

## Appendix to Commodity Pool Operator Annual Report—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Bowen and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2016–18400 Filed 8–4–16; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG–105005–16]

RIN 1545–BN33

#### Election Into the Partnership Audit Regime Under the Bipartisan Budget Act of 2015

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** This document contains proposed regulations pursuant to section 1101(g)(4) of the Bipartisan Budget Act of 2015 regarding an election to apply the new partnership audit regime enacted by that act to certain returns of a partnership. The regulations provide the time, form, and manner for making this election. The regulations affect any partnership that wishes to elect to have the new partnership audit regime apply to its returns filed for certain taxable years beginning before January 1, 2018.

**DATES:** Written or electronic comments and requests for a public hearing must be received by October 4, 2016.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–105005–16), Room 5207, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. 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–105005–16), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG–105005–16). The public hearing will be held in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Jenni M. Black at (202) 317–6834 (not a toll-free number).

## Background and Explanation of Provisions

This notice of proposed rulemaking cross-references to temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register**. The temporary regulations amend the Procedure and Administration Regulations (26 CFR part 301) to provide rules for the time, form, and manner of making the election under section 1101(g)(4) of the Bipartisan Budget Act of 2015, Public Law 114–74 (BBA) for taxable years beginning after November 2, 2015 and before January 1, 2018. The BBA was enacted on November 2, 2015, and was amended by the Protecting Americans from Tax Hikes Act of 2015, Public Law 114–113, div. Q (PATH Act) on December 18, 2015.

The text of the temporary regulations also serves as the text of these proposed regulations. The Background and Explanation of Provisions contained in the preamble to the temporary regulations explains these proposed regulations.

### Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that the collection of information contained in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the collection of information contained in this regulation is voluntary and will only occur if a partnership elects into the new partnership audit regime enacted by the BBA for taxable years beginning after November 2, 2015 and before January 1, 2018. In addition, the new partnership audit regime is new, and the IRS has yet to provide guidance on the application of the new partnership audit regime generally. As a result, the IRS estimates that there will not be a substantial number of small entities that elect into the regime for an eligible taxable year. However, even if a substantial number of small entities elect into the new BBA regime for an eligible taxable year, the election under this regulation requires only a short statement containing limited and readily available information. Therefore, the IRS estimates that the economic impact on electing small entities will not be

significant. Accordingly, a regulatory flexibility analysis is not required.

Pursuant to section 7805(f) of the Code, these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Comments and Request for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury request comments on all aspects of the proposed rules. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

### Drafting Information

The principal author of these proposed regulations is Jenni M. Black of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in their development.

### List of Subjects in 26 CFR Part 301

Income taxes, Penalties, Reporting and recordkeeping requirements.

### Proposed 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 as follows:

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

Section 301.9100–22 also issued under section 1101(g)(4) of Pub. L. 114–74.

\* \* \* \* \*  
■ **Par. 2.** Section 301.9100–22 is added to read as follows:

**§ 301.9100–22 Time, form, and manner of making the election under section 1101(g)(4) of the Bipartisan Budget Act of 2015 for taxable years beginning after November 2, 2015 and before January 1, 2018.**

[The text of this proposed section is the same as the text of § 301.9100–22T

published elsewhere in this issue of the **Federal Register**].

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

#### RIN 2900-AP73

#### Release of VA Records Relating to HIV

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its medical regulations governing the release of VA medical records. Specifically, VA proposes to eliminate the restriction on protecting a negative test result for the human immunodeficiency virus (HIV). HIV testing is a common practice today in healthcare and the stigma of testing that may have been seen in the 1980s when HIV was first discovered is no longer prevalent. Continuing to protect negative HIV tests causes delays and an unnecessary burden to veterans when VA tries to share electronic medical information with the veterans' outside providers for their treatment through health information exchange efforts. For this same reason, VA would also eliminate negative test results of sickle cell anemia as protected medical information. This proposed rule would eliminate the current barriers to electronic medical information exchange.

**DATES:** Comments must be received on or before October 4, 2016.

**ADDRESSES:** Written comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov); by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AP73—Release of VA Records Relating to HIV." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In

addition, during the comment period, comments may be viewed online through the Federal Docket Management System at [www.Regulations.gov](http://www.Regulations.gov).

**FOR FURTHER INFORMATION CONTACT:**

Stephania H. Griffin, Director, Information Access and Privacy Office (10P2C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (704) 245-2492. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The Veterans Omnibus Health Care Act of 1976, Public Law 94-581, codified at 38 U.S.C. 7332, ensured confidentiality of medical records relating to drug abuse, alcoholism, and sickle cell anemia by establishing sanctions for unauthorized disclosure of information while meeting the legitimate needs for disclosure under certain conditions. In 1988, Public Law 100-322 added to this list the confidentiality of medical records relating to infection with the human immunodeficiency virus (HIV). Section 7332 states that records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) of any patient or subject relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia shall only be disclosed under certain circumstances. The intent of section 7332 is to protect the medical records of those veterans who are undergoing treatment or have a positive diagnosis for the conditions stated in this section. Due to the stigma associated with HIV and HIV testing at the time, VA determined that the results of HIV testing should be protected regardless of the outcome of the test. However, HIV testing is common practice today. In the past, VA required health care providers to counsel patients as part of the informed consent process prior to ordering HIV testing. Currently, HIV testing is considered part of routine health care under VA policy, similar to other types of diagnostic laboratory testing, and while oral informed consent is still required no pre-testing counseling is required.

The continued protection of negative HIV tests has posed significant obstacles to the sharing of medical information between VA and non-VA medical providers, and also places an undue burden on veterans. If VA conducts an HIV test on a veteran, VA is prevented from electronically disclosing the veteran's medical information to the veteran's non-VA medical provider,

even if the test result is negative, unless VA first obtains a specific written authorization that meets title 38 regulatory requirements from the veteran to share the medical information. Medical information sharing is crucial to treating a veteran who has outside medical providers and is significant in making certain that a veteran is not prescribed a medication that may negatively interact with other medications. Under section 7332, sickle cell anemia is also considered protected medical information. As with negative HIV test results, the prohibition on sharing negative test results for sickle cell anemia has posed challenges for the timely provision of medical care. This rulemaking would eliminate the current restrictions on sharing negative test results of veterans for HIV and sickle cell anemia and would be in line with the intent of the statute. As for positive HIV or sickle cell anemia test results, VA would continue to require a qualifying written authorization from the veteran prior to disclosure of such information.

#### Section 1.460 Definitions

Section 1.460 defines terms that apply to §§ 1.460 through 1.499, which cover the release of information from VA records relating to drug abuse, alcoholism or alcohol abuse, infection with HIV, or sickle cell anemia. The term "HIV" is defined as the presence of laboratory evidence for human immunodeficiency virus infection. The definition for "HIV" also states that "[f]or the purposes of §§ 1.460 through 1.499 of this part, the term includes the testing of an individual for the presence of the virus or antibodies to the virus and information related to such testing (including tests with negative results)." We propose to modify this definition because VA would only restrict the release of health information for positive results. The proposed definition would define "HIV" to mean "the presence of laboratory evidence for human immunodeficiency virus infection. The term does not include negative results from the testing of an individual for the presence of the virus or antibodies to the virus, or such testing of an individual where the results are negative." As previously stated in this rulemaking, negative results are not protected under this provision.

The term "patient" is defined in part in § 1.460 to state that it includes an individual or subject who is tested for infection with HIV or sickle cell anemia. We propose to amend this definition to state that the term 'patient' for purpose of infection with the human immune