Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and the Treasury Department participated in their development.

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 continues to read in part as follows:

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

Section 1.382–3T also issued under 26 U.S.C. 382(g)(4)(C) and 26 U.S.C. 382(m).

* * *

■ **Par. 2.** Section 1.382–3 is amended by revising paragraph (j)(17) to read as follows:

§ 1.382–3 Definitions and rules relating to a 5-percent shareholder.

* * * * *

(j) * * *

(17) *Effective/applicability date.* [Reserved]. For further guidance, see § 1.382–3T(j)(17).

* * * * *

■ **Par. 3.** Section 1.382–3T is added to read as follows:

§ 1.382–3T Definitions and rules relating to a 5-percent shareholder (temporary).

(a) through (j)(16) [Reserved]. For further guidance see § 1.382–3(a) through (j)(16).

(17) *Effective/applicability date.* This paragraph (j) generally applies to issuances or deemed issuances of stock in taxable years beginning on or after November 4, 1992. However, paragraphs (j)(11)(ii) and (j)(13) through (j)(15) of this section and *Examples 5* through *13* of paragraph (j)(16) of this section apply to testing dates occurring on or after October 22, 2013, other than with respect to the sale of a Program Instrument by the Treasury Department. For purposes of this paragraph (j)(17), a Program Instrument is an instrument issued pursuant to a Program, as defined in Internal Revenue Service Notice 2010–2 (2010–2 IRB 251 (December 16, 2009)) (see § 601.601(a)(2)(ii)(B) of this chapter), or a Covered Instrument, as defined in that Notice. Taxpayers may apply paragraphs (j)(11)(ii) and (j)(13) through (j)(15) of this section and *Examples 5* through *13* of paragraph (j)(16) of this section in their entirety (other than with respect to a sale of a Program Instrument by the Treasury Department) to all testing dates that are included in a testing period beginning before and ending on or after October 22, 2013. However, the provisions described in the preceding sentence may not be applied to any date on or before the date of any ownership change that occurred before October 22, 2013, under the regulations in effect before October 22, 2013, and they may not be applied as described in the preceding sentence if such application would result in an ownership change occurring on a date before October 22, 2013, that did not occur under the regulations in effect before October 22, 2013. See § 1.382–3(j)(14)(ii) and (iii), as contained in 26 CFR part 1 revised as of April 1, 1994 for the application of paragraph (j)(10) to stock issued on the exercise of certain options exercised on or after November 4, 1992, and for an election to apply paragraphs (j)(1) through (12) retroactively to certain issuances and deemed issuances of stock occurring in taxable years prior to November 4, 1992.

(18) *Expiration date.* This section 1.382–3T expires on or before July 28, 2017.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: July 18, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–17832 Filed 7–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9686]

RIN 1545–BF59

Material Advisor Penalty for Failure To Furnish Information Regarding Reportable Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the assessment of penalties against material advisors who fail to timely file a true and complete return. The regulations implement amendments made by the American Jobs Creation Act of 2004. These regulations affect material advisors responsible for disclosing reportable transactions.

DATES: *Effective Date:* These regulations are effective on July 31, 2014.

Applicability Date: For dates of applicability, see § 301.6707–1(f).

FOR FURTHER INFORMATION CONTACT: James G. Hartford at (202) 317–6844 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Procedure and Administration Regulations (26 CFR Part 301) under section 6707. On December 22, 2008, a notice of proposed rulemaking (REG–160872–04) was published in the **Federal Register** (73 FR 78254) relating to the penalty under section 6707 of the Internal Revenue Code imposed on material advisors for failure to furnish information regarding reportable transactions (the proposed regulations). No comments were received from the public in response to the notice of proposed rulemaking. No public hearing was requested or held. The proposed regulations are adopted by this Treasury decision with revisions as discussed in this preamble.

Section 6707 was originally added to the Code by section 141(b) of the Tax Reform Act of 1984, Public Law 98–369, 98 Stat. 494 (July 18, 1984). At that time, section 6707 imposed a penalty for failing to timely register a tax shelter or for filing false or incomplete information with respect to the tax shelter registration. Section 301.6707–1T of the temporary regulations implementing the penalty was published shortly after section 6707 became law.

The American Jobs Creation Act of 2004, Public Law 108–357, 118 Stat. 1418 (AJCA), was enacted on October 22, 2004. As amended by AJCA, section 6707 imposes a penalty on a material advisor required to file a return under section 6111(a) with respect to a reportable transaction who fails to timely file such a return or who files the return with false or incomplete information. Section 6707, as amended, is effective for returns due after October 22, 2004.

In 2007, the Treasury Department and the IRS issued Rev. Proc. 2007–21, 2007–1 CB 613 (February 26, 2007), (see § 601.601(d)(2)(ii)(*b*)), of this chapter, to provide procedures for requesting rescission of a penalty assessed under section 6707 for failure by a material advisor to disclose a reportable transaction and under section 6707A for failure by a taxpayer to disclose a reportable transaction. For each penalty, the revenue procedure provides the deadline by which a person must

request rescission; the information the person must provide in the rescission request; where the person must submit the rescission request; and the rules governing requests for additional information from the person requesting rescission. In addition, the revenue procedure sets forth the factors that weigh in favor of and against granting rescission. For example, one factor described in the revenue procedure as weighing in favor of rescission of the section 6707 penalty is filing a Form 8918, ''Material Advisor Disclosure Statement,'' after the due date but before the taxpayer files a Form 8886, ''Reportable Transaction Disclosure Statement,'' identifying the material advisor as an advisor with respect to the transaction or before the IRS contacts the material advisor concerning the reportable transaction.

On December 22, 2008, proposed regulations implementing the penalty under section 6707 were published. The proposed regulations set forth the rules for application of the penalty under section 6707, including examples and relevant definitions such as the definition of incomplete information, false information, and when a failure is intentional so that the higher penalty with respect to listed transactions will apply. The proposed regulations also adopted the factors described in Rev. Proc. 2007–21 that will be considered when determining whether a request for rescission of a section 6707 penalty with respect to a non-listed reportable transaction will be granted. In addition, the proposed regulations generally restated the existing authority of the Secretary to prescribe procedures for requesting rescission by revenue procedure or other guidance published in the Internal Revenue Bulletin. The proposed regulations did not address the procedures for requesting rescission in Rev. Proc. 2007–21, such as the deadline, the information provided, where to submit the request, and requests for additional information.

Explanation of Revisions

These regulations remove temporary regulations § 301.6707–1T (TD 7964), 49 FR 32712, which implement section 6707 as enacted in 1984. Amendments to section 6707 made by section 816 of AJCA render temporary regulations § 301.6707–1T obsolete.

The final regulations make several substantive changes to the proposed regulations. First, a new paragraph (iii) has been added under § 301.6707–1(a)(1)(B) regarding the penalty in the case of listed transactions. This new paragraph clarifies that only one section 6707 penalty will apply in the case of a transaction that is both a listed transaction and a reportable transaction other than a listed transaction, and that the penalty that applies in these cases is the higher penalty for listed transactions under § 301.6707–1(a)(1)(B). Section 301.6707–1(a)(1) of the final regulations has also been clarified to provide that if there is a failure with respect to more than one reportable or listed transaction, a material advisor will be subject to a separate penalty for each transaction.

In addition, § 301.6707–1(a)(2), which describes gross income derived from a transaction for purposes of determining the penalty in the case of a listed transaction, has been clarified to provide that only fees from a listed transaction for which the advisor is a material advisor are taken into account for purposes of computing the penalty. A new example 4 has been added to illustrate this clarification.

Finally, § 301.6707–1(e) of the proposed regulations is modified to provide additional guidance on rescission of the penalty under section 6707. Under Rev. Proc. 2007–21 and § 301.6707–1(e)(3)(i) of the proposed regulations, filing a Form 8918, ''Material Advisor Disclosure Statement,'' after the due date will be a factor weighing strongly in favor of rescission unless the form is filed after the taxpayer files a Form 8886, ''Reportable Transaction Disclosure Statement,'' identifying the material advisor as an advisor with respect to the transaction or after the IRS contacts the material advisor concerning the reportable transaction. The final regulations modify this rule to also consider whether circumstances indicate that the material advisor delayed filing the Form 8918, recognizing that the mere filing of a Form 8886 before filing the Form 8918, alone, is not indicative of whether rescission is appropriate. Accordingly, the final regulations provide that if a material advisor unintentionally failed to file a Form 8918, but then files a properly completed form with the IRS, that filing will be a factor that weighs in favor of rescission of the section 6707 penalty if the facts suggest that the material advisor did not delay filing the form until after the IRS had taken steps to identify that person as a material advisor with respect to that particular transaction. The final regulations further provide that the late filing will not weigh in favor of rescission if the facts and circumstances suggest that the material advisor delayed filing the Form 8918 until after the material advisor's client filed its Form 8886 (or successor form) disclosing the client's participation in the particular reportable transaction.

In addition, the final regulations clarify the language of the proposed regulations in a few other ways not intended to be substantive, including clarification of examples.

Effect on Other Documents

Sections 4.04, 4.05, and 4.06 of Revenue Procedure 2007–21, relating to the factors for rescission of the section 6707 penalty, are superseded as of July 31, 2014.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. The IRS has determined that sections 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) do 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) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received on the proposed regulations.

Drafting Information

The principal author of these regulations is James G. Hartford of the 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.

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 continues to read in part as follows:

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

■ **Par. 2.** Section 301.6707–1 is added to read as follows:

§ 301.6707–1 Failure to furnish information regarding reportable transactions.

(a)(1) *In general.* A material advisor who is required to file a return under section 6111(a) of the Internal Revenue Code (Code) with respect to any reportable transaction who fails to file a timely return in accordance with § 301.6111–3(e) or who files a return with false or incomplete information with respect to the reportable transaction will be subject to a penalty. A material advisor who fails to file a timely return or who files a false or incomplete return with respect to more than one reportable transaction will be subject to a separate section 6707 penalty for each transaction.

(i) *Reportable transactions.* The amount of the penalty for failing to timely file a return under section 6111(a), or filing the return with false or incomplete information with respect to any reportable transaction other than a listed transaction is $50,000.

(ii) *Listed transactions.* (A) *In general.* The amount of the penalty for failing to timely file a return under section 6111(a), or filing the return with false or incomplete information with respect to a listed transaction is the greater of $200,000 or 50 percent of the gross income derived by the material advisor with respect to aid, assistance, or advice that is provided with respect to the listed transaction before the date the return is filed under section 6111.

(B) *Intentional action or failure.* If the failure or action subject to the penalty is with respect to a listed transaction and is intentional, the penalty is the greater of $200,000 or 75 percent of the gross income derived by the material advisor with respect to aid, assistance, or advice that is provided with respect to the listed transaction before the date the return is filed under section 6111.

(C) *Transaction that is both a listed transaction and reportable transaction other than a listed transaction.* In the case of a penalty imposed under section 6707 with respect to a transaction that is both a listed transaction and a reportable transaction other than a listed transaction, the penalty under this paragraph (a)(1)(ii), and not the penalty under paragraph (a)(1)(i) of this section, will apply.

(2) *Gross income derived by the material advisor.* For purposes of calculating the amount of the penalty with respect to a listed transaction, the gross income derived by the material advisor will be determined in accordance with § 301.6111–3(b)(3)(ii) of this chapter. If a person is a material advisor with regard to more than one type of listed transaction, the gross income derived from each type of listed transaction will be considered separately and will not be aggregated to determine the amount of any section 6707 penalty for failing to make a proper return under section 6111(a). Further, only gross income derived from listed transactions for which the advisor is a material advisor under section 6111 is taken into account for purposes of computing the penalty.

(b) *Definitions*—(1) *Derive.* The term ''derive'' is defined in § 301.6111–3(c)(3).

(2) *False information.* For purposes of this section, the term ''false information'' means information provided on a Form 8918, ''Material Advisor Disclosure Statement'' (or successor form), filed with the Internal Revenue Service (IRS) that is untrue or incorrect when the Form 8918 (or successor form) was filed. False information does not include information provided on a Form 8918 (or successor form) filed with the IRS that is immaterial or that is untrue or incorrect due to a mistake or accident after the exercise of reasonable care.

(3) *Incomplete information.* For purposes of this section, the term ''incomplete information'' means a Form 8918 (or successor form) filed with the IRS that does not provide the information required under § 301.6111–3(d). A Form 8918 (or successor form) filed with the IRS will not be considered incomplete when the information not provided on the form is immaterial or was not provided due to mistake or accident after the exercise of reasonable care. Whether information is immaterial will be determined based upon the facts and circumstances surrounding each failure to file or filing of an incomplete return. A material advisor who completes the form to the best of the material advisor's ability and knowledge after the exercise of reasonable effort to obtain the information will not be considered to have filed incomplete information within the meaning of this section. A Form 8918 (or successor form) will be considered to provide incomplete information when it omits information required to be provided under § 301.6111–3(d) or contains a statement that the omitted information will be provided upon request.

(4) *Intentional.* For purposes of this section, the failure to timely file a return or the submission of a return with false or incomplete information is intentional if—

(i) The material advisor knew of the obligation to file a return and knowingly did not timely file a return with the IRS; or

(ii) The material advisor filed a return knowing that it was false or incomplete.

(5) *Listed transaction.* The term ''listed transaction'' is defined in section 6707A(c)(2) of the Code and § 1.6011–4(b)(2) of this chapter.

(6) *Material Advisor.* The term ''material advisor'' is defined in section 6111(b)(1) of the Code and § 301.6111–3(b).

(7) *Reportable transaction.* The term ''reportable transaction'' is defined in section 6707A(c)(1) of the Code and § 1.6011–4(b)(1) of this chapter.

(c) *Assessment of penalty*—(1) *Intentional failure determined based on all the facts and circumstances.* Whether a material advisor intentionally failed to timely file a return or intentionally filed a false or incomplete return will be determined based upon all the facts and circumstances surrounding the non-filing or filing of a false and/or incomplete return. The higher penalty under the flush language of section 6707(b)(2) will not apply to any material advisor whose failure to timely file or whose furnishing of false or incomplete information was unintentional. The failure to timely file a return, or filing a return with false or incomplete information, will be considered unintentional if the material advisor subsequently files a true and complete return prior to the earlier of the date that any taxpayer files a Form 8886, ''Reportable Transaction Disclosure Statement'' (or successor form) identifying the material advisor with respect to the reportable transaction in question, or the date the IRS contacts the material advisor concerning the reportable transaction.

(2) *Individual liability in the case of more than one material advisor.* If there is more than one material advisor who is responsible for filing a return under section 6111 with respect to the same reportable transaction, a separate penalty under section 6707 may be assessed against each material advisor who fails to timely file or files a return with false or incomplete information. The determination of whether the failure or action subject to the penalty is intentional will be made individually for each material advisor.

(3) *Designation agreements.* A material advisor who is required to file a return under section 6111 and who is a party to a designation agreement within the meaning of § 301.6111–3(f) is subject to a penalty under section 6707 if the designated material advisor fails to file a return timely or files a return with false or incomplete information. In the case of a listed transaction, if the designated material advisor fails to file a return timely, or files a return with false or incomplete information, the nondesignated material advisor who is a

party to the designation agreement will not be treated as intentionally failing to file the return, or intentionally filing a return with false or incomplete information, unless the nondesignated material advisor knew or should have known that the designated material advisor would fail to file a true and complete return timely.

(d) *Examples.* The rules of paragraphs (a) through (c) of this section are illustrated by the following examples:

Example 1. Advisor A becomes a material advisor as defined under section 6111(b)(1) and § 301.6111–3(b) in the fourth quarter of 2014 with respect to a reportable transaction other than a listed transaction, and Advisor B also becomes a material advisor in the same quarter with respect to the same reportable transaction. Advisors A and B fail to timely file the Form 8918 with respect to the reportable transaction. Under paragraph (a)(1)(ii) of this section, the penalty for failure by a material advisor to timely disclose a reportable transaction other than a listed transaction is $50,000. Because the section 6707 penalty applies to each material advisor independently under paragraph (c)(2) of this section, Advisors A and B each are subject to a section 6707 penalty of $50,000.

Example 2. Same as *Example 1,* except that Advisor B timely files the Form 8918. Advisors A and B did not enter into a designation agreement. Accordingly, paragraph (c)(3) of this section does not apply and only Advisor A is subject to a $50,000 section 6707 penalty.

Example 3. Advisor C becomes a material advisor to Client X on January 5, 2015, with respect to a listed transaction. Advisor C derives $400,000 in gross income from his advice to Client X because he expects to receive that amount from Client X, even though he has not yet received that amount. On January 5, 2016, Advisor C becomes a material advisor to Client Y with respect to the same type of listed transaction. Advisor C derives $100,000 in gross income from his advice to Client Y because he expects to receive that amount from Client Y, even though he has not yet received that amount. At no time did Advisor C file a Form 8918 to disclose the listed transaction. For purposes of this example, assume that Advisor C's failure to file a Form 8918 was unintentional. Therefore, under paragraph (c)(2) of this section, Advisor C is subject to a section 6707 penalty based on the gross income derived from Client X and Client Y. Accordingly, Advisor C is subject to a penalty of $250,000 (50 percent of $500,000, the gross income derived from Clients X and Y).

Example 4. Same as *Example 3,* except that the gross income Advisor C expects to receive from his advice to Client Y (a C corporation) is $20,000. Because the material advisor fee threshold is not satisfied with respect to Client Y, Advisor C is not a material advisor to Client Y with respect to the listed transaction. Advisor C is, however, a material advisor with respect to Client X with respect to the same listed transaction. Therefore, Advisor C is subject to a section 6707 penalty with respect to the failure to timely file a Form 8918 disclosing the listed transaction. Although Advisor C provided advice with respect to two transactions that are the same type of listed transaction, Advisor C was only a material advisor with respect to advice provided to Client X. Therefore, under paragraph (c)(2) of this section Advisor C is subject to a section 6707 penalty based only on the gross income derived from Client X. Accordingly, Advisor C is subject to a penalty of $200,000 (50 percent of $400,000, the gross income derived from Client X).

Example 5. Same as *Example 3,* except that Advisor C files a Form 8918 disclosing the listed transaction on November 16, 2015. Because Advisor C becomes a material advisor to Client X on January 5, 2015, the Form 8918 is required to be filed on or before April 30, 2015 (the last day of the month that follows the end of the calendar quarter in which the advisor became a material advisor with regard to the reportable transaction). See § 301.6111–3(e). Therefore, Advisor C did not timely file the Form 8918. Advisor C is subject to a $200,000 penalty under section 6707 for his unintentional failure because, as of the date he filed the Form 8918, the gross income Advisor C had received or expected to receive with respect to advice relating to a listed transaction that was not disclosed only included $400,000 of gross income for advice to Client X. By the time that Advisor C provides advice to Client Y on January 5, 2016, Advisor C has disclosed the listed transaction.

Example 6. Same as *Example 3,* except that Advisor C files the Form 8918 on February 16, 2016, disclosing the listed transaction. Because Advisor C first becomes a material advisor with respect to the listed transaction on January 5, 2015, the Form 8918 is required to be filed on or before April 30, 2015 regardless of the fact that Advisor C is also a material advisor to a second client, Client Y, with respect to the same listed transaction. This is because under the facts of *Example 3,* Advisor C ''becomes'' a material advisor on January 5, 2015. The date on which a material advisor ''becomes'' a material advisor is determinative of the due date for the Form 8918 under § 301.6111–3(e). Therefore, when Advisor C files the Form 8918 on February 16, 2016, the form is not timely filed under section 6111. Under paragraph (c)(2) of this section, Advisor C is subject to a penalty under section 6707 of $250,000 (50 percent of $500,000) because, as of the date that the Form 8918 was filed, the gross income that Advisor C received or expected to receive as a material advisor with respect to a listed transaction that was not disclosed included gross income for advice to both Client X ($400,000) and Client Y ($100,000).

Example 7. Advisor D becomes a material advisor as defined under section 6111(b)(1) and § 301.6111–3(b) in the first quarter of 2016 with respect to a reportable transaction other than a listed transaction. Advisor D does not file a Form 8918 by April 30, 2016. The transaction is then identified as a listed transaction in published guidance on July 7, 2016. Advisor D knew that he had a new obligation to file a Form 8918 by October 31, 2016, and intentionally fails to file the Form 8918. Advisor D is subject to only one penalty, in the amount of the greater of $200,000, or 75 percent of the gross income he derived from the transaction, for intentionally failing to disclose the listed transaction in accordance with § 301.6111–3(d)(1) and (e).

Example 8. Same as *Example 7,* except that Advisor D filed a Form 8918 disclosing the listed transaction on October 15, 2016. As a result of that disclosure, Advisor D is not subject to the section 6707 penalty amount described in § 301.6707–1(a)(1)(ii). However, because Advisor D did not timely file a Form 8918 by April 30, 2016, the due date for the Form 8918 with respect to the reportable transaction for which Advisor D became a material advisor in the first quarter of 2016, Advisor D is subject to a section 6707 penalty of $50,000 as described in § 301.6707–1(a)(1)(i). The disclosure of the listed transaction does not correct Advisor D's initial failure to disclose the reportable transaction by April 30, 2016.

(e) *Rescission authority*—(1) *In general.* The Commissioner (or the Commissioner's delegate) may rescind the section 6707 penalty if—

(i) The violation relates to a reportable transaction that is not a listed transaction; and

(ii) Rescinding the penalty would promote compliance with the requirements of the Code and effective tax administration.

(2) *Requesting rescission.* The Secretary may prescribe the procedures for a material advisor to request rescission of a section 6707 penalty by guidance published in the Internal Revenue Bulletin.

(3) *Factors that weigh in favor of granting rescission.* In determining whether rescission would promote compliance with the requirements of the Code and effective tax administration, the Commissioner (or the Commissioner's delegate) will take into account the following list of factors that weigh in favor of granting rescission. This is not an exclusive list, and no single factor will be determinative of whether to grant rescission in any particular case. Rather, the Commissioner (or the Commissioner's delegate) will consider and weigh all relevant factors, regardless of whether the factor is included in this list.

(i) The material advisor, upon becoming aware of the failure to disclose a reportable transaction in accordance with section 6111 and the regulations thereunder, filed a complete and proper, albeit untimely, Form 8918 (or successor form). This factor weighs in favor of rescission if circumstances suggest that the material advisor did not delay in filing an untimely but properly completed Form 8918 (or successor form) until after the IRS had taken steps

to identify the person as a material advisor with respect to the reportable transaction. For instance, this factor will weigh strongly in favor of rescission if the material advisor files the Form 8918 (or successor form) prior to the date the IRS contacts the material advisor concerning the reportable transaction. However, this factor will not weigh in favor of rescission if the facts and circumstances indicate that the material advisor delayed filing the Form 8918 (or successor form) until after a taxpayer files a Form 8886 (or successor form) identifying the material advisor with respect to the reportable transaction in question.

(ii) The material advisor's failure to disclose the reportable transaction properly was due to an unintentional mistake of fact that existed despite the material advisor's reasonable attempts to ascertain the correct facts with respect to the transaction.

(iii) The material advisor has an established history of properly disclosing other reportable transactions and complying with other tax laws, including compliance with any requests made by the IRS under section 6112, if applicable.

(iv) The material advisor demonstrates that the failure to include on any return or statement any information required to be disclosed under section 6111 arose from events beyond the material advisor's control.

(v) The material advisor cooperates with the IRS by providing timely information with respect to the transaction at issue that the Commissioner (or the Commissioner's delegate) may request in consideration of the rescission request. In considering whether a material advisor cooperates with the IRS, the Commissioner (or the Commissioner's delegate) will take into account whether the material advisor meets the deadlines described in guidance published in the Internal Revenue Bulletin for complying with requests for additional information.

(vi) Assessment of the penalty weighs against equity and good conscience, including whether the material advisor demonstrates that there was reasonable cause for, and the material advisor acted in good faith with respect to, the failure to timely file or to include on any return any information required to be disclosed under section 6111. An important factor in determining reasonable cause and good faith is the extent of the material advisor's efforts to determine whether there was a requirement to file the return required under section 6111. The presence of reasonable cause, however, will not necessarily be determinative of whether to grant rescission.

(4) *Absence of favorable factors weighs against rescission.* The absence of facts establishing the factors described in paragraph (e)(3) of this section weighs against granting rescission. The presence or absence of any one of these factors, however, will not necessarily be determinative of whether to grant rescission; rather the determination will be made in consideration of all of the factors and any other facts and circumstances.

(5) *Factors not considered.* In determining whether to grant rescission, the Commissioner (or the Commissioner's delegate) will not consider doubt as to collectability of, or liability for, the penalties (except that the Commissioner (or the Commissioner's delegate) may consider doubt as to liability to the extent it is a factor in the determination of reasonable cause and good faith).

(f) *Effective/applicability date.* The rules of this section apply to returns the due date for which is after July 31, 2014.

§ 301.6707–1T [Removed]

■ **Par. 3.** Section 301.6707–1T is removed.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: June 26, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–17932 Filed 7–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0319]

RIN 1625–AA09

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Treasure Island, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Treasure Island Causeway Bridge, mile 119.0, Treasure Island, Florida. Changing the schedule from on signal to three times an hour during the week and twice an hour on the weekends will reduce vehicle traffic issues caused by the bridge openings while providing for the reasonable needs of navigation.

DATES: This rule is effective September 2, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0319]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email, Mr. Gene Stratton, Chief Operations Section, Seventh Coast Guard District Bridge Branch at 305–415–6740, email *allen.e.stratton@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking
§ Section Symbol

A. Regulatory History and Information

On November 13, 2013, we published a notice of proposed rulemaking (NPRM) entitled, ''Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Treasure Island, FL'' in the **Federal Register** (78 FR 67999). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The Treasure Island Causeway Bridge crosses the Gulf Intracoastal Waterway at mile 119.0, Treasure Island, Pinellas County, Florida. This change would reduce the vehicle traffic back-ups caused by the opening of the bridge while providing for the reasonable needs of navigation.

The Treasure Island Bridge is a double-leaf bascule bridge that provides a vertical clearance of 21 feet in the closed position.

The City of Treasure Island requested a change to the Treasure Island Causeway Bridge regulation due to an increase in vehicle traffic in this area. Based on the bridge logs, this bridge opens on average less than twice an hour on signal. Fewer scheduled openings at regular intervals between 7