total unrecognized gain of $6 on Note on December 31, Year 3.

(iii) *Year 10 analysis.* When Note matures in Year 10, the $5 of unrecognized long-term capital gain that arose prior to the identified mixed straddle is recognized. Because A receives $100 upon the maturity of Note, A also recognizes a $5 long-term capital loss on Note, for a net gain of $0 (zero). In addition, the termination of all positions in the identified mixed straddle releases the $2 loss disallowed in Year 3 on Futures Contract. The loss on Futures Contract is treated as short-term capital loss in Year 10 under § 1.1092(b)–3T(b)(4).

(e) *Effective/applicability date.* The rules of this section apply to all section 1092(b)(2) identified mixed straddles established after August 18, 2014.

§ 1.1092(b)–6T [Removed]

■ **Par. 4.** Section 1.1092(b)–6T is removed.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: July 1, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–17009 Filed 7–17–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9679]

RIN 1545–AJ93

Information Reporting by Passport Applicants

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide information reporting rules for certain passport applicants. These final regulations apply to certain individuals applying for passports (including renewals) and provide guidance to such individuals about the information that must be included with their passport applications.

DATES: *Effective Date:* These regulations are effective on July 18, 2014.

Applicability Date: For dates of applicability, see § 301.6039E–1(d).

FOR FURTHER INFORMATION CONTACT: Rosy Lor at (202) 317–6933 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 26, 2012, the Internal Revenue Service (IRS) and the Department of Treasury (Treasury Department) published in the **Federal Register** (77 FR 3964) a notice of proposed rulemaking (REG–208274–86) (the proposed regulations) that proposed amendments to 26 CFR part 301 under section 6039E of the Internal Revenue Code (Code). Section 6039E provides rules concerning information reporting by U.S. passport and permanent resident applicants, and requires specified federal agencies to provide certain information to the IRS.

The proposed regulations set forth the information a U.S. citizen applying for a U.S. passport (passport applicant),

other than a citizen who applies for an official passport, diplomatic passport, or passport for use on other official U.S. government business, must provide pursuant to section 6039E. They do not address information reporting by permanent resident applicants. The proposed regulations also withdrew a prior notice of proposed rulemaking (REG–208274–86, 1993–1 CB 822) published in the **Federal Register** (57 FR 61373) on December 24, 1992. The proposed regulations are proposed to be effective for applications submitted after the date final regulations are published in the **Federal Register**.

Comments were received on the proposed regulations. No public hearing was requested or held. After consideration of the comments, this Treasury decision adopts the proposed regulations with minor revisions as described in this preamble.

Explanation and Summary of Comments

Scope of Information Reporting by Passport Applicants

The proposed regulations require a passport applicant, other than an individual who applies for an official passport, diplomatic passport, or passport for use on other official U.S. government business, to provide certain information with his or her passport application pursuant to section 6039E. Specifically, the applicant must provide his or her full name and, if applicable, previous name; permanent address and, if different, the applicant's mailing address; taxpayer identifying number (TIN); and date of birth. A commentator requested that the scope of information be limited to the passport applicant's name, TIN, if any, and foreign country of residence, if any. The final regulations do not adopt this comment. Section 6039E(b)(4) grants the Secretary the authority to require any additional information as he may prescribe. The Department of State (State Department) requires the items of information required by these final regulations as part of its application process. Accordingly, the IRS and the Treasury Department believe that requiring this information is not unduly burdensome to the applicant.

Penalty for Failure to Provide Information

The proposed regulations provide guidance on the circumstances under which the IRS may impose a $500 penalty on a passport applicant who fails to provide the required information. Under the proposed regulations, before assessing the penalty, the IRS will provide to the passport applicant written notice of the potential assessment of the penalty, and the applicant has 60 days (90 days if the notice is addressed to an applicant outside of the United States) to respond to the notice. If the passport applicant demonstrates to the satisfaction of the Commissioner or the Commissioner's delegate that the failure to provide the required information is due to reasonable cause and not due to willful neglect, after considering all the surrounding circumstances, then the IRS will not assess the penalty.

A commentator requested clarification with respect to when the period for responding begins to run. In response to the comment, the final regulations provide that a passport applicant has 60 days from the date of the notice of potential assessment of the penalty, or 90 days from such date if the notice is addressed to an applicant outside the United States, to respond to the notice.

A commentator requested that additional guidance be provided with respect to the factors that will be considered in determining whether a passport applicant has established reasonable cause for the failure to provide the required information. The comment was not adopted because this factual determination by the IRS is made on a case-by-case basis and involves consideration of all the surrounding circumstances.

Other Comments Received

Commentators requested that the proposed regulations be withdrawn because they may unduly affect the right of U.S. citizens to travel and apply for a U.S. passport. The IRS and the Treasury Department coordinated with the State Department in promulgating the proposed and final regulations. These regulations do not affect the manner in which the State Department processes passport applications, and Code section 6039E requires information reporting by passport applicants for tax administration purposes. Accordingly, the comments were not adopted.

The proposed regulations provide that the rules would apply to passport applications submitted after the date of publication of the Treasury decision adopting these rules as final regulations. A commentator requested that the regulations be effective for applications submitted after January 1st of the year following the date the regulations are published, rather than for applications submitted after the date the final regulations are published, on grounds that section 7805(b) of the Code requires such a delay of the effective date. This comment was not adopted. Section 7805(b), as amended in 1996 by the Taxpayer Bill of Rights 2, only applies with respect to regulations which relate to statutory provisions enacted on or after July 30, 1996. Because section 6039E was enacted in 1986, section 7805(b) does not apply to these final regulations. Furthermore, even if the version of section 7805(b) cited by the commentator were to apply, section 7805(b) does not require the requested delay of the effective date. This is so because the final regulations apply to passport applications submitted after July 18, 2014, which is not before January 26, 2012, the date of the proposed regulations. See section 7805(b)(1)(B). Accordingly, these final regulations adopt the effective/applicability date included in the proposed regulations.

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. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information 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.

Drafting Information

The principal author of this regulation is Rosy Lor of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Seals and insignia, Statistics, Taxes.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 is amended by adding an entry in numerical order to read in part as follows:

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

Section 301.6039E–1 also issued under 26 U.S.C. 6039E.

■ **Par. 2.** Section 301.6039E–1 is added to read as follows:

§ 301.6039E–1 Information reporting by passport applicants.

(a) *In general.* Every individual who applies for a U.S. passport or the renewal of a passport (passport applicant), other than a passport for use in diplomatic, military, or other official U.S. government business, shall include with his or her passport application the information described in paragraph (b)(1) of this section in the time and manner described in paragraph (b)(2) of this section.

(b) *Required information*—(1) *In general.* The information required under paragraph (a) of this section shall include the following information:

(i) The passport applicant's full name and, if applicable, previous name;

(ii) The passport applicant's permanent address and, if different, mailing address;

(iii) The passport applicant's taxpayer identifying number (TIN), if such a number has been issued to the passport applicant. A TIN means the individual's social security number (SSN) issued by the Social Security Administration. A passport applicant who does not have an SSN must enter zeros in the appropriate space on the passport application; and

(iv) The passport applicant's date of birth.

(2) *Time and manner for furnishing information.* A passport applicant must provide the information required by this section with his or her passport application, whether by personal appearance or mail, to the Department of State (including United States Embassies and Consular posts abroad).

(c) *Penalties*—(1) *In general.* If the information required by paragraph (b)(1) of this section is incomplete or incorrect, or the information is not filed in the time and manner described in paragraph (b)(2) of this section, then the passport applicant may be subject to a penalty equal to $500 per application. Before assessing a penalty under this section, the IRS will provide to the passport applicant written notice of the potential assessment of the $500 penalty, requesting the information being sought, and offering the applicant an opportunity to explain why the information was not provided with the passport application. A passport applicant has 60 days from the date of the notice of the potential assessment of the penalty (90 days from such date if the notice is addressed to an applicant outside the United States) to respond to the notice. If the passport applicant demonstrates to the satisfaction of the Commissioner (or the Commissioner's delegate) that the failure is due to reasonable cause and not due to willful neglect, after considering all the surrounding circumstances, then the IRS will not assess the penalty.

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

Example. C, a citizen of the United States, makes an error in supplying information on his passport application. Based on the nature of the error and C's timely response to correct the error after being contacted by the IRS, the Commissioner concludes that the mistake is due to reasonable cause and not due to willful neglect. Accordingly, no penalty is assessed.

(d) *Effective/applicability date.* This section applies to passport applications submitted after July 18, 2014.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: June 26, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–16944 Filed 7–17–14; 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–2013–0008; T.D. TTB–120; Ref: Notice No. 139]

RIN 1513–AC02

Establishment of the Upper Hiwassee Highlands Viticultural Area

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

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 690-square mile ''Upper Hiwassee Highlands'' viticultural area in Cherokee and Clay Counties, North Carolina, and Towns, Union, and Fannin Counties, Georgia. The viticultural area does not lie within or contain any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective August 18, 2014.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

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 FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated December 10, 2013, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) authorizes 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) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

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 having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area