

passive category (that is, the income category), and a \$10 CODL account with respect to the passive category (that is, the income category). No member of the group has foreign-source income or loss in year 1. The group apportions its interest expense according to the tax book value method.

(ii) On November 6, year 1, the group identifies S's assets and the group's assets (including S's assets) expected to produce foreign-source general category income. Use of end-of-the-year values will not create substantial distortions in determining the relative values of S's and the group's relevant assets on November 6, year 1. The group determines that S's relevant assets have a tax book value of \$2,000 and a fair market value of \$2,200. Also, the group's relevant assets (including S's assets) have a tax book value of \$8,000. On November 6, year 1, S has no assets expected to produce U.S. source income.

(iii) Under paragraph (c)(2)(ii) of this section, S takes a \$10 COFL account for the general category (\$40 × \$2000/\$8000) and a \$5 CSLL account for the general category with respect to the passive category (\$20 × \$2000/\$8000). S does not take any portion of the CODL account. The limitation described in paragraph (c)(2)(iii) of this section does not apply because the aggregate of the COFL and CSLL accounts for the general category that are apportioned to S (\$15) is less than 150 percent of the actual fair market value of S's general category foreign assets (\$2,200 × 150%).

*Example 2.* (i) Assume the same facts as in *Example 1*, except that the fair market value of S's general category foreign assets is \$4 as of November 6, year 1.

(ii) Under paragraph (c)(2)(iii) of this section, S's COFL and CSLL accounts for the general category must be reduced by \$9, which is the excess of \$15 (the aggregate amount of the accounts apportioned under paragraph (c)(2)(ii) of this section) over \$6 (150 percent of the \$4 actual fair market value of S's general category foreign assets). S thus takes a \$4 COFL account for the general category (\$10 – (\$9 × \$10/\$15)) and a \$2 CSLL account for the general category with respect to the passive category (\$5 – (\$9 × \$5/\$15)).

*Example 3.* (i) Assume the same facts as in *Example 1*, except that S also has assets that are expected to produce U.S. source income.

(ii) On November 6, year 1, the group identifies S's assets and the group's assets (including S's assets) expected to produce U.S. source income. Use of end-of-the-year values will not create substantial distortions in determining the relative values of S's and the group's relevant assets on November 6, year 1. The group determines that S's relevant assets have a tax book value of \$3,000 and a fair market value of \$2,500. Also, the group's relevant assets (including S's assets) have a tax book value of \$6,000.

(iii) Under paragraph (c)(2)(ii) of this section, S takes a \$5 CODL account (\$10 × \$3,000/\$6,000), in addition to the COFL and CSLL accounts determined in *Example 1*. The limitation described in paragraph (c)(2)(iii) of this section does not apply because the CODL account that is apportioned to S (\$5) is less than 150 percent

of the actual fair market value of S's U.S. assets (\$2,500 × 150%).

(d) *Predecessor and successor.* A reference to a member includes, as the context may require, a reference to a predecessor or successor of the member. See § 1.1502–1(f).

(e) *Effective/applicability date.* This section applies to consolidated return years beginning after *December 21, 2007*. Taxpayers may choose to apply the provisions of this section relating to overall domestic losses to other consolidated return years beginning after December 31, 2006, as well. For rules relating to overall foreign losses and separate limitation losses in consolidated return years beginning on or before *December 21, 2007* see 26 CFR 1.1502–9 (revised as of April 1, 2007).

(f) *Expiration date.* The applicability of this section expires on *December 20, 2010*.

**Linda E. Stiff,**  
*Deputy Commissioner for Services and Enforcement.*

Approved: December 14, 2007.

**Eric Solomon,**  
*Assistant Secretary of the Treasury (Tax Policy).*  
[FR Doc. E7–24877 Filed 12–20–07; 8:45 am]  
**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 300

[TD 9370]

RIN 1545–BG88

#### User Fees Relating to Enrollment To Perform Actuarial Services

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to user fees for the initial and renewed enrollment to become an enrolled actuary. The charging of user fees is authorized by the Independent Offices Appropriations Act (IOAA) of 1952.

**DATES:** *Effective Date:* These regulations are effective on December 21, 2007.

*Applicability Date:* For date of applicability, see § 300.0(c).

**FOR FURTHER INFORMATION CONTACT:** Concerning cost methodology, Eva J. Williams at (202) 435–5514; concerning the final regulations, Kimberly Mattonen at (202) 622–4940 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

## Background

The Employee Retirement Income Security Act of 1974 (Pub. L. 93–406) ordered the Secretary of Labor and the Secretary of Treasury to establish a Joint Board for the Enrollment of Actuaries. 29 U.S.C. 1241. The Joint Board shall, by regulation, establish reasonable standards and qualifications for persons performing actuarial services and the Joint Board shall enroll such individuals who, upon application, satisfy such standards and qualifications. 29 U.S.C. 1242(a). The regulations at 20 CFR Part 901, Subpart B address eligibility for enrollment and renewal of enrollment. Pursuant to the Joint Board's bylaws, the Secretary of the Treasury is to appoint an Executive Director to the Board who has the delegated authority to administer the Board's enrollment program. The Secretary of the Treasury has delegated these functions to the Internal Revenue Service and the costs of these activities are borne by the Service.

20 CFR 901.11(d)(4) provides for a reasonable non-refundable fee for applications for renewal of enrollment. Form 5434–A, “Application for Renewal of Enrollment” presently states that the renewal fee is \$25. Final 26 CFR 300.7 and 300.8 establish separate \$250 user fees for the enrollment and renewal of enrollment process. These fees represent the IRS's costs in administering the program, and the \$250 fee for renewal of enrollment will supplant the \$25 fee.

## Authority

The IOAA of 1952 (31 U.S.C. 9701) authorizes agencies to prescribe regulations that establish charges for services provided by the agency. The charges must be fair and be based on the costs to the Government, the value of the service to the recipient, the public policy or interest served, and other relevant facts. The IOAA of 1952 provides that regulations implementing user fees are subject to policies prescribed by the President, which are currently set forth in OMB Circular A–25, 58 FR 38142 (July 15, 1993) (the OMB Circular).

The OMB Circular encourages user fees for government-provided services that confer benefits on identifiable recipients over and above those benefits received by the general public. Under the OMB Circular, an agency that seeks to impose a user fee for government-provided services must calculate its full cost of providing those services. In general, a user fee should be set at an amount in order for the agency to recover the cost of providing the special service, unless the Office of

Management and Budget grants an exception. Pursuant to the guidelines in the OMB Circular, the IRS has calculated its cost of providing services under the enrolled actuaries program. The IRS has determined that the full cost of administering the enrollment and re-enrollment processes is \$250 per enrolled actuary per process.

The final user fees will be implemented under the authority of the IOAA of 1952 and the OMB Circular.

On October 31, 2007, a notice of proposed rulemaking (REG-134923-07) was published in the **Federal Register** [72 FR 61583]. 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.

### Special Analyses

It has been determined that this final rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This certification is based on the information that follows. These final rules affect enrolled actuaries, of which there are currently 4,600 active. The economic impact of these regulations on any small entity would result from a small entity, including a sole proprietor, being required to pay a fee prescribed by these regulations in order to obtain a particular service. The appropriate NAICS codes for enrolled actuaries relate to Insurance Other (524298) and Administrative and General Management Consulting, Including Financial Consulting (541611). Entities identified under these codes are considered small under the SBA size standards (13 CFR 121.201) if their annual revenue is less than \$6.5 million. The IRS estimates that as many as 2,070 enrolled actuaries may be operating as or employed by small entities. Therefore, the IRS has determined that these final rules will affect a substantial number of small entities. The dollar amounts of the fees are not, however, substantial enough to have a significant economic impact on any entity subject to the fees. The amounts of the fees are commensurate with, if not less than, the amount charged by professional organizations. Persons who elect to apply for enrollment or renewal of enrollment also receive benefits from obtaining the enrolled actuary designation. Pursuant to section 7805(f) of the Internal Revenue Code, the NPRM

preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact.

### Drafting Information

The principal author of these regulations is Kimberly A. Mattonen of the Office of the Associate Chief Counsel (Procedure & Administration).

### List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR Part 300 is amended as follows:

#### PART 300—USER FEES

■ **Paragraph 1.** The authority citation for part 300 continues to read as follows:

**Authority:** 31 U.S.C. 9701.

■ **Par. 2.** Section 300.0 is amended as follows:

■ 1. Paragraphs (b)(7) and (b)(8) are added.

■ 2. Paragraph (c) is revised.

■ The additions and revision read as follows:

#### § 300.0 User fees, in general.

\* \* \* \* \*

(b) \* \* \*

(7) Enrolling an enrolled actuary.

(8) Renewing the enrollment of an enrolled actuary.

(c) *Effective/applicability date.* This part 300 is applicable March 16, 1995, except that the user fee for processing offers in compromise is applicable November 1, 2003; the user fee for the special enrollment examination, enrollment, and renewal of enrollment for enrolled agents is applicable November 6, 2006; the user fee for entering into installment agreements on or after January 1, 2007, is applicable January 1, 2007; the user fee for restructuring or reinstatement of an installment agreement on or after January 1, 2007, is applicable January 1, 2007; and the user fee for the enrollment and renewal of enrollment for enrolled actuaries is applicable January 22, 2008.

■ **Par. 3.** Section 300.7 is added to read as follows:

#### § 300.7 Enrollment of enrolled actuary fee.

(a) *Applicability.* This section applies to the initial enrollment of enrolled actuaries with the Joint Board for the Enrollment of Actuaries pursuant to 20 CFR Part 901.

(b) *Fee.* The fee for initially enrolling as an enrolled actuary with the Joint

Board for the Enrollment of Actuaries is \$250.00.

(c) *Person liable for the fee.* The person liable for the enrollment fee is the applicant filing for enrollment as an enrolled actuary with the Joint Board for the Enrollment of Actuaries.

■ **Par. 5.** Section 300.8 is added to read as follows:

#### § 300.8 Renewal of enrollment of enrolled actuary fee.

(a) *Applicability.* This section applies to the renewal of enrollment of enrolled actuaries with the Joint Board for the Enrollment of Actuaries pursuant to 20 CFR Part 901.

(b) *Fee.* The fee for renewal of enrollment as an enrolled actuary with the Joint Board for the Enrollment of Actuaries is \$250.00.

(c) *Person liable for the fee.* The person liable for the renewal of enrollment fee is the person renewing their enrollment as an enrolled actuary with the Joint Board for the Enrollment of Actuaries.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 07-6156 Filed 12-18-07; 2:32 pm]

BILLING CODE 4830-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 51 and 52

[EPA-HQ-OAR-2001-0004; FRL-8508-4]

RIN-2060-AN88

### Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes proposed revisions to the regulations governing the major new source review (NSR) programs mandated by parts C and D of title I of the Clean Air Act (CAA). These changes clarify the "reasonable possibility" recordkeeping and reporting standard of the 2002 NSR reform rules. The "reasonable possibility" standard identifies for sources and reviewing authorities the criteria under which an owner or operator of a major stationary source undergoing a physical change or change in the method of operation that does not