

## Section 6081.—Extension of Time for Filing Returns

26 CFR 1.6081-1: Extension of time for filing returns.

### T.D. 9407

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service 26 CFR Parts 1, 25, 26, 53, 55, 156, 157, and 301

## Extension of Time for Filing Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations and removal of temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the simplification of procedures for obtaining automatic extensions of time to file certain returns. For these returns, the final and temporary regulations also remove the requirements for a signature and an explanation of the need for an extension of time to file. The final and temporary regulations affect taxpayers who are required to file certain returns and need an extension of time to file. The text of the temporary regulations also serves as the text of the proposed regulations (REG-115457-08) set forth in the notice of proposed rulemaking on this subject in this issue of the Bulletin.

DATES: *Effective Date:* These regulations are effective on July 1, 2008.

*Applicability Date:* For dates of applicability of these regulations, see §§1.6081-1(c), 1.6081-2T(i), 1.6081-3(e), 1.6081-4(f), 1.6081-5(f), 1.6081-6T(h), 1.6081-7(g), 1.6081-10(f), 1.6081-11(e), 25.6081-1(f), 26.6081-1(f), 53.6081-1(f), 55.6081-1(f), 156.6081-1(f), 157.6081-1(f), and 301.6081-2(e).

FOR FURTHER INFORMATION CONTACT: Matthew P. Howard, (202) 622-4910 (not a toll-free number).

## SUPPLEMENTARY INFORMATION:

### Background

This document contains amendments to 26 CFR parts 1, 25, 26, 53, 55, 156, 157, and 301 under section 6081 of the Internal Revenue Code (Code). On November 8, 2005, a temporary regulation (T.D. 9229, 2005-2 C.B. 1051) relating to the simplification of procedures for obtaining automatic extensions of time to file certain returns was published in the **Federal Register** (70 FR 67356). A notice of proposed rulemaking (REG-144898-04, 2005-2 C.B. 1062) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (70 FR 67397). No public hearing was requested or held. Written or electronic comments responding to the notice of proposed rulemaking were received. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision containing both final and temporary regulations. The revisions are discussed in this preamble. A notice of proposed rulemaking (REG-115457-08) cross-referencing the temporary regulations appears in this issue of the Bulletin.

### Summary of Comments and Explanation of Revisions

These final and temporary regulations simplify the extension process by allowing certain taxpayers to file a single request for an automatic extension of time to file certain returns. Because the extension is automatic, these taxpayers do not need to sign the extension request or provide an explanation of the reasons for requesting an extension. Simplifying, consolidating, and standardizing extension forms will reduce taxpayer burden. This simplification will also lower processing costs and facilitate increased efficiency for the IRS.

#### *Individual Income Taxpayers*

The proposed regulations provided an automatic six-month extension to taxpayers who must file an individual income tax return if they submit a timely, completed application for extension on Form 4868 “*Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.*” This new procedure,

adopted in the final regulations, replaces the process where an individual could obtain an initial automatic four-month extension by filing Form 4868 and apply for an additional two-month discretionary extension by filing Form 2688, “*Application for Additional Extension of Time To File U.S. Individual Income Tax Return.*” In connection with the new procedure, the IRS eliminated Form 2688.

One commentator noted that individuals who are abroad may qualify for an extension beyond six months and previously applied for this extension using Form 2688. The commentator suggests that the elimination of this form places an added administrative burden on these individual taxpayers who are abroad. The commentator notes that without Form 2688, the alternative for requesting an additional extension beyond six months is to write a letter in accordance with Treas. Reg. §1.6081-1(b). Thus, the commentator requests that Form 2688 be retained for use by taxpayers who are abroad and require more than a six-month extension of time to file.

The primary goal for these regulatory revisions is to reduce taxpayer burden by simplifying the extension process through the elimination of unnecessary forms and required information. The elimination of Form 2688 is among those measures aimed at streamlining the extension process. Although previously used by some taxpayers who are abroad to apply for an additional extension beyond six months, the Treasury Department and the IRS have determined that retention of this form for such a limited purpose and small class of taxpayers would not be efficient. The Treasury Department and the IRS have also determined that due to the discretionary nature of any additional extension for taxpayers who are abroad, requiring a letter explaining the need for the extension is the most appropriate procedure. There is no additional administrative burden from this decision as in both situations the taxpayer must file a document containing substantially the same information and the IRS must process it. Thus, the comment is not adopted and the final regulations eliminate all references to the obsolete Form 2688.

Individual taxpayers who are abroad seeking guidance on applying for an additional extension of time to file beyond six months should refer to IRS Publica-

tion 54, *Tax Guide for U.S. Citizens and Resident Aliens Abroad*, or the IRS Internet site at <http://www.irs.gov/formspubs/article/0,,id=154856,00.html>.

### *Corporate Income Taxpayers*

The proposed regulations did not change the rules regarding filing extensions for corporations but merely changed the appearance and title of Form 7004, now titled “*Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*.”

While not specifically addressed by the proposed regulations, one comment was received regarding extensions for affiliated groups of corporations filing a consolidated return. The commentator suggests that the requirement under §1.6081-3(a)(4) to include a statement listing the name and address of each member of the affiliated group if the affiliated group will file a consolidated return is inconsistent with §1.1502-75(a). Section 1.1502-75(a) allows a group which did not file a consolidated return for the immediately preceding taxable year to file a consolidated return, provided that each member of the group that is eligible to do so files a Form 1122, “*Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return*,” not later than the last day prescribed by law (including extensions of time) for the filing of the common parent’s return. The commentator contends that §1.6081-3 suggests that in order to have a valid extension all members of the affiliated group must be listed with the extension request even though the affiliated group may not have decided at the time the extension is filed if a consolidated return will be elected. Although, §1.6081-3 requires a listing of subsidiaries with the extension request, the commentator suggests that, because §1.1502-75(a) does not require the members of an affiliated group to elect to file a consolidated return until the common parent’s extended due date, the failure to include the name and address of a member of the affiliated group that will be filed as part of the consolidated return should not invalidate a request for an automatic extension of time to file.

The IRS and Treasury Department find no inconsistency between these regula-

tions. If, at the time the extension request is due, the affiliated entities have not decided whether to file a consolidated return, the various affiliated entities must either file separate returns or individually request an extension of time to file. The failure to do either will result in a late return. Additionally, by including a list of affiliated members with the extension request, each member is deemed to be applying for an extension of time to file. In the event that a subsidiary does not file as part of a consolidated return, that entity will have a valid extension to file its own return. Therefore, the final regulations retain the requirement to list the name and address of each member of the affiliated group with the extension request. To address the commentator’s concern, the final regulations explicitly state that the attached list will grant an extension for each member’s separate return in the event that the member does not file as part of the consolidated group.

### *Partnership, Trust, and Estate Taxpayers*

The proposed regulations provided for an automatic six-month extension of time to file returns for certain entities not taxed at the entity level (pass-through entities). Recognizing the potential that some taxpayers may not receive timely information returns from pass-through entities (for example, Schedule K-1s from partnerships) needed to complete their own income tax returns, the proposed regulations specifically requested comments on whether a shorter extension of time to file for pass-through entities might reduce overall taxpayer burden. Several comments addressing this issue were received. Four commentators suggested that the filing date for pass-through entities should be moved back to March 15<sup>th</sup> instead of April 15<sup>th</sup>. This would allow these entities to receive six-month extensions of time to file (until September 15<sup>th</sup>) but still allow individual taxpayers with ownership interests in the pass-through entities to receive information needed to file a timely and complete income tax return by the October 15<sup>th</sup> extended due date. The filing dates for these pass-through entity returns are governed by statute. See for example, sections 6012(a), and 6072. Accordingly, without legislative action, the Treasury Department and the IRS are unable to change the

filing due dates for these pass-through entities.

The remaining comments on this topic suggested that an extension period for pass-through entities of five months or less would benefit individual taxpayers with ownership interests in pass-through entities in preparation of their own individual income tax returns. Three commentators suggested that the proposed regulations would actually increase taxpayer burden by making it easier for pass-through entities to delay the filing of their returns. Two commentators also pointed out that the five-month extension period would not alleviate the burden on corporate taxpayers with ownership interests in pass-through entities. These commentators expressed a concern that even a five-month extension period for pass-through entities would, in most cases, simply align the extended due date for pass-through entities with the extended due date for corporate returns, resulting in the same delay of information to corporate owners of pass-through entities. This delay, the commentators contend, would greatly increase the need for filing amended returns. These commentators suggested shortening the automatic extension for pass-through entities to a period of less than five months, which would ultimately reduce burden on both taxpayers and the IRS.

In response to these comments, the Treasury Department and IRS have adopted temporary regulations which will provide for a five-month automatic extension period with no additional extension for certain pass-through entities. These entities are partnerships filing Form 1065, “*U.S. Return of Partnership Income*,” or Form 8804, “*Annual Return for Partnership Withholding Tax (Section 1446)*,” and estates and trusts filing Form 1041, “*U.S. Income Tax Return for Estates and Trusts*.” While some commentators suggested adopting an extension period shorter than five months, the Treasury Department and the IRS believe a five-month automatic extension period for certain partnerships, trusts, and estates, strikes a reasonable balance and reduces the overall burden on taxpayers. The Treasury Department and IRS believe the five-month extension period allows pass-through entities, including complex and tiered entities, an adequate time for preparation of the required pass-through return and also ensures the

timely and accurate dissemination of information to a large number of taxpayers who require that information for completion of their own income tax returns. It is recognized that some corporations with ownership interests in pass-through entities may continue to experience delayed receipt of information needed to complete their own corporate returns and some pass-through entities may find it difficult to complete their returns. Thus the Treasury Department and the IRS request comments on whether the five-month automatic extension of time to file for these pass-through entities increases or reduces overall taxpayer burden. Please follow the instructions in the “Comments and Public Hearing” section in the notice of proposed rulemaking accompanying these temporary regulations in this issue of the Bulletin.

#### *Transitional Rule For Pass-Through Entities*

The temporary regulations allowing certain pass-through entities to obtain an automatic five-month extension apply to applications by these entities for an automatic extension of time to file certain returns due on or after January 1, 2009. These entities will be allowed to obtain an automatic six-month extension of time to file the applicable returns, which are required to be filed before January 1, 2009.

#### **Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Although these final regulations reference forms that are approved under the Paperwork Reduction Act (44 U.S.C. chapter 35), the regulations themselves do not impose a collection of information on small entities. Therefore the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. For the applicability of the Regulatory Flexibility Act to the temporary regulations, refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in this issue of the Bulletin. Pursuant to sec-

tion 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 businesses. Pursuant to the same provision, the temporary regulations contained in this Treasury Decision will be submitted for comment on their impact on small businesses.

#### **Drafting Information**

The principal author of these regulations is Matthew P. Howard of the Office of the Associate Chief Counsel (Procedure and Administration).

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#### **Adoption of Amendments to the Regulations**

Accordingly, 26 CFR parts 1, 25, 26, 53, 55, 156, 157, and 301 are amended as follows:

#### **PART 1—INCOME TAXES**

Paragraph 1. The authority citation for part 1 is amended by removing the entries for §§1.6081-4T, 1.6081-7T, 1.6081-10T, and 1.6081-11T and adding entries in numerical order to read in part as follows:

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

Section 1.6081-1 also issued under 26 U.S.C. 6081.

Section 1.6081-3 also issued under 26 U.S.C. 6081.

Section 1.6081-4 also issued under 26 U.S.C. 6081.

Section 1.6081-5 also issued under 26 U.S.C. 6081.

Section 1.6081-7 also issued under 26 U.S.C. 6081.

Section 1.6081-10 also issued under 26 U.S.C. 6081.

Section 1.6081-11 also issued under 26 U.S.C. 6081. \* \* \*

Par. 2. Section 1.911-7 is amended by revising paragraph (c)(2) and adding paragraph (e) to read as follows:

#### *§1.911-7 Procedural rules.*

\* \* \* \* \*

(c) \* \* \*

(2) *Extensions.* An individual desiring an extension of time (in addition to the automatic extension of time granted

by §1.6081-4) for filing a return until after the completion of the qualifying period described in paragraph (c)(1) of this section for claiming any exclusion or deduction under section 911 may apply for an extension. An individual whose moving expense deduction is attributable to services performed in two years may apply for an extension of time for filing a return until after the end of the second year. The individual may make such application on Form 2350, “*Application for Extension of Time To File U.S. Income Tax Return*” or in any other manner prescribed by the Commissioner. The application must be filed in accordance with the instructions to the form or as prescribed by the Commissioner. The application must set forth the facts relied on to justify the extension of time requested and must include a statement as to the earliest date the individual expects to become entitled to any exclusion or deduction by reason of completion of the qualifying period.

\* \* \* \* \*

(e) *Effective/applicability date.* This section applies to applications for extension of time to file returns filed after July 1, 2008.

Par. 3. Section 1.6081-1 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

#### *§1.6081-1 Extension of time for filing returns.*

\* \* \* \* \*

(b) *Application for extension of time—(1) In general.* Under other sections in this chapter, certain taxpayers may request an automatic extension of time to file certain returns. Except in undue hardship cases, no extension of time to file a return will be allowed under this section until an automatic extension of time to file the return has been allowed under the applicable section. No extension of time to file a return will be granted under this section for a period of time greater than that provided for by automatic extension. A taxpayer desiring an extension of the time for filing a return, statement, or other document shall submit an application for extension on or before the due date of such return, statement, or other document. If a form exists for the application for an extension, the taxpayer should use the form; however, taxpayers may apply for

an extension in a letter that includes the information required by this paragraph. Except as provided in §301.6091-1(b) of this chapter (relating to hand-carried documents), the taxpayer should make the application for extension to the Internal Revenue Service office where such return, statement, or other document is required to be filed. Except for requests for automatic extensions of time to file certain returns provided for elsewhere in this chapter, the application must be in writing, signed by the taxpayer or his duly authorized agent, and must clearly set forth—

(i) The particular tax return, information return, statement, or other document, including the taxable year or period thereof, for which the taxpayer requests an extension; and

(ii) An explanation of the reasons for requesting the extension to aid the internal revenue officer in determining whether to grant the request.

(2) *Taxpayer unable to sign.* In any case in which a taxpayer is unable, by reason of illness, absence, or other good cause, to sign a request for an extension, any person standing in close personal or business relationship to the taxpayer may sign the request on his behalf, and shall be considered as a duly authorized agent for this purpose, provided the request sets forth the reasons for a signature other than the taxpayer's and the relationship existing between the taxpayer and the signer.

(c) *Effective/applicability dates.* This section applies to requests for extension of time filed after July 1, 2008.

Par. 4. Section 1.6081-2T is revised to read as follows:

*§1.6081-2T Automatic extension of time to file certain returns filed by partnerships (temporary).*

(a) *In general.* (1) Except as provided in paragraph (h) of this section, a partnership required to file Form 1065, "U.S. Return of Partnership Income," or Form 8804, "Annual Return for Partnership Withholding Tax (Section 1446)," for any taxable year will be allowed an automatic 5-month extension of time to file the return after the date prescribed for filing the return if the partnership files an application under this section in accordance with paragraph (b) of this section. No additional extension will be allowed pursuant to §1.6081-1(b)

beyond the automatic 5-month extension provided by this section. In the case of a partnership described in §1.6081-5(a)(1), the automatic extension of time to file allowed under this section runs concurrently with an extension of time to file granted pursuant to §1.6081-5.

(2) An electing large partnership (ELP) required to file Form 1065-B, "U.S. Return of Income for Electing Large Partnerships," for any taxable year will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the partnership files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), the partnership must—

(1) Submit a complete application on Form 7004, "Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the later of—

(i) The date prescribed for filing the return of the partnership; or

(ii) The expiration of any extension of time to file granted under §1.6081-5(a); and

(3) File the application with the Internal Revenue Service office designated in the application's instructions.

(c) *Payment of section 7519 amount.* An automatic extension of time for filing a partnership return of income granted under paragraph (a) of this section does not extend the time for payment of any amount due under section 7519, relating to required payments for entities electing not to have a required taxable year.

(d) *Section 444 election.* An automatic extension of time for filing a partnership return of income will run concurrently with any extension of time for filing a return allowed because of section 444, relating to the election of a taxable year other than a required taxable year.

(e) *Effect of extension on partner.* An automatic extension of time for filing a partnership return of income under this section does not extend the time for filing a partner's income tax return or the time for the payment of any tax due on a partner's income tax return.

(f) *Termination of automatic extension.* The Commissioner may terminate an au-

automatic extension at any time by mailing to the partnership a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the partnership's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(g) *Penalties.* See section 6698 for failure to file a partnership return.

(h) *Special rule for applications for extensions of time to file returns due on or after July 1, 2008 and before January 1, 2009.* A partnership required to file Form 1065, "U.S. Return of Partnership Income," or Form 8804, "Annual Return for Partnership Withholding Tax (Section 1446)," on or after July 1, 2008 and before January 1, 2009, will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the partnership files an application under this section in accordance with paragraph (b) of this section.

(i) *Effective/applicability dates.* This section applies to applications for an automatic extension of time to file the partnership returns listed in paragraph (a) of this section filed on or after July 1, 2008.

(j) *Expiration date.* The applicability of this section expires on or before June 30, 2011.

Par. 5. Section 1.6081-3 is amended by revising paragraphs (a)(1) and (4) and (e) to read as follows:

*§1.6081-3 Automatic extension of time for filing corporation income tax returns.*

(a) \* \* \*

(1) An application must be submitted on Form 7004, "Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns," or in any other manner prescribed by the Commissioner.

\* \* \* \* \*

(4) The application must include a statement listing the name and address of each member of the affiliated group if the affiliated group will file a consolidated return. Upon the timely filing of Form 7004, the 6-month extension of time to file shall be considered as granted to the affiliated group for the filing of its consolidated re-

turn or for the filing of each member's separate return.

\* \* \* \* \*

(e) *Effective/applicability dates.* This section applies to requests for extension of time to file corporation income tax returns filed after July 1, 2008.

#### §1.6081-3T [Removed]

Par. 6. Section 1.6081-3T is removed.

Par. 7. Section 1.6081-4 is added to read as follows:

#### §1.6081-4 Automatic extension of time for filing individual income tax return.

(a) *In general.* An individual who is required to file an individual income tax return will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the individual files an application under this section in accordance with paragraph (b) of this section. In the case of an individual described in §1.6081-5(a)(5) or (6), the automatic 6-month extension will run concurrently with the extension of time to file granted pursuant to §1.6081-5.

(b) *Requirements.* To satisfy this paragraph (b), an individual must—

(1) Submit a complete application on Form 4868, "*Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*," or in any other manner prescribed by the Commissioner;

(2) File the application on or before the later of—

(i) The date prescribed for filing the return; or

(ii) The expiration of any extension of time to file granted pursuant to §1.6081-5;

(3) File the application with the Internal Revenue Service office designated in the application's instructions; and

(4) Show the full amount properly estimated as tax for the taxable year.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the individual a notice of termination at least 10 days prior to the termination date designated in such notice. The Commis-

sioner must mail the notice of termination to the address shown on the Form 4868 or to the individual's last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) *Penalties.* See section 6651 for failure to file an individual income tax return or failure to pay the amount shown as tax on the return. In particular, see §301.6651-1(c)(3) of this chapter (relating to a presumption of reasonable cause in certain circumstances involving an automatic extension of time for filing an individual income tax return).

(f) *Effective/applicability dates.* This section is applicable for applications for an automatic extension of time to file an individual income tax return filed after July 1, 2008.

#### §1.6081-4T [Removed]

Par. 8. Section 1.6081-4T is removed.

Par. 9. Section 1.6081-5 is amended by revising paragraphs (a), (b), and (f) to read as follows:

#### §1.6081-5 Extensions of time in the case of certain partnerships, corporations, and U.S. citizens and residents.

(a) An extension of time for filing returns of income and for paying any tax shown on the return is hereby granted to and including the fifteenth day of the sixth month following the close of the taxable year in the case of—

(1) Partnerships which are required under section 6072(a) to file returns on the fifteenth day of the fourth month following the close of the taxable year of the partnership, and which keep their records and books of account outside the United States and Puerto Rico;

(2) Domestic corporations which transact their business and keep their records and books of account outside the United States and Puerto Rico;

(3) Foreign corporations which maintain an office or place of business within the United States;

(4) Domestic corporations whose principal income is from sources within the possessions of the United States;

(5) United States citizens or residents whose tax homes and abodes, in a real and substantial sense, are outside the United States and Puerto Rico; and

(6) United States citizens and residents in military or naval service on duty, including non-permanent or short term duty, outside the United States and Puerto Rico.

(b) In order to qualify for the extension under this section—

(1) A statement must be attached to the return showing that the person for whom the return is made is a person described in paragraph (a) of this section; or

(2) If a person described in paragraph (a) of this section requests additional time to file, the person must request the extension on or before the fifteenth day of the sixth month following the close of the taxable year and check the appropriate box on Form 4868, "*Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*," or Form 7004, "*Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*," whichever is applicable, or in any other manner prescribed by the Commissioner.

\* \* \* \* \*

(f) *Effective/applicability date.* This section is applicable for returns of income due after July 1, 2008.

#### §1.6081-5T [Removed]

Par. 10. Section 1.6081-5T is removed.

Par. 11. Section 1.6081-6T is revised to read as follows:

#### §1.6081-6T Automatic extension of time to file estate or trust income tax return (temporary).

(a) *In general.* (1) Except as provided in paragraph (g) of this section, an estate or trust required to file an income tax return on Form 1041, "*U.S. Income Tax Return for Estates and Trusts*," will be allowed an automatic 5-month extension of time to file the return after the date prescribed for filing the return if the estate or trust files an application under this section in accordance with paragraph (b) of this section. No additional extension will be allowed pursuant to §1.6081-1(b) beyond the automatic 5-month extension provided by this section.

(2) An estate or trust required to file an income tax return on Form 1041-N, "*U.S. Income Tax Return for Electing Alaska Native Settlement Trusts*," or Form 1041-QFT, "*U.S. Income Tax Return for*

*Qualified Funeral Trusts*,” for any taxable year will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the estate or trust files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), an estate or trust must—

(1) Submit a complete application on Form 7004, “*Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*,” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application’s instructions; and

(3) Show the amount properly estimated as tax for the estate or trust for the taxable year.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Effect of extension on beneficiary.* An automatic extension of time to file an estate or trust income tax return under this section will not extend the time for filing the income tax return of a beneficiary of the estate or trust or the time for the payment of any tax due on the beneficiary’s income tax return.

(e) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the estate or trust a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the estate or trust’s last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(f) *Penalties.* See section 6651 for failure to file an estate or trust income tax return or failure to pay the amount shown as tax on the return.

(g) *Special rule for applications for extensions of time to file returns due on or after July 1, 2008 and before January 1, 2009.* An estate or trust required to file an income tax return on Form 1041, “*U.S. Income Tax Return for Estates and Trusts*,” on or after July 1, 2008 and before Jan-

uary 1, 2009, will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the estate or trust files an application under this section in accordance with paragraph (b) of this section.

(h) *Effective/applicability dates.* This section applies to applications for an automatic extension of time to file an estate or trust income tax return filed on or after July 1, 2008.

(i) *Expiration date.* The applicability of this section expires on or before June 30, 2011.

Par. 12. Section 1.6081-7 is added to read as follows:

*§1.6081-7 Automatic extension of time to file Real Estate Mortgage Investment Conduit (REMIC) income tax return.*

(a) *In general.* A Real Estate Mortgage Investment Conduit (REMIC) required to file an income tax return on Form 1066, “*U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return*,” or Form 8831, “*Excise Taxes on Excess Inclusions of REMIC Residual Interests*,” for any taxable year will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the REMIC files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), a REMIC must—

(1) Submit a complete application on Form 7004, “*Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*,” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application’s instructions; and

(3) Show the full amount properly estimated as tax for the REMIC for the taxable year.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Effect of extension on residual or regular interest holders.* An automatic extension of time to file a REMIC income tax return under this section will not extend

the time for filing the income tax return of a residual or regular interest holder of the REMIC or the time for the payment of any tax due on the residual or regular interest holder’s income tax return. An automatic extension will also not extend the time for payment of any excise tax on excess inclusions of REMIC residual interests.

(e) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the REMIC a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the REMIC’s last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(f) *Penalties.* See sections 6698 and 6651 for failure to file a REMIC income tax return or failure to pay an amount shown as tax on the return.

(g) *Effective/applicability dates.* This section applies to applications for an automatic extension of time to file REMIC income and excise tax returns listed in paragraph (a) of this section filed after July 1, 2008.

**§1.6081-7T [Removed]**

Par. 13. Section 1.6081-7T is removed.

Par. 14. Section 1.6081-10 is added to read as follows:

*§1.6081-10 Automatic extension of time to file withholding tax return for U.S. source income of foreign persons.*

(a) *In general.* A withholding agent or intermediary required to file a return on Form 1042, “*Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*,” for any taxable year will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the withholding agent or intermediary files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), a withholding agent or intermediary must—

(1) Submit a complete application on Form 7004, “*Application for Automatic Extension of Time To File Certain Business*

*Income Tax, Information, and Other Returns,*” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application’s instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the withholding agent or intermediary a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the withholding agent or intermediary’s last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) *Penalties.* See section 6651 for failure to file a return or failure to pay an amount shown as tax on the return.

(f) *Effective/applicability dates.* This section is applicable for applications for an automatic extension of time to file the withholding tax return for U.S. source income of foreign persons return filed after July 1, 2008.

#### **§1.6081-10T [Removed]**

Par. 15. Section 1.6081-10T is removed.

Par. 16. Section 1.6081-11 is added to read as follows:

#### *§1.6081-11 Automatic extension of time for filing certain employee plan returns.*

(a) *In general.* An administrator or sponsor of an employee benefit plan required to file a return under the provisions of chapter 61 or the regulations under that chapter on Form 5500 (series), “*Annual Return/Report of Employee Benefit Plan,*” will be allowed an automatic extension of time to file the return until the 15th day of the third month following the date prescribed for filing the return if the administrator or sponsor files an application under

this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), an administrator or sponsor must—

(1) Submit a complete application on Form 5558, “*Application for Extension of Time To File Certain Employee Plan Returns,*” or in any other manner as may be prescribed by the Commissioner; and

(2) File the application with the Internal Revenue Service office designated in the application’s instructions on or before the date prescribed for filing the information return.

(c) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the administrator or sponsor a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 5558 or to the administrator or sponsor’s last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(d) *Penalties.* See sections 6652, 6692, and the Employee Retirement Income Security Act of 1974 for penalties for failure to file a timely and complete Form 5500.

(e) *Effective/applicability dates.* This section is applicable for applications for an automatic extension of time to file Forms 5500 for plan years ending after July 1, 2008.

#### **§1.6081-11T [Removed]**

Par. 17. Section 1.6081-11T is removed.

#### **PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954**

Par. 18. The authority citation for part 25 is amended by removing the entry for §25.6081-1T and adding an entry in numerical order to read in part as follows:

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

Section 25.6081-1 also issued under the authority of 26 U.S.C. 6081(a).

Par. 19. Section 25.6081-1 is added to read as follows:

#### *§25.6081-1 Automatic extension of time for filing gift tax returns.*

(a) *In general.* Under section 6075(b)(2), an automatic six-month extension of time granted to a donor to file the donor’s return of income under §1.6081-4 of this chapter shall be deemed also to be a six-month extension of time granted to file a return on Form 709, “*United States Gift (and Generation-Skipping Transfer) Tax Return.*” If a donor does not obtain an extension of time to file the donor’s return of income under §1.6081-4 of this chapter, the donor will be allowed an automatic 6-month extension of time to file Form 709 after the date prescribed for filing if the donor files an application under this section in accordance with paragraph (b) of this section. In the case of an individual described in §1.6081-5(a)(5) or (6) of this chapter, the automatic 6-month extension of time to file Form 709 will run concurrently with the extension of time to file granted pursuant to §1.6081-5 of this chapter.

(b) *Requirements.* To satisfy this paragraph (b), a donor must—

(1) Submit a complete application on Form 8892, “*Application for Automatic Extension of Time To File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax,*” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the later of—

(i) The date prescribed for filing the return; or

(ii) The expiration of any extension of time to file granted pursuant to §1.6081-5 of this chapter; and

(3) File the application with the Internal Revenue Service office designated in the application’s instructions.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension.* The Commissioner may terminate an extension at any time by mailing to the donor a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 8892, or to the donor’s last known address. For further guidance

regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) *Penalties*. See section 6651 for failure to file a gift tax return or failure to pay the amount shown as tax on the return.

(f) *Effective/applicability dates*. This section is applicable for applications for an extension of time to file Form 709 filed after July 1, 2008.

#### §25.6081-1T [Removed]

Par. 20. Section 25.6081-1T is removed.

#### PART 26—GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986

Par. 21. The authority citation for part 26 is amended by removing the entry for §26.6081-1T and adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 and 26 U.S.C. 2663 \* \* \*

Section 26.6081-1 also issued under the authority of 26 U.S.C. 6081(a).

\* \* \*

Par. 22. Section 26.6081-1 is added to read as follows:

*§26.6081-1 Automatic extension of time for filing generation-skipping transfer tax returns.*

(a) *In general*. A skip person distributee required to file a return on Form 706-GS(D), “*Generation-Skipping Transfer Tax Return For Distributions*,” or a trustee required to file a return on Form 706-GS(T), “*Generation-Skipping Transfer Tax Return For Terminations*,” will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing if the skip person distributee or trustee files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements*. To satisfy this paragraph (b), a skip person distributee or trustee must—

(1) Submit a complete application on Form 7004, “*Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*,” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application’s instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) *No extension of time for the payment of tax*. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension*. The Commissioner may terminate an automatic extension at any time by mailing to the skip person distributee or trustee a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the skip person distributee or trustee’s last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) *Penalties*. See section 6651 for failure to file a generation-skipping transfer tax return or failure to pay the amount shown as tax on the return.

(f) *Effective/applicability dates*. This section is applicable for applications for an automatic extension of time to file a generation-skipping transfer tax return filed after July 1, 2008.

#### §26.6081-1T [Removed]

Par. 23. Section 26.6081-1T is removed.

#### PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 24. The authority citation for part 53 is amended by removing the entry for §53.6081-1T and adding an entry in numerical order to read in part as follows:

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

Section 53.6081-1 also issued under 26 U.S.C. 6081(a). \* \* \*

Par. 25. Section 53.6081-1 is added to read as follows:

*§53.6081-1 Automatic extension of time for filing the return to report taxes due under section 4951 for self-dealing with a nuclear decommissioning fund.*

(a) *In general*. A “disqualified person” for purposes of section 4951(e)(4) who engaged in self-dealing with a Nuclear Decommissioning Fund, and must report tax due under section 4951 on Form 1120-ND, “*Return for Nuclear Decommissioning Funds and Certain Related Persons*,” will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the disqualified person files an application under this section in accordance with paragraph (b) of this section. For guidance on requesting an extension of time to file Form 1120-ND for purposes of reporting contributions received, income earned, administrative expenses of operating the fund, and the tax on modified gross income, see §1.6081-3 of this chapter.

(b) *Requirements*. To satisfy this paragraph (b), a disqualified person must—

(1) Submit a complete application on Form 7004, “*Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*,” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application’s instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) *No extension of time for the payment of tax*. An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension*. The Commissioner may terminate an automatic extension at any time by mailing to the disqualified person a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the disqualified person’s last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.



(e) *Penalties.* See section 6651 for failure to file or failure to pay the amount shown as tax on the return.

(f) *Effective/applicability dates.* This section is applicable for applications for an automatic extension of time to file a return to report taxes due under section 4951 for self-dealing with a Nuclear Decommissioning Fund filed after July 1, 2008.

#### §53.6081-1T [Removed]

Par. 26. Section 53.6081-1T is removed.

#### PART 55—EXCISE TAX ON REAL ESTATE INVESTMENT TRUSTS AND REGULATED INVESTMENT COMPANIES

Par. 27. The authority citation is amended by removing the entry for §55.6081-1T and adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 6001, 6011, 6071, 6091, and 7805 \* \* \*

Section 55.6081-1 also issued under 26 U.S.C. 6081(a). \* \* \*

Par. 28. Section 55.6081-1 is added to read as follows:

*§55.6081-1 Automatic extension of time for filing a return due under Chapter 44.*

(a) *In general.* A Real Estate Investment Trust (REIT) required to file a return on Form 8612, “Return of Excise Tax on Undistributed Income of Real Estate Investment Trusts,” or a Regulated Investment Company (RIC) required to file a return on Form 8613, “Return of Excise Tax on Undistributed Income of Regulated Investment Companies,” will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the REIT or RIC files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), a REIT or RIC must—

(1) Submit a complete application on Form 7004, “Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns,” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with

the Internal Revenue Service office designated in the application’s instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the REIT or RIC a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the REIT or RIC’s last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) *Penalties.* See section 6651 for failure to file or failure to pay the amount shown as tax on the return.

(f) *Effective/applicable dates.* This section is applicable for applications for an automatic extension of time to file a return due under chapter 44, filed after July 1, 2008.

#### §55.6081-1T [Removed]

Par. 29. Section 55.6081-1T is removed.

#### PART 156—EXCISE TAX ON GREENMAIL

Par. 30. The authority citation is amended by removing the entry for §156.6081-1T and adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 6001, 6011, 6061, 6071, 6091, 6161, and 7805 \* \* \*

Section 156.6081-1 also issued under 26 U.S.C. 6081(a). \* \* \*

Par. 31. Section 156.6081-1 is added to read as follows:

*§156.6081-1 Automatic extension of time for filing a return due under chapter 54.*

(a) *In general.* A taxpayer required to file a return on Form 8725, “Excise Tax on Greenmail,” will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the

return if the taxpayer files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), a taxpayer must—

(1) Submit a complete application on Form 7004, “Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns,” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application’s instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the taxpayer a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the taxpayer’s last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) *Penalties.* See section 6651 for failure to file or failure to pay the amount shown as tax on the return.

(f) *Effective/applicable dates.* This section is applicable for applications for an automatic extension of time to file a return due under chapter 54, filed after July 1, 2008.

#### §156.6081-1T [Removed]

Par. 32. Section 156.6081-1T is removed.

#### PART 157—EXCISE TAX ON STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

Par. 33. The authority citation is amended by removing the entry for §157.6081-1T and adding an entry in numerical order to read in part as follows:

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

Section 157.6081-1 also issued under 26 U.S.C. 6081(a). \* \* \*

Par. 34. Section 157.6081-1 is added to read as follows:

*§157.6081-1 Automatic extension of time for filing a return due under chapter 55.*

(a) *In general.* A taxpayer required to file a return on Form 8876, “Excise Tax on Structured Settlement Factoring Transactions,” will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the taxpayer files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), the taxpayer must—

(1) Submit a complete application on Form 7004, “Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns,” or in any other manner prescribed by the Commissioner;

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application’s instructions; and

(3) Remit the amount of the properly estimated unpaid tax liability on or before the date prescribed for payment.

(c) *No extension of time for the payment of tax.* An automatic extension of time for filing a return granted under paragraph (a) of this section will not extend the time for payment of any tax due on such return.

(d) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the taxpayer a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the taxpayer’s last known address. For

further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(e) *Penalties.* See section 6651 for failure to file or failure to pay the amount shown as tax on the return.

(f) *Effective/applicability dates.* This section is applicable for applications for an automatic extension of time to file a return due under chapter 55, filed after July 1, 2008.

**§157.6081-1T [Removed]**

Par. 35. Section 157.6081-1T is removed.

**PART 301—PROCEDURE AND ADMINISTRATION**

Par. 36. The authority citation is amended by removing the entry for §301.6081-2T and adding an entry in numerical order to read in part as follows:

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

Section 301.6081-2 also issued under 26 U.S.C. 6081(a). \* \* \*

Par. 37. Section 301.6081-2 is added to read as follows:

*§301.6081-2 Automatic extension of time for filing an information return with respect to certain foreign trusts.*

(a) *In general.* A trust required to file a return on Form 3520-A, “Annual Information Return of Foreign Trust With a U.S. Owner,” will be allowed an automatic 6-month extension of time to file the return after the date prescribed for filing the return if the trust files an application under this section in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), a trust must—

(1) Submit a complete application on Form 7004, “Application for Automatic

*Extension of Time To File Certain Business Income Tax, Information, and Other Returns,”* or in any other manner prescribed by the Commissioner; and

(2) File the application on or before the date prescribed for filing the return with the Internal Revenue Service office designated in the application’s instructions.

(c) *Termination of automatic extension.* The Commissioner may terminate an automatic extension at any time by mailing to the trust a notice of termination at least 10 days prior to the termination date designated in such notice. The Commissioner must mail the notice of termination to the address shown on the Form 7004 or to the trust’s last known address. For further guidance regarding the definition of last known address, see §301.6212-2 of this chapter.

(d) *Penalties.* See section 6677 for failure to file information returns with respect to certain foreign trusts.

(e) *Effective/applicability dates.* This section is applicable for applications for an automatic extension of time to file an information return with respect to certain foreign trusts listed in paragraph (a) of this section filed after July 1, 2008.

**§301.6081-2T [Removed]**

Par. 38. Section 301.6081-2T is removed.

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

Approved June 24, 2008.

Eric Solomon,  
Assistant Secretary of  
the Treasury (Tax Policy).

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