determined for purposes of section 4974 is determined under section 457(d).

Q–7. With respect to which calendar year is the excise tax under section 4974 imposed in the case in which the amount not distributed is an amount required to be distributed by April 1 of a calendar year (by the employee's or individual's required beginning date)?

A–7. In the case in which the amount not paid is an amount required to be paid by April 1 of a calendar year, such amount is a required minimum distribution for the previous calendar year, *i.e.,* for the employee's or the individual's first distribution calendar year. However, the excise tax under section 4974 is imposed for the calendar year containing the last day by which the amount is required to be distributed, *i.e.,* the calendar year containing the employee's or individual's required beginning date, even though the preceding calendar year is the calendar year for which the amount is required to be distributed. Pursuant to A–2 of § 1.401(a)(9)–5, amounts distributed in the employee's or individual's first distribution calendar year will reduce the amount required to be distributed in the next calendar year by the employee's or individual's required beginning date. There is also a required minimum distribution for the calendar year which contains the employee's required beginning date. Such distribution is also required to be made during the calendar year which contains the employee's required beginning date.

Q–8. Are there any circumstances when the excise tax under section 4974 for a taxable year may be waived?

A–8. (a) *Reasonable cause.* The tax under section 4974(a) may be waived if the payee described in section 4974(a) establishes to the satisfaction of the Commissioner the following—

(1) The shortfall described in section 4974(a) in the amount distributed in any taxable year was due to reasonable error; and

(2) Reasonable steps are being taken to remedy the shortfall.

(b) *Automatic Waiver.* The tax under section 4974 will be automatically waived, unless the Commissioner determines otherwise, if—

(1) The payee described in section 4974(a) is an individual who is the sole beneficiary and whose required minimum distribution amount for a calendar year is determined under the life expectancy rule described in § 1.401(a)(9)–3 A–3 in the case of an employee's death before the employee's required beginning date; and

(2) The employee's or individual's entire benefit to which that beneficiary is entitled is distributed by the end of the fifth calendar year following the calendar year that contains the employee's date of death.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–304 Filed 1–12–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 601

[REG–129608–00]

RIN 1545–AY68

Notice to Interested Parties

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the notice to interested parties. Before the IRS can issue an advance determination regarding the qualification of a retirement plan, a plan sponsor must provide evidence that it has notified all persons who qualify as interested parties that an application for an advance determination will be filed. These proposed regulations set forth standards by which a plan sponsor may satisfy the notice to interested parties requirement. The proposed regulations affect retirement plan sponsors, plan participants and other interested parties with respect to an application for a determination letter, and certain representatives of interested parties.

DATES: Written or electronic comments and requests for a public hearing must be received by April 17, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–129608–00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–129608–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at *http://www.irs.gov/tax_regs/reglist.html.*

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, contact Pamela R. Kinard, (202) 622–6060; concerning the submission of comments, contact LaNita VanDyke, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR parts 1 and 601) under section 7476 of the Internal Revenue Code of 1986 (Code).

Section 7476(b)(2) provides that, with respect to a pleading filed by a petitioner for a request for a determination on the qualified status of a retirement plan under section 7476(a), the Tax Court may find the pleading to be premature unless the petitioner establishes to the satisfaction of the court that he has complied with the requirements prescribed by the regulations of the Secretary regarding the notice to interested parties.

On May 21, 1976, Final Income Tax Regulations (TD 7421) under section 7476 were published in the **Federal Register** (41 FR 20874). The final regulations provide guidance on the nature and method of giving notice to interested parties. Existing § 1.7476–1(a)(1) provides that in order to receive a determination on the qualified status of a retirement plan, the applicant must provide evidence that individuals who qualified as interested parties received notification of the determination letter application. In general, interested parties are defined in § 1.7476–1(b)(1) as all present employees of the employer eligible to participate in the plan, and all other present employees whose principal place of employment is the same as the principal place of employment of the employees eligible to participate. For plan terminations, § 1.7476–1(b)(5) defines interested parties as all present employees with accrued benefits, all former employees with vested benefits, and all beneficiaries of deceased former employees currently receiving benefits under the plan.

Existing § 1.7476–2(b) provides that the notice must be given in writing, must contain the information in § 601.201(o)(3) (Statement of Procedural Rules) and must be given in the manner prescribed in § 1.7476–2(c). For present employees, § 1.7476–2(c)(1) provides that the notice must be given in person, by mailing, by posting, or by printing it in a publication of the employer or an employee organization that is reasonably available to employees. For interested parties who are in a unit of employees covered by a collective-bargaining agreement, the notice must also be given in person or by mail to the collective-bargaining representative of the interested parties. For former

employees and beneficiaries who qualify as interested parties, § 1.7476–2(c)(2)(i) provides that notice shall be given in person or by mail to the last known address of the interested party.

On February 8, 2000, the IRS and Treasury published Final Income Tax Regulations (TD 8873) in the **Federal Register** (65 FR 6001) that provide safe harbor methods for plan sponsors and administrators using electronic media to transmit notices and consents required under sections 402(f), 411(a)(11), or 3405(e)(10)(B). Notice 99–1 (1999–2 I.R.B. 8) and Announcement 99–6 (1999–4 I.R.B. 24) also provide guidance on the use of electronic media by retirement plans.

In order to continue to advance the goal of permitting plan sponsors to use electronic media in administering their retirement plans, this amendment to the regulations eliminates the writing requirement for the notice to interested parties. Instead, the proposed regulations set forth new standards for satisfying the notice requirement that would ensure that interested parties will receive timely and adequate notice.

Explanation of Provisions

This notice of proposed rulemaking would amend §§ 1.7476–2 and 601.201 regarding the nature and method of giving notices to interested parties. The proposed regulations do not change the information that the notice must contain or the time period in which the notice must be given. These regulations continue to provide that the notice to interested parties must contain the information and be given within the time period prescribed in § 601.201(o)(3) (Statement of Procedural Rules). The proposed regulations would set forth new standards for providing the notice to interested parties. These new standards permit greater flexibility in the manner in which the notice may be provided.

The proposed regulations provide that, in the case of a present employee, former employee, or beneficiary who is an interested party, the notice may be provided by any method that reasonably ensures that all interested parties will receive the notice. The method used must be reasonably calculated to provide timely and adequate notice to all interested parties. In addition, the proposed regulations provide that if an interested party who is a present employee is in a unit of employees covered by a collective-bargaining agreement between employee representatives and one or more employers, notice shall also be given to the collective-bargaining representative of such interested party by any method that reasonably ensures that the collective-bargaining representative will receive the notice. The proposed regulations also provide if the notice to interested parties is delivered using an electronic medium under a system that satisfies the requirements of Q&A–5 of § 1.402(f)–1, the notice will be deemed to be provided in a manner that satisfies the notice to interested parties requirement.

The proposed regulations provide that whether the notice to interested parties is given in a manner that satisfies the requirements under these regulations will be determined on the basis of all the facts and circumstances. These regulations further provide that since the facts and circumstances will differ depending on the interested party, it is possible that more than one method of delivery (including nonelectronic writing) must be used in order to ensure timely and adequate notice to all interested parties.

The proposed regulations also revise § 601.201 (Statement of Procedural Rules) to conform to the changes in § 1.7476–2.

Proposed Effective Date

These regulations are proposed to be effective with respect to applications made on or after the date they are published in the **Federal Register** as final regulations. Plan sponsors may rely on these proposed regulations for guidance pending the issuance of final regulations. If, and to the extent, future guidance is more restrictive than the guidance in these proposed regulations, the future guidance will be applied without retroactive effect.

Special Analyses

It has been determined that this notice of proposed rulemaking 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, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Pamela R. Kinard of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be 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. Section 1.7476–2 is amended as follows:

1. Paragraphs (b) and (c) are revised.
2. Paragraph (d) is redesignated as paragraph (e) and a new paragraph (d) is added.
3. Paragraph (e)(1) is revised.

The revisions and additions read as follows:

§ 1.7476–2 Notice to interested parties.

* * * * *

(b) *Nature of notice.* The notice required by this section shall —

(1) Contain the information and be given within the time period prescribed in § 601.201(o)(3) of this chapter (Statement of Procedural Rules); and,

(2) Be given in a manner prescribed in paragraph (c) of this section.

(c) *Method of giving notice.* (1) In the case of a present employee, former employee, or beneficiary who is an interested party, the notice may be provided by any method that reasonably ensures that all interested parties will

receive timely and adequate notice. If an interested party who is a present employee is in a unit of employees covered by a collective-bargaining agreement between employee representatives and one or more employers, notice shall also be given to the collective-bargaining representative of such interested party by any method that satisfies this paragraph. Whether the notice is provided in a manner that satisfies the requirements of this paragraph will be determined on the basis of all the facts and circumstances. Because the facts and circumstances will differ depending on the interested party, it is possible that more than one method of delivery must be used in order to ensure timely and adequate notice to all interested parties.

(2) If the notice to interested parties is delivered using an electronic medium under a system that satisfies the requirements of Q&A–5 of § 1.402(f)–1, the notice will be deemed to be provided in a manner that satisfies the requirements of paragraph (c)(1) of this section.

(d) *Examples.* The principles of this section are illustrated by the following examples:

Example 1. (i) Employer A is amending Plan C and applying for a determination letter. Plan C is not maintained pursuant to one or more collective-bargaining agreements and is not being terminated. As part of the determination letter application process, Employer A provides the notice required under this section to interested parties. For present employees, Employer A provides the notice by posting the notice at those locations within the principal places of employment of the interested parties which are customarily used for employer notices to employees with regard to labor-management relations matters.

(ii) In this *Example 1,* Employer A satisfies the notice to interested parties requirement described in this section.

Example 2. (i) Employer B is amending Plan D and applying for a determination letter. As part of the determination letter application process, Employer B provides the notice required under this section to interested parties.

(ii) Employer B has multiple worksites. Employer B's employees located at worksites 1 through 4 have access to computers at their workplace. However, Employer B's employees located at worksite 5 do not have access to computers.

(iii) For present employees with access to computers (worksites 1 through 4), Employer B provides the notice by posting the notice on Employer B's web site (Internet or intranet). Employer B customarily posts employer notices to employees at worksites 1 through 4 with regard to labor-management relations matters on its web site. For present employees without access to computers (worksite 5), Employer B provides the notice by posting the notice at worksite 5 in a location that is customarily used for employer notices to employees with regard to labor-management relations matters.

(iv) Employer B also sends the notice by e-mail to each collective-bargaining representative of interested parties who are present employees of Employer B covered by a collective-bargaining agreement between employee representatives and Employer B, using the e-mail address previously provided to Employer B by such collective-bargaining representative.

(v) In this *Example 2,* Employer B satisfies the notice to interested parties requirement described in this section.

Example 3. (i) Employer C is terminating Plan E and applying for a determination letter as to whether the plan termination affects the continuing qualification of Plan E. As part of the determination letter application process, Employer C provides the notice required under this section to interested parties.

(ii) All of Employer C's employees have access to computers. Each employee has an e-mail address where he or she can receive messages from Employer C. Employer C has set up kiosks for employees' use. The kiosks are located within the principal places of employment of the employees and are customarily used for employer notices to employees with regard to labor-management relations matters.

(iii) For present employees, Employer C provides the notice by sending the notice by e-mail.

(iv) Employer C also sends the notice by e-mail to each collective-bargaining representative of interested parties who are present employees of Employer C covered by a collective-bargaining agreement between employee representatives and Employer C, using the e-mail address previously provided to Employer C by such collective-bargaining representative.

(v) In addition, Employer C sends the notice by e-mail to each interested party who is a former employee or beneficiary, using the e-mail address previously provided to Employer C by such interested party. For any former employee or beneficiary who did not provide an e-mail address, Employer C sends the notice by regular mail to the last known address of such former employee or beneficiary.

(vi) In this *Example 3,* Employer C satisfies the notice to interested parties requirement described in this section.

(e) *Effective date.* (1) The provisions of this section shall apply to applications referred to in paragraph (a) of § 1.7476–1 made on or after the date the regulations are published in the **Federal Register** as final regulations.

PART 601—STATEMENT OF PROCEDURAL RULES

Paragraph 1. The authority citation for part 601 continues to read, in part, as follows:

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

Par. 2. Section 601.201 is amended as follows:

1. In paragraph (o)(3)(xv), the first sentence is replaced by two new sentences.

2. In paragraph (o)(3)(xvi), introductory text is revised.

The revisions read as follows:

§ 601.201 Rulings and determination letters.

* * * * *

(o) * * * (3) * * *

(xv) When the notice referred to in paragraph (o)(3)(xiv) of this section is given in the manner set forth in § 1.7476–2(c), the following time limitations for providing the notice apply. When the notice is given other than by mailing, it should be given not less than 7 days nor more than 21 days prior to the date that the application for a determination is made. * * *

(xvi) The notice referred to in paragraph (o)(3)(xiv) of this section shall be given in the manner prescribed in § 1.7476–2 and shall contain the following information:

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–131 Filed 1–16–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[REG–110374–00]

RIN 1545–AY21

Interest-free adjustments with respect to underpayments of employment taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed amendment to the regulations relating to interest-free adjustments with respect to underpayments of employment taxes. The proposed amendment reflects changes to the law made by the Taxpayer Relief Act of 1997. The proposed amendment affects employers that are the subject of IRS examinations involving determinations by the IRS that workers are employees for purposes of subtitle C or that the employers are not entitled to relief from employment taxes under section 530 of the Revenue Act of 1978 (section 530).

DATES: Written and electronic comments and requests for a public hearing must be received by April 17, 2001.