

Interim Rule*How Will the Department of State Amend Its Regulations?*

This rule and the INS rule published elsewhere in this issue amend the list of countries found at 22 CFR 41.2(i) whose citizens the Department and the INS have determined are not eligible for the transit without visa (TWOV) program.

Administrative Procedure Act

The Department is implementing this rule as an interim rule, with a 60-day provision for post-promulgation public comments, based on the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and 553(d)(3). Since this rule bestows a benefit for Russian nationals traveling to the U.S., the Department is implementing this rule immediately.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

Although this rule is promulgated in conjunction with the Immigration and Naturalization Service, a domestic agency, the Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f) Regulatory Planning and Review.

Therefore, in accordance with the letter to the Department of State of February 4, 1994 from the Director of Management and Budget, it does not require review by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements. The information collection requirement (Form OF-156) contained by reference in this rule was previously approved for use by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 41

Aliens, Foreign officials, Passports and visas.

In view of the foregoing, the Department amends 22 CFR as follows:

PART 41—[AMENDED]

1. The authority citation for 22 CFR part 41 continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105-277, 112 Stat. 2681 et. seq.

2. Amend § 41.2 by revising paragraph (i)(2) to read as follows:

§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

* * * * *

(i) * * *

(2) Notwithstanding the provisions of paragraph (i)(1) of this section, this waiver is not available to an alien who is a citizen of: Afghanistan, Angola, Bangladesh, Belarus, Bosnia-Herzegovina, Burma, Burundi, Central African Republic, People's Republic of China, Colombia, Congo (Brazzaville), India, Iran, Iraq, Libya, Nigeria, North Korea, Pakistan, Sierra Leone, Somalia, Sri Lanka, Sudan, or the Federal Republic of Yugoslavia.

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Dated: June 6, 2001.

Mary A. Ryan,

*Assistant Secretary for Consular Affairs,
Department of State.*

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DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Parts 1, 31, 301, and 602**

[TD 8947]

RIN 1545-AY79

Penalties for Underpayments of Deposits and Overstated Deposit Claims

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of final regulations.

SUMMARY: This document makes conforming amendments to certain final regulations to reflect the removal of final regulations relating to the penalty for underpayment of deposits of taxes and the penalty for overstated deposit claims. These regulations are obsolete due to amendments to section 6656 of the Internal Revenue Code. The removal of these regulations will not affect taxpayers.

DATES: The amendments and removals are effective June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Robin M. Tuczak, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document removes two sections from the Procedure and Administration Regulations (26 CFR part 301) relating to penalties for underpayment of Federal tax deposits and overstated deposit claims under section 6656 of the Internal Revenue Code. The Omnibus Budget Reconciliation Act of 1989, Public Law 101-239 (103 Stat. 2106, 1989) amended section 6656, modifying the penalty rates relating to a failure to make a Federal tax deposit and removing the penalty relating to overstatement of Federal tax deposits. These changes have rendered §§ 301.6656-1 and 301.6656-2 obsolete.

Section 301.6656-1 was revised and § 301.6656-2 was added by TD 7925, published in the **Federal Register** for December 13, 1983 (LR-311-81, 48 FR 5453). Section 301.6656-2 was added to implement changes made by the

Economic Recovery Tax Act of 1981, Public Law 97-34 (95 Stat. 172, 1981). Section 301.6656-1 was revised to remove outdated provisions relating to deposits made before January 1, 1970, based on the law in effect for those deposits.

Section 301.6656-1 reflects that, at the time it was revised, the penalty for underpayment of deposits was five percent of the amount of the underpayment without regard to the period during which the underpayment continued, absent reasonable cause. The Omnibus Budget Reconciliation Act of 1986, Public Law 99-509 (100 Stat. 1874, 1986) amended section 6656 to impose a ten percent penalty for underpayment. The Omnibus Budget Reconciliation Act of 1989 further amended this section to provide for a penalty that is equal to an applicable percentage of the amount of the underpayment based on the duration of the underpayment. This regulation does not reflect the most recent amendments to section 6656. Furthermore, all relevant information regarding underpayment penalties is put forth in the code section or in other published guidance. This regulation does not provide any additional guidance regarding the current underpayment penalties as set forth in section 6656 and therefore may be removed.

Section 301.6656-2 explains and expands upon former section 6656(b), Overstated Deposit Claims. The Omnibus Budget Reconciliation Act of 1989 removed former section 6656(b), making this regulation obsolete.

In addition, § 301.6656-3 is redesignated as § 301.6656-1. Further, §§ 1.6302-1(d) and 1.6302-2(d) of the Income Tax Regulations and §§ 31.6302-1(m)(1) and 31.6302(c)-4(a) of the Employment Tax Regulations are revised to remove references to the removed regulations under section 6656.

Effect on other Documents

The final regulations §§ 301.6656-1 and 301.6656-2 published in the **Federal Register** for December 13, 1983 (LR-311-81, 48 FR 5453) are removed as of June 15, 2001.

Special Analyses

It has been determined that the removal of these regulations is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Because this rule merely removes regulatory provisions made obsolete by statute, prior notice and comment and a delayed effective date are unnecessary and contrary to the public interest. 5

U.S.C. 553(b)(B) and (d). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

Drafting Information

The principal author of the removal of the regulations is Robin M. Tuczak of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division).

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 301

Employment taxes, Estate taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31, 301, and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

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

Par. 2. In § 1.6302-1, paragraph (d) is revised to read as follows:

§ 1.6302-1 Use of Government depositaries in connection with corporation income and estimated income taxes and certain taxes of tax-exempt organizations.
* * * * *

(d) *Failure to deposit.* For provisions relating to the penalty for failure to make a deposit within the prescribed time, see section 6656.

Par. 3. In § 1.6302-2, paragraph (d) is revised to read as follows:

§ 1.6302-2 Use of Government depositaries for payment of tax withheld on nonresident aliens and foreign corporations.
* * * * *

(d) *Penalties for failure to make deposits.* For provisions relating to the penalty for failure to make a deposit

within the prescribed time, see section 6656.

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PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 4. The authority citation for part 31 continues to read in part as follows:

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

Par. 5. In § 31.6302-1, paragraph (m)(1) is revised to read as follows:

§ 31.6302-1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.
* * * * *

(m) * * * (1) *Failure to deposit penalty.* For provisions relating to the penalty for failure to make a deposit within the prescribed time, see section 6656.

* * * * *

Par. 6. In § 31.6302(c)-4, paragraph (a) is revised to read as follows:

§ 31.6302(c)-4 Cross references.

(a) *Failure to deposit.* For provisions relating to the penalty for failure to make a deposit within the prescribed time, see section 6656.

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PART 301—PROCEDURE AND ADMINISTRATION

Par. 7. The authority citation for part 301 continues to read in part as follows:

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

§§ 301.6656-1 and 301.6656-2 [Removed]

Par. 8. Sections 301.6656-1 and 301.6656-2 are removed.

§ 301.6656-3 [Redesignated as § 301.6656-1]

Par. 9. Section 301.6656-3 is redesignated as new § 301.6656-1.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

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

Authority: 26 U.S.C. 7805.

Par. 11. In § 602.101, paragraph (b) is amended by removing the entries for 301.6656-1 and 301.6656-2 from the table.

