T.D. 8018

TITLE 26—INTERNAL REVENUE.—CHAPTER 1, SUBCHAPTER A, PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953; PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Information Returns with respect to Energy Grants and Financing

AGENCY: Internal Revenue Service, Treasury.

ACTION; Final regulations.

SUMMARY: This document contains final regulations relating to information returns with respect to energy grants and financing. Changes to the applicable tax law were made by section 203(b) of the Crude Oil Windfall Profit Tax Act of 1980 [Pub. L. 96-223, 1980-3 C.B. 1, 31]. The final regulations provide rules to be followed by persons who administer a Federal, State, or local program a principal purpose of which is to provide subsidized energy financing (as defined in section 23(c)(10)) or grants for projects designed to conserve or produce energy.

DATES: These final regulations are effective for financing and grants made after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

BACKGROUND

This document contains amendments to the Income Tax Regulations (26 CFR Part 1). They are necessary to implement section 203(b) of the Crude Oil Windfall Profit Tax Act of 1980 which added section 6050D, relating to information returns with respect to energy grants and financing, to the Internal Revenue Code of 1954.

These regulations are issued under the authority contained in Code sections 6050D and 7805 (94 Stat. 259, 26 U.S.C. 6050D; 6A Stat. 91, 26 U.S.C. 7805).

On August 2, 1984, the Federal Register published proposed regulations (49 FR 30971) [LR-23-84, 1984-2 C.B. 899] to add a new §1.6050D-1 to the Income Tax Regulations (26 CFR Part 1). One oral comment was received. There were no requests for a public hearing. After consideration of this comment regarding the proposed amendments, the proposed amendments are adopted as revised by this Treasury decision.

Final §1.6050D-1 provides rules relating to the information that is required to be furnished on Form 6497 (the information return relating to subsidized energy financing and nontaxable grants for projects designed to conserve or produce energy) and Form 1099-G (the information return relating to taxable grants). Because of the comment received, the final regulations provide that information is required only with regard to a taxpayer receiving subsidized financing or a grant with respect to section 38 property (as defined in section 48 and the regulations thereunder) or a dwelling unit which is located in the United States. Forms 6497 and 1099-G are required to be filed with the Internal Revenue Service Center designated in the form's instructions by the last day of February following the calendar year for which the return (reporting payments made during such calendar year) is required.

The final regulations require that returns be filed for each calendar year beginning after December 31, 1983. Forms 6497 and 1099 have been available for filing for prior years. (See Announcement 83-1, 1983-2 I.R.B. 29.) Although these final regulations do not so require, in cases where payers and administrators have adequate records for 1981, 1982, or 1983, the Service requests that they file the appropriate forms for those years.

EXECUTIVE ORDER 12291; REGULATORY FLEXIBILITY ACT; AND PAPERWORK REDUCTION ACT

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Furthermore, pursuant ot 5 U.S.C. 605(b) the Secretary of the Treasury has certified that this rule will not have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is therefore not required under the Regulatory Flexibility Act (5 U.S.C. 605(b)). The reporting requirements added by this document have been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 1545-0232.

DRAFTING INFORMATION

The principal author of these regulations is Beverly A. Baughman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

* * * * *

Adoption of amendments to the regulations.

Accordingly, 26 CFR Parts 1 and 602 are amended as follows:

Paragraph 1. A new §1.6050D-1 is added immediately after §1.6050B-1 to read as follows:

§1.6050D-1 Information returns relating to energy grants and financing.

(a) *Requirement of reporting.* Every person who administers a Federal, State, or local program a principal purpose of which is to provide subsidized energy financing (as defined in section 23(c)(1)(C) and the regulations thereunder) or grants for projects designed to conserve or produce energy shall make an information return for each calendar year beginning December 31, 1983. That return shall be made on Form 6497 or, in the case of taxable grants, on Form 1099-G. (The latter form is prescribed pursuant to section 65041 as well as section 6050D.) The return shall include the following information:

(1) The name, address, and taxpayer identification number of each taxpayer receiving financing or a grant made under such program during the calendar year with respect to either section 38 property (as defined in section 48 and the regulations thereunder) or a dwell-

ing unit which is located in the United States;

(2) The aggregate amount of financing and grants received by the taxpayer under the program during the calendar year;

(3) In the case of returns for financing or nontaxable grants, the name of the program under which the financing or grants are made; and

(4) Any other information that is required by the form.

For purposes of this section, the term "person" means the officer or employee having control of the program, or the person appropriately designated for purposes of section 6050D and this section.

(b) *Time and place for filing*. Returns required to be made under this section shall be filed with the Internal Revenue Service Center designated in the instructions for Form 6497 or 1099-G by the last day of the first February following the calendar year for whch the return (reporting payments made during such calendar year) is required.

Par. 2. Paragraph (c) of §602.101 is amended by inserting in the appropriate place in the table

"§1.6050D-1(a) .... 1545-0232".

This treasury decision is issued under the authority contained in sections 6050D and 7805 of the Internal Revenue Code of 1954 (94 Stat. 259, 26 U.S.C. 6050D; 68A Stat. 917, 26 U.S.C. 7805).

ROSCOE L. EGGER, JR.,
Commissioner of Internal Revenue.

Approved March 4, 1985.

RONALD A. PEARLMAN,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on March 28, 1985, 8:45 a.m., and published in the issue of the Federal Register for March 29, 1985, 50 F.R. 12531)

Section 6050E.—State and Local Income Tax Refunds

26 CFR 5f.6050E-1: Reporting of State and local income tax refunds.

Printing of substitutes for Forms 1096, 1098, 1099, 5498, W-2G, and W-3G. See Rev. Proc. 85-25, page 558.

Section 6050H.—Returns Relating To Mortgage Interest Received In Trade Or Business From Individuals

Printing of substitutes for Forms 1096, 1098, 1099, 5498, W-2G, and W-3G. See Rev. Proc. 85-25, page 558.

Section 6050I.—Returns Relating to Cash Received in Trade or Business

26 CFR 1.6050I(T): Returns relating to cash in excess of $10,000 received in a trade or business.

T.D. 8025

TITLE 26—INTERNAL REVENUE.—CHAPTER I, SUBCHAPTER A, PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953; PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Returns relating to cash in excess of $10,000 received in a trade or business

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the requirement of reporting cash in excess of $10,000 received in a trade or business. Changes to the applicable law were made by the Tax Reform Act of 1984 [Pub. L.98-369, 1984-3 C.B. (Vol. 1) 1]. The regulations affect any person who, in the course of a trade or business in which such person is engaged, receives cash in excess of $10,000 in 1 transaction (or 2 or more related transactions). The regulations provide these persons with the guidance necessary to comply with the law. In addition, the text of the temporary regulations set forth in this document serves as the text of the proposed rulemaking in the Proposed Rules section of this issue of the FEDERAL REGISTER.

DATES: The regulations are effective with respect to cash payments received after December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3238 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains temporary regulations relating to the reporting of cash in excess of $10,000 received in a trade or business under section 6050I of the Internal Revenue Code of 1954, as added by section 146 of the Tax Reform Act of 1984 (98 Stat. 685). The regulations provide that any person engaged in a trade or business who receives, in the course of that trade or business, cash in excess of $10,000 in 1 transaction (or 2 or more related transactions) must file an information return with respect to that transaction. The regulations also provide that a person who makes an information return must furnish a statement to each person identified on the return. The temporary regulations will remain in effect until superseded by final regulations on this subject. The regulations are issued under the authority of sections 6050I and 7805 of the Internal Revenue Code of 1954 (98 Stat. 685, 26 U.S.C. 6050I; 68A Stat. 917, 26 U.S.C. 7805).

EXPLANATION OF PROVISIONS

Section 6050I provides that an information return must be made by any person engaged in a trade or business who receives, in the course of that trade or business, cash in excess of $10,000 in 1 transaction (or 2 or more related transactions). The return must be filed with the Service by the 15th day following the date of receipt of the reportable cash payment. Any person required to make an information return under section 6050I must also furnish a statement to any person identified on the return showing the aggregate amount of reportable cash received from that person. The statement must be furnished on or before January 31 of the year following the calendar year in which the cash is received.

Section 6050I(c)(1)(A) provides that the reporting requirements of section 6050I will not apply to cash received in a transaction reported under Title 31 of the United States Code if the Secretary determines that reporting under section 6050I would duplicate the reporting to the Treasury under Title 31. On February 6, 1985, final regulations effective

child's tax under section 1(i), as a result of an adjustment to the taxable income of the child's parents or another child's net unearned income, results in additional tax being imposed by section 1(i) on the child, is the child subject to interest and penalties on such additional tax?

A-19. Any additional tax resulting from an adjustment to the taxable income of the child's parents or the net unearned income of another child shall be treated as an underpayment of tax and interest shall be imposed on such underpayment as provided in section 6601. However, the child shall not be liable for any penalties on the underpayment resulting from additional tax being imposed under section 1(i) due to such an adjustment.

Example (6). D and M are the parents of C, a child under the age of 14. D and M file a joint return for 1988 and report taxable income of $69,900. C has unearned income of $3,000 and no itemized deductions for 1988. C properly reports a total tax liability of $635 for 1988. This amount is the sum of the allocable parental tax of $560 on C's net unearned income of $2,000 (the excess of $3,000 over the sum of $500 standard deduction and the first $500 of taxable unearned income) plus $75 (the tax imposed on C's first $500 of taxable unearned income). *See* A-3. One year later, D and M's 1988 tax return is adjusted on audit by adding an additional $1,000 of taxable income. No adjustment is made to the amount reported as C's net unearned income for 1988. However, the adjustment to D and M's taxable income causes C's tax liability under section 1(i) for 1988 to be increased by $50 as a result of the phase-out of the 15 percent rate bracket. *See* A-20. In addition to this further tax liability, C will be liable for interest on the $50. However, C will not have to pay any penalty on the delinquent amount.

Miscellaneous rules.

Q-20. Does the phase-out of the parent's 15 percent rate bracket and personal exemptions under section 1(g), if applicable, have any effect on the calculation of the allocable parental tax imposed on a child's net unearned income under section 1(i)?

A-20. Yes. Any phase-out of the parent's 15 percent rate bracket or personal exemptions under section 1(g) is given full effect in determining the tax that would be imposed on the sum of the parent's taxable income and the total net unearned income of all children of the parent. Thus, any additional tax on a child's net unearned income resulting from the phase-out of the 15 percent rate bracket and the personal exemptions is reflected in the tax liability of the child.

Q-21. For purposes of calculating a parent's tax liability or the allocable parental tax imposed on a child, are other phase-outs, limitations, or floors on deductions or credits, such as the phase-out of the $25,000 passive loss allowance for rental real estate activities under section 469(i)(3) or the 2 percent of AGI floor on miscellaneous itemized deductions under section 67, affected by the addition of a child's net unearned income to the parent's taxable income?

A-21. No. A child's net unearned income is not taken into account in computing any deduction or credit for purposes of determining the parent's tax liability or the childs allocable parental tax. Thus, for example, although the amounts allowable to the parent as a charitable contribution deduction, medical expense deduction, section 212 deduction, or a miscellaneous itemized deduction are affected by the amount of the parent's adjusted gross income, the amount of these deductions that is allowed does not change as a result of the application of section 1(i) because the amount of the parent's adjusted gross income does not include the child's net unearned income. Similarly, the amount of itemized deductions that is allowed to a child does not change as a result of section 1(i) because section 1(i) only affects the amount of tax liability and not the child's adjusted gross income.

Q-22. If a child is unable to obtain information concerning the tax return of the child's parents directly from such parents, how may the child obtain information from the parent's tax return which is necessary to determine the child's tax liability under section 1(i)?

A-22. Under section 610(e)(1)(A)(iv), a return of a parent shall, upon written request, be open to inspection or disclosure to a child of that individual (or the child's legal representative) to the extent necessary to comply with section 1(i). Thus, a child may request the Internal Revenue Service to disclose sufficient tax information about the parent to the child so that the child can properly file his or her return.

Lawrence B. Gibbs,
Commissioner of Internal Revenue.

Approved August 25, 1987.

O. Donaldson Chapoton,
Acting Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on September 3, 1987 at 8:45 a.m., and published in the issue of the Federal Register on September 4, 1987, 52 F.R. 33577)

Part IV.—Credits Against Tax
Subpart A.—Nonrefundable Personal Credits

Section 23.—Residential Energy Credit

26 CFR 1.23-1: Residential energy credit.

T.D. 8146

TITLE 26—INTERNAL REVENUE.—CHAPTER 1, SUBCHAPTER A—PART I.—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953.—PART 601.—STATEMENT OF PROCEDURAL RULES

Residential Energy Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 23 (formerly section 44C) of the Internal Revenue Code relating to the residential energy credit. Changes to the applicable tax law were made by sections 201(a), 202, and 203 of the Crude Oil Windfall Profit Tax Act of 1980 [Pub.L. 96-223, 1980-3 C.B. 1, 28]. These regulations provide the public with the guidance needed to comply with the law. The document also amends final regulations under section 6050D, relating to information returns with respect to energy grants and financing, because the residential energy credit has expired.

DATES:

EFFECTIVE DATES

The redesignations, revisions and amendments are effective for taxable

years beginning after December 31, 1983, except as follows:

Effective Dates	
For expenditures made after April 19, 1977	Addition of the first sentence in new paragraph (d)(3)(i) of §1.44C-1. Addition of a new paragraph (d)(3)(ii) to §1.44C-1.
For expenditures made after April 19, 1977, in taxable years beginning before January 1, 1980	Revision of the second sentence in paragraph (d)(2)(i) of §1.44C-1. Revision within example (2) in paragraph (h)(4) of §1.44C-3.
For expenditures made after April 19, 1977, in taxable years beginning before January 1, 1984	Amendments to redesignated paragraph (d)(4)(ii) of §1.44C-1.
For expenditures made after December 31, 1979	Addition of a new sentence at the beginning of the flush material in paragraph (b)(2) of §1.44C-2. Amendment to paragraph (d)(4)(iv) of §1.44C-2. Amendment to the flush material in paragraph (e)(1)(iii) of §1.44C-2. Amendment to the first sentence of paragraph (e)(2) of §1.44C-2. Revisions in paragraph (f)(1) of §1.44C-2. Revisions and addition within paragraph (f)(4) of §1.44C-2. Amendments to paragraphs (g) and (h) of §1.44C-2. Revisions of the heading and text of paragraph (j)(1) of §1.44C-3.
For expenditures made in taxable years beginning after December 31, 1979	Revision of paragraph (c) of §1.44C-1.
For financing or grants made in taxable years beginning after December 31, 1980	Addition of a new paragraph (i) to §1.44C-2. Revision of paragraph (c) of §1.44C-3.
For taxable years beginning after December 31, 1980	Redesignation of and within paragraph (d)(3) of §1.44C-1. Addition of the second and third sentences in new paragraph (d)(3)(i) of §1.44C-1. Amendment to the first sentence of paragraph (e) of §1.44C-1, concerning the reference to paragraph (d)(3).
For financing and grants with respect to energy conservation expenditures and renewable energy source expenditures made after December 31, 1985	Amendments to §1.6050D-1.

The residential energy credit does not apply to expenditures made after December 31, 1985. However, any unused credit may be carried forward to taxable years beginning before January 1, 1988.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 31, 1985, the FEDERAL REGISTER published proposed regulations (50 FR 45423) [LR-73-80, 1985-2 C.B. 763] to the Income Tax Regulations (26 CFR Part 1) under section 23 (formerly section 44C) of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to sections 201(a), 202, and 203 of the Crude Oil Windfall Profit Tax Act of 1980 (Pub.L. 96-223, 94 Stat. 256, 258) and section 471 of the Tax Reform Act of 1984 (Pub.L. 98-369, 98 Stat. 825) [1984-3 C.B. (Vol.1)1]. A public hearing was held on February 14, 1986. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

In addition, on March 29, 1985, the FEDERAL REGISTER published final regulations (50 FR 12531) [T.D. 8018, 1985-1 C.B., 347] to the Income Tax Regulations (26 CFR Part 1) under section 6050D. These regulations are amended because the residential energy credit has expired. It does not apply to expenditures made after December 31, 1985.

SUMMARY OR COMMENTS IN GENERAL

Under section 23 a credit against Federal income tax is allowed for "qualified energy conservation expenditures" and "qualified renewable energy source expenditures."

Section 1.23-1(c) of the final regulations reflects the statutory increase of the credit for renewable energy source expenditures to 40 percent of up to $10,000 of expenditures, for a maximum credit of $4,000. Section 1.23-1(d)(3) provides that expenditures financed with subsidized energy financing or Federal, state or local nontaxable grants are not taken into account in computing the credit except to reduce the maximum amount of allowable expenditures.

Section 1.23-2(b) expands the definition of the term "renewable energy source expenditures." Certain expenditures for an onsite well drilled for any geothermal deposit are treated as renewable energy source expenditures, but only if the taxpayer has not elected under section 263(c) to deduct any portion of such expenditures.

Section 1.23-2(f) expands the definition of the term "solar energy property" (a category of "renewable energy source property") to include systems that use solar energy to pro-

duce electricity. In addition, certain solar roof panels, although structural components of the buildings in which they are installed, are treated as renewable energy source property.

SUBSIDIZED ENERGY FINANCING

Section 1.23-2(i)(1) of the final regulations defines subsidized energy financing. The definition clarifies that financing is subsidized if the interest rate or other terms of the financing provided to the taxpayer in connection with a government energy program or used to raise funds for the program are more favorable than the terms generally available commercially. In addition, financing is subsidized if the principal obligation of the financing provided to the taxpayer is reduced by funds provided under the program.

In example (5) of §1.23-2(i)(2), a taxpayer borrows $3,000 from a bank in order to purchase a solar water heating system. The bank uses $500 of the funds it receives under a Federal program, a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy, to reduce the principal obligation of the loan to the taxpayer to $2,500. The amount of subsidized energy financing is $3,000.

Many commentators objected to defining subsidized energy financing to include more than the amount of the actual subsidy received from a government program (*i.e.*, more than the $500 referred to in example (5) of §1.23-2(i)(2)). Another commentator objected to defining the term to include more than the amount of expenditures taken into account for purposes of determining the amount of financial assistance disbursed under a government energy program. In addition, some commentators criticized the retroactive application of the definition.

The final regulations retain the definition of subsidized energy financing included in the proposed regulations because that definition and its effect are supported by Code section 23(c)(10)(C), which was added to the Code by section 203(a) of the Windfall Profit Tax Act of 1980 ("Act"), and the language contained in the Conference Report explaining the section (H.R. Rep. No. 96-817, 96th Cong., 2d. Sess. 121 (1980) [1980-3 C.B., 245]). Section 23(c)(10)(C) defines subsidized energy financing as "*financing* provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy" (emphasis added). Thus, the definition refers to financing provided under a government program, not just the cost to a government of its subsidy with respect to the financing. In addition, the Conference Report states on page 121 [1980-3 C.B., 281] that "the purchaser of the eligible equipment must choose between the tax credit, on the one hand, and subsidized energy loans and nontaxable grants, on the other hand***. [T]he portion of the expenditures which is provided by subsidized energy financing [$3,000 in example (5)] is not to be eligible for a tax credit."

The effective date of the definition of subsidized energy financing contained in the final regulations is for financing made in taxable years beginning after December 31, 1980. This is the effective date provided by section 203(c) of the Act.

In defining subsidized energy financing section 1.23-2(i)(1) provides that the source from which the funds for a government energy program are derived is not a factor to be taken into account in determining whether the financing is subsidized. The definition of subsidized energy financing only requires that subsidized funds be made available under Federal, State and local programs. It does not distinguish among revenue sources financing such programs. Thus, below market loans provided through Federal, State or local government energy programs that are funded with amounts received from oil overcharge funds are subsidized energy financing as illustrated by example (2) in §1.23-2(i)(2). Several commentators suggested excluding such loans from the definition of subsidized energy financing. The final regulations do not adopt this suggestion because the purpose of adding section 23(c)(10) to the Code, as stated on page 121 of the Conference Report, was to prevent a taxpayer from taking both a tax credit with respect to expenditures made for eligible equipment and using subsidized energy loans under a Federal, State or local program to purchase such equipment. If a taxpayer is allowed a tax credit with respect to expenditures paid for with subsidized financing obtained through a government program the funds for which are derived from certain sources and not allowed a tax credit where the funds are derived from other sources, the purpose of section 23(c)(10) is thwarted.

NON-TAXABLE GRANTS

Section 1.23-1(i)(2) of the final regulations states that subsidized energy financing does not include grants, whether or not includible in gross income under section 61. One commentator thought that grants should be included within the definition of subsidized energy financing because grants provide taxpayers with a double benefit in the same manner as subsidized loans.

Section 23(c)(10)(C) defines subsidized energy financing as financing provided under a Federal, State or local program. The Conference Report under the Act, at page 121, states that "[g]rants which are taxable are not taken into account under these rules [relating to subsidized energy financing] because their taxation serves as a partial offset". However, with respect to non-taxable grants, section 23(c)(10)(B)(ii) provides that the dollar limits provided for in section 23(b)(1) and (2) with respect to energy conservation property or renewable energy source property, respectively, are reduced by the amount of any grants not included in the taxpayer's gross income. Thus, while non-taxable grants do not constitute subsidized energy financing they nevertheless are taken into account for purposes of reducing qualified expenditures. See §1.23-1(d)(3)(i) of the final regulations.

PERFORMANCE AND QUALITY STANDARDS

The proposed regulations contained performance and quality standards for energy-conserving components and solar energy property. Several commentators stated that some of the standards for solar energy property were unnecessary because they duplicate existing industry standards. In addition, the energy conservation property credit expired on December

31, 1985. Because those proposed standards would have applied only after their publication in the final regulations, they would serve no useful purpose. Accordingly, the proposed energy conservation property and the solar property standards are deleted from the final regulations.

REGULATORY FLEXIBILITY ACT; EXECUTIVE ORDER 12291; AND PAPERWORK REDUCTION ACT OF 1980

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Although a notice of proposed rulemaking soliciting public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The reporting requirements added by this document have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. The reporting requirements have been approved by OMB (control number 1545-0232).

Proposed amendments to the regulations

Accordingly, 26 CFR Parts 1, 601 and 602 are amended as follows:

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. *** Sections 1.23-1—1.23-6 also issued under 26 U.S.C. 23.

Par. 2. §1.44C-1 is redesignated as §1.23-1 and is amended as follows:

1. Paragraph (a) is amended—

a. By removing from the first sentence "Section 44C" and adding in its place the words "Section 23 or former section 44C",

b. By removing from the third sentence "§1.44C-3" and adding in its place "§1.23-3", and

c. By removing from the seventh sentence "§1.44C-3(h)" and adding in its place "§1.23-3(h)".

2. Paragraph (b) is amended by removing from the last sentence "§1.44C-2(a)" and adding in its place "§1.23-2(a)".

3. Paragraph (c) is revised to read as set forth below.

4. Paragraph (d) is amended—

a. By removing from the first sentence of paragraph (d)(2)(i) "§1.44C-3(h)" and adding in its place "§1.23-3(h)",

b. By revising the second sentence of paragraph (d)(2)(i) to read as set forth below,

c. By removing from the last sentence of paragraph (d)(2)(ii) "§1.44C-3(h)" and adding in its place "§1.23(h)",

d. By redesignating paragraph (d)(3)(i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), and (x) as paragraph (d)(4)(ii)(A), (B), (C), (D), (E), (F), (G), (H), (I), and (J), respectively, and by inserting a new paragraph (d)(3) after paragraph (d)(2) to read as set forth below,

e. By inserting a new paragraph (d)(4)(i) after new paragraph (d)(3) to read as set forth below,

f. By removing from the heading of redesignated paragraph (d)(4)(ii) the words "*Tax Liability Limitation.*" and adding in their place "*For taxable years beginning before January 1, 1984.*", and

g. In redisignated paragraph (d)(4)(ii) introductory text, by removing the first word, "The", and adding in its place the words "For taxable years beginning before January 1, 1984, the".

5. Paragraph (e) is amended—

a. By removing from the heading the word "Carryover" and adding in its place the word "Carryforward",

b. By removing from the first sentence "section 44C(b)(5)" and adding in its place "section 23(b)(5) (or former section 44C(b)(5))",

c. By removing from the first sentence "paragraph (d)(3)", and adding in its place "paragraph (d)(4)", and

d. By removing the words "carryover" and "carried over" wherever they appear and adding in their place the words "carryforward" and "carried forward", respectively.

§1.23-1 Residential energy credit.

* * * * *

(c) *Qualified renewable energy source expenditures.* In the case of taxable years beginning after December 31, 1979, the qualified renewable energy source expenditures are 40 percent of the renewable energy source expenditures made by the taxpayer during the taxable year (and before January 1, 1986) with respect to the dwelling unit that do not exceed $10,000. In the case of taxable years beginning before January 1, 1980, the qualified renewable energy source expenditures are the renewable energy source expenditures made by the taxpayer with respect to the dwelling unit during the taxable year, but not in excess of—

(1) 30 percent of the expenditures up to $2,000, plus

(2) 20 percent of the expenditures over $2,000, but not more than $10,000.

See §1.23-2(b) for the definition of renewable energy source expenditures.

(d) *Limitation.* ***

(2) *Prior expenditures taken into account*—*(i) *In general.* *** In the case of expenditures made during taxable years beginning before January 1, 1980, the reduction of the maximum amount under paragraph (c) must first be made with respect to the first $2,000 of expenditures (to which a 30 percent rate applies) and then with respect to the next $8,000 of expenditures (to which a 20 percent rate applies). ***

* * * * *

(3) *Effects of grants and subsidized energy financing*—(i) *In general.* Qualified expenditures financed with Federal, State, or local grants shall be taken into account for purposes of computing the residential energy credit only if the amount of such grants is taxable as gross income to the taxpayer under section 61 (relating to the definition of gross income) and the regulations thereunder. In the case of taxable years beginning after December 31, 1980, qualified expenditures made from subsidized energy financing (as defined in §1.23-2(i)) shall not be taken into account (except as provided in the following sentence) for purposes of computing the residential energy credit. In addition, the taxpayer must reduce the maximum amount of allowable expenditures (reduced as provided in paragraph (d)(2) of this section) with respect to the dwelling unit in computing qualified energy conservation expenditures (under

paragraph (b) of this section) or qualified renewable energy source expenditures (under paragraph (c) of this section), whichever is appropriate, by an amount equal to the sum of—

(A) The amount of expenditures from subsidized energy financing (as defined in §1.23-2(i)) that were made by the taxpayer during the taxable year or any prior taxable year beginning after December 31, 1980, with respect to the same dwelling unit, and

(B) The amount of any funds received by the taxpayer during the taxable year or any prior taxable year beginning after December 31, 1980, as a Federal, State, or local government grant made in taxable years beginning after December 31, 1980, that were used to make qualified expenditures with respect to the same dwelling unit and that were not included in the gross income of the taxpayer.

(ii) *Example*. The provisions of this paragraph (d)(3) may be illustrated by the following example:

Example. A had in 1979 made a renewable energy source expenditure of $2,000 in connection with A's residence for which he took the then allowed credit of $600. In 1981 A made additional renewable energy source expenditures of $9,000 with respect to which he received a loan of $5,000 from the Federal Solar-Energy and Energy Conservation Ba;nk. Assume that the loan is subsidized energy financing. A computes the credit as follows: The initial maximum allowable dollar limit is $10,000 which is reduced by the sum of the prior year expenditures of $2,000 and the subsidized energy financing loan of $5,000 leaving a dollar limit of $3,000 ($10,000—($2,000 + 5,000)). The $5,000 portion of the $9,000 funded by the subsidized energy financing loan is not allowed as a renewable energy source expenditure. The remaining expenditures in 1981 are $4,000 ($9,000—$5,000). However, this amount exceeds the allowed maximum dollar limit of $3,000. Therefore, A's creditable expenses for 1981 are only $3,000 on which the credit is $1,200 (40 percent of $3,000).

(4) *Tax liability limitation*—(i) *For taxable years beginning after December 31, 1983*. For taxable years beginning after December 31, 1983, the credit allowed by this section shall not exceed the amount of tax imposed by chapter 1 of the Internal Revenue Code of 1954 for the taxable year, reduced by the sum of credits allowable under—

(A) Section 21 (relating to expenses for household and dependent care services necessary for gainful employment),

(B) Section 22 (relating to credit for the elderly and the permanently and totally disabled), and

(C) Section 24 (relating to contributions to candidates for public office).

See section 26(b) and (c) for certain taxes that are not treated as imposed by chapter 1.

* * * * *

Par. 3. Section 1.44C-2 is redesignated as §1.23-2 and is amended as follows:

1 In the introductory text, the language "section 44C" is removed and the language "section 23 or former secton 44C" is added in its place.

2. Paragraph (a) thereof is amended—

a. By removing from the last sentence of paragraph (a)(1)(i) "§1.44C-3(e)" and adding in its place "§1.23-3(e)", and

b. By removing from the second sentence of paragraph (a)(1)(iii) "§1.44C-3(f)" and adding in its place "§1.23-3(f)".

3. Paragraph (b) is amended—

a. By removing from the last sentence of paragraph (b)(1) "§1.44C-3(e)" and adding in its palce "§1.23-3(e)", and

b. By adding a new sentence as flush material immediately before the flush material that follows paragraph (b)(2), to read as set forth below.

4. Paragraph (c)(4) is amended by removing from the first sentence "§1.44C-4" and adding in its place "§1.23-4".

5. Paragraph (d) is amended—

a. By removing from paragraph (d)(3) "§1.44C-4" and adding in its place "§1.23-4",

b. By removing from the first sentence of paragraph (d)(4)(iv) the word "include" and adding in its place the word "mean", and

c. By removing from the last sentence of paragraph (d)(4)(viii) "§1.44C-6" and adding in its place "§1.23-6".

6. Paragraph (e) is amended—

a. By removing from paragraph (e)(1)(iii) "§1.44C-4" and adding in its place "§1.23-4",

b. By removing the first sentence from the flush material immediately following paragraph (e)(1)(iii) and adding in its place a new sentence to read as set forth below.

c. By removing "§1.44C-3(l)" from the last sentence in the flush material following paragraph (e)(1)(iii) and adding in its place "§1.23-3(l)",

d. By adding in paragraph (e)(2) the words "or (in the case of expenditures made after December 31, 1979) electricity" immediately following the words "or providing hot water" in the first sentence, and

e. By removing from the last sentence of paragraph (e)(2) "§1.44C-6" and adding in its place "§1.23-6".

7. Paragraph (f) is amended—

a. By revising the first and third sentences of paragraph (f)(1) to read as set forth below,

b. By revising the third sentence of paragraph (f)(4) and adding two new sentences immediately after that sentence, to read as set forth below.

8. Paragraph (g) is amended by removing from the beginning of the first sentence the word "includes" and adding in its place the word "means".

9. Paragraph (h) is amended by removing from the first sentence the word "includes" and adding in its place the word "means" and by adding a new sentence immediately after the first sentence to read as set forth below.

10. A new paragraph (i) is added immediately after paragraph (h) to read as set forth below.

§1.23-2 Definitions.

* * * * *

(b) *Renewable energy source expenditures*.***Additionally, the term "renewable energy source expenditures" includes expenditures made after December 31, 1979, and before January 1, 1986, for an onsite well drilled for any geothermal deposit (as defined in paragraph (h)), or for labor costs properly allocable to onsite preparation, assembly, or original installation of such well, but only if the requirements of paragraph (b)(1) and (2) of this section are met and the taxpayer has not elected under section 263(c) to deduct any portion of such expenditures or allocable labor costs.***

* * * * *

(e) *Renewable energy source property*—(1) *In general*.***

(iii)***

Renewable energy source property does not include heating or cooling systems, nor systems to provide hot water or electricity, which serve to supplement renewable energy source equipment in heating, cooling, or providing hot water or electricity to a dwelling unit, and which employ a form of energy (such as oil or gas) other than solar, wind, or geothermal energy (or other forms of renewable energy provided in paragraph (e)(2) of this section).***

(f) *Solar energy property*—(1) *In general*. The term "solar energy property" means equipment and materials of a solar energy system as defined in this paragraph (and parts solely related to the functioning of such equipment) which, when installed in connection with a dwelling, transmits or uses solar energy to heat or cool the dwelling or to provide hot water or (in the case of expenditures made after December 31, 1979) electricity for use within the dwelling. ***Property which uses, as an energy source, fuel or energy which is indirectly derived from sunlight (solar radiation), such as fossil fuel or wood or heat in underground water, is not considered solar energy property.***

* * * * *

(4) *Components with dual functions*.***For example, roof ponds that form part of a roof (including additional structural components to support the roof), windows (including clerestories and skylights) and greenhouses do not qualify as solar energy property. However, with respect to expenditures made after December 31, 1979, a solar collector panel installed as a roof or portion thereof (including additional structural components to support the roof attributable to the collector) does not fail to qualify as solar energy property solely because it constitutes a structural component of the dwelling on which it is installed. For this purpose, the term "solar collector panel" does not include a skylight or other type of window.***

* * * * *

(h) *Geothermal energy property*.***With respect to expenditures made after December 31, 1979, the term "geothermal energy property" also means equipment (and parts solely related to the functioning of such equipment) necessary to transmit or use energy from a geothermal deposit to produce electricity for use within the dwelling.***

(i) *Subsidized energy financing*—(1) *In general*. The term "subsidized energy financing" means financing (*e.g.*, a loan) made directly or indirectly (such as in association with, or through the facilities of, a bank or other lender) during a taxable year beginning after December 31, 1980, under a Federal, State, or local program, a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy. For purposes of this paragraph (i), financing is made when funds that constitute subsidized energy financing are disbursed. Subsidized energy financing includes financing under a Federal, State, or local program having two or more principal purposes (provided that at least one of the principal purposes is to provide subsidized financing for projects designed to conserve or produce energy), but only to the extent that the financing—

(i) Is to be used for energy production or conservation purposes, or

(ii) Is provided out of funds designated specifically for energy production or conservation. Loan proceeds meet the use test of paragraph (i)(1)(i) of this section only to the extent that the loan application, the loan instrument, or any other loan-related documents indicate that the funds are intended for such use. However, loan proceeds designated for the purchase either of property that contains "insulation" or any "other energy-conserving component" or of "renewable energy source property" as defined in paragraphs (c), (d), and (e), respectively, of this section meet the test of paragraph (i)(1)(i) of this section. Financing is subsidized if the interest rate or other terms of the financing (including any special tax treatment) provided to the taxpayer in connection with the program or used to raise funds for the program are more favorable than the terms generally available commercially. In addition, financing is subsidized if the principal obligation of the financing provided to the taxpayer is reduced by funds provided under the program. The source from which the funds for the program are derived is not a factor to be taken into account in determining whether the financing is subsidized. If a public utility disburses funds for the financing of energy conservation or renewable energy source property under a program that obtains the funds through sales to the utility's ratepayers, the program is not considered to be a Federal, State or local program even though the utility is a governmental agency, and, thus, the funds are not subsidized energy financing. Subsidized energy financing does not include a grant includible in gross income under section 61, nontaxable grants, a credit against State or local taxes made directly to the taxpayer claiming the credit provided for in section 23, or a loan guarantee made directly to the taxpayer claiming the credit provided for in section 23.

(2) *Examples*. The provisions of this paragraph (i) may be illustrated by the following examples:

Example (1). State A has a farm and home loan program. The program is used to provide low interest mortgage loans. In 1984 State A's legislature enacted statutory amendments to its farm and home loan program in an effort to encourage energy-conservation-type measures. Low interest loans for such improvements were made available to qualified purchasers and owners under the farm and home loan program. The energy conservation measures subsidized by the program include energy conserving components and renewable energy source devices. State A's tax exempt bonds are the source of funds for loans under the program. Although the 1984 legislation authorizing loans for energy conserving components and renewable energy source improvements did not diminish the original purpose of the farm and home loan program, the 1984 legislation added another principal purpose to the program. Therefore, State A's program which has two principal purposes, one of which is the conservation or production of energy, is considered as providing subsidized energy financing for purposes of section 23(c)(10) of the Code, to the extent that financing is provided by State A out of funds designated specifically for energy production or conservation. State A's program will also be considered as providing subsidized energy financing to the extent that the loan proceeds are to be used for energy production or conservation purposes. Loan proceeds meet the use test of the preceding sentence only to the extent that the loan application, the loan instruments, or any other loan-related documents indicate that the funds are intended for such use.

Example (2). The United States Department of Energy disburses funds to State B that the Department received from settlements from alleged petroleum pricing and allocation violations. State B establishes a program under which B will use the funds to make loans at below market interest rates directly to qualified applicants for the purchase of renewable energy source property. B's loans are subsidized energy financing.

Example (3). State C establishes a program under which C will make loans at below market interest rates directly to qualified applicants for the purchase of renewable energy source property. The program is funded with money that State C was able to borrow after it obtained a loan guarantee from a Federal agency. C's loans provided under the program are subsidized energy financing.

Example (4). Company D is an electric utility that is a federal agency. D purchases its electricity from another federal agency, transmits the electricity over its own distribution system, and sells the electricity to numerous local public utilities that in turn sell the electricity to their customers. D wishes to start a program under which D will make loans at below market interest rates directly to customers of the local utilities for the purchase of renewable energy source property from D. The local public utility will act as the collection agent for repayment of the loans. The loans will be repayable over a period of time not in excess of 15 years. Under law, D must cover its full costs through its own revenues derived from the sale of power and other services. While D may borrow for sale of bonds to the United States Treasury, D must borrow at rates comparable to the rates prevailing in the market for similar bonds. Thus, the subsidized loans made under D's program will be financed by the profits from the sale of electricity to consumers and not by the federal government. D's program, which is substantially the same as that carried out by private (investor-owned) utilities, is not considered to be a Federal, State or local governmental program. Therefore, D's loans are not subsidized energy financing.

Example (5). The Solar Energy and Energy Conservation Bank (Bank) disburses funds to State E. E disburses a portion of the funds to Financial Institution F. Both the Bank and State E make these disbursements under a program the principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy. F uses the funds to reduce a portion of the principal obligation on loans it issues to finance energy conservation or solar energy expenditures. Taxpayer G borrows $3,000 from F in order to purchase a solar water heating system. F uses $500 of the funds it received from the Bank to reduce the principal obligation of the loan to G to $2,500. The amount of subsidized energy financing to G is $3,000.

Example (6). State H allows a tax credit to Financial Institution J under a program the principal purpose of which is to provide loans at below market interest rates directly to qualified applicants for the purchase of renewable energy source property. J receives a credit each year in the amount of the excess of the interest that would have been paid at private market rates over the actual interest paid on such loans. The State H tax credit arrangement is an interest subsidy. Thus, any low-interest loans made pursuant to this credit arrangements are subsidized energy financing.

Par. 4. Section 1.44C-3 is redesignated as §1.23-3 and is amended as follows:

1. Paragraph (a)(1) is amended by removing from the first sentence "section 44C" and adding in its place "section 23 or former section 44C".

2. Paragraph (b) is amended by removing "section 44C" in the first and second sentences and adding in place thereof "section 23 or former section 44C".

3. The heading and text of paragraph (c) are revised to read as set forth below.

4. Paragraph (d) is amended by removing "§1.44C-2(a)", "§1.44C-2(b)", "§1.44C-1(b)", and "§1.44C-1(c)" and adding in their places "§1.23-2(a)", "§1.23-2(b)", "§1.23-1(b)" and "§1.23-1(c)", respectively.

5. Paragraph (e) is amended by removing from the first sentence "section 44C" and adding in its place "section 23 or former section 44C".

6. Paragraph (h) is amended—

a. By removing from the first sentence of paragraph (h)(1)(i) and (ii) "section 44C" and adding in place thereof "section 23 or former section 44C",

b. By removing from paragraph (h)(2) "section 44C" and adding in its place "section 23 or former section 44C",

c. By removing from paragraph (h)(2) "§1.44C-1" and adding in its place "§1.23-1",

d. By removing from the second sentence of paragraph (h)(3) "section 44C" and adding in its place "section 23 or former section 44C",

e. By revising the first sentence of example (2) in paragraph (h)(4) to read as set forth below.

7. Paragraph (j) is amended—

a. By revising the heading and text of paragraph (j)(1) to read as set forth below, and

b. By removing from the last sentence of the example in paragraph (j)(2) "§1.44C-1(d)(1)" and "§1.44C-1(d)(2)" and adding in their places "§1.23-1(d)(i)" and "§1.23-1(d)(2)", respectively.

8. Paragraph (k) introductory text is amended by removing "section 44C" and adding in its place "section 23 or former section 44C".

§1.23-3 Special rules.

* * * * *

(c) *Cross reference.* For rules relating to expenditures financed with Federal, State, or local government grants or subsidized financing see paragraph (d)(3) of §1.23-1 and paragraph (i) of §1.23-2.

* * * * *

(h) *Joint occupancy.****

(4) ***

Example (2). In 1978, spouses C and D make $10,000 of renewable energy source expenditures with respect to their principal residence, half of which is paid by each spouse.***

* * * * *

(j) *Joint ownership of energy conservation property or renewable energy source property*—(1) *In general.* Energy conservation property and renewable energy source property include property which is jointly owned by the taxpayer and another person (or persons) and installed in connection with two or more dwelling units. For example, the fact that a windmill, solar collector, or geothermal well and distribution system is owned by two or more individuals does not preclude its qualification as renewable energy source property. The amount of the credit allowable under section 23 shall be computed separately with respect to the amount of the expenditures made by each individual, subject to the limitations of $2,000 imposed by section 23(b)(1) and $10,000 imposed by section 23(b)(2), per dwelling unit of jointly owned property. For example, in 1982, A, B, and C purchased as joint owners renewable energy source property that serviced two houses. One of the houses is jointly owned and occupied by A and B and the other is owned and occupied by C alone. The renewable energy source property cost $30,000 of which A paid $9,000, B paid $6,000, and C paid $15,000. A and B must share the $4,000 credit (40% of $10,000 maximum) with respect to the expenditures for the jointly owned house. Therefore, A is allowed a $2,400 credit $\left(\$4,000 \times \frac{\$9,000}{\$9,000 + \$6,000}\right)$ and B is allowed a $1,600 credit $\left(\$4,000 \times \frac{\$6,000}{\$9,000 + \$6,000}\right)$ with respect to the expenditures attributable to the jointly owned house. C is entitled to a credit of $4,000 with respect to the expenditures attributable to the other house.

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Par. 5. Section 1.44C-4 is redesignated §1.23-4.

Par. 6. Section 1.44C-5 is

redesignated as §1.23-5 and is amended as follows:

1. Paragraph (a) is amended—

a. By removing from paragraph (a)(1) "§1.44C-2(c)(1)" and adding in its place "§1.23-2(c)(1)",

b. By removing from paragraph (a)(2) "section 44C(c)(4)" and adding in its place "section 23(c)(4) or former section 44C(c)(4)",

c. By removing from paragraph (a)(2) "§1.44C-2(D)(4)" and adding in its place "§1.23-2(d)(4)",

d. By removing from paragraph (a)(3) "§1.44C-2(f)", "1.44C-2(g)" and "§1.44C-2(h)" and adding in their places "§1.23-2(f)", "§1.23-2(g)", and "§1.23-2(h)", respectively,

e. By removing from paragraph (a)(4) "§1.44C-2" and adding in its place "§1.23-2", and

f. By removing from paragraph (a)(5) "§1.44C-2" and adding in its place "§1.23-2".

2. Paragraph (b)(1) is amended by removing from the first sentence the words "Assistant Commissioner (Technical), T:C:E, 1111 Constitution Avenue, N.W.," and adding in their place the words "Associate Chief Counsel (Technical), CC:C:E, 1111 Constitution Avenue, N.W.,".

3. Paragraph (c) is amended—

a. By removing from the third sentence "§1.44C-2" and adding in its place "§1.23-2", and

b. By removing from the last sentence "§1.44C-4" and adding in its place "§1.23-4".

Par. 7. Section 1.44C-6 is redesignated as §1.23-6 and is amended as follows:

1. Paragraph (a)(1) is amended by removing from the first sentence "§1.44C-2" and adding in its place "§1.23-2".

2. Paragraph (e) is amended—

a. By removing from the first sentence "§1.44C-1" and adding in its place "§1.23-1", and

b. By removing from the third sentence "§1.44C-4" and adding in its place "§1.23-4".

Par. 8. Paragraph (t) of §1.1016-5 is revised to read as follows:

§1.1016-5 Miscellaneous adjustments to basis.

* * * * *

(t) *Section 23 credit.* In the case of property with respect to which a credit has been allowed under section 23 or former section 44C (relating to residential energy credit), basis shall be adjusted as provided in paragraph (k) of §1.23-3.

Par. 9. Section 1.6050D-1 is amended as follows:

1. Paragraph (a) introductory text is amended by adding a new sentence immediately following the first sentence to read as set forth below.

2. Paragraph (a)(1) is amended by removing the words "(as defined in section 48 and the regulations thereunder) or a dwelling unit which" and adding in their place the words "or, in the case of financing or a grant for energy conservation expenditures or renewable energy source expenditures made by the taxpayer before January 1, 1986, a dwelling unit that".

§1.6050D-1 Information returns relating to energy grants and financing.

(a) *Requirement of reporting.**** However, the preceding sentence shall not apply if none of the financing and grants provided under such program during the calendar year relate either to expenditures described in section 23(c)(1) or (2), relating to the residential energy credit, made by a taxpayer before January 1, 1986, with respect to a dwelling unit or to section 38 property (as defined in section 48 and the regulations thereunder).***

* * * * *

STATEMENT OF PROCEDURAL RULES
(26 CFR Part 601)

Par. 10. The authority citation for Part 601 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 11. Paragraph (c) of §601.601 is amended by revising the last sentence to read as follows:

§601.601 Rules and regulations.

* * * * *

(c) *Petition to change rules.**** However, in the case of petitions to amend the regulations pursuant to subsection (c)(4)(A)(viii) or (5)(A)(i) of section 23 or former section 44C, follow the procedure outlined in paragraph (a) of §1.23-6.

* * * * *

OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT
(26 CFR Part 602)

Par. 10. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 11. Paragraph (c) of §602.101 is amended by inserting in the appropriate place in the table "§1.6050D-1. . .1545-0232".

Lawrence B. Gibbs,
Commissioner of Internal Revenue.

Approved May 15, 1987.

J. Roger Mantz,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on July 15, 1987, at 8:45 a.m., and published in the issue of the Federal Register for July 16, 1987, 52 F.R. 26667)

Subpart C.—Refundable Credits

Section 32.—Earned Income

26 CFR 1.32-IT: Temporary regulations; questions and answers concerning the employer's notification requirements.

T.D. 8142

TITLE 26.—INTERNAL REVENUE
CHAPTER 1.—SUBCHAPTER A,
PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice to Employees of Earned Income Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the procedures necessary to implement the statutory requirement that employers notify certain employees whose wages are not subject to income tax withholding that they may be eligible for the refundable earned income credit. These temporary regulations provide guidance to the employers that are required to comply with those notification procedures. The text of the temporary regulations set forth in this document also serves as the text of the proposed regula-