operation of facilities at that location; and

(iii) The abandonment or replacement will have no adverse impact on customers' certificated services.

* * * * *

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PREMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

■ 3. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717z.

■ 4. Amend § 157.202 by adding a sentence at the end of paragraph (b)(2)(i) and revising paragraph (b)(3) to read as follows:

§ 157.202 Definitions.

* * * * *

(b) * * *

(2)(i) * * * Finally, for purposes of abandonment under § 157.216, eligible facilities include auxiliary installations that do not qualify for pre-granted abandonment authority under § 2.55(a)(3) and replacement facilities constructed under § 2.55(b).

* * * * *

(3) *Facility,* for purposes of construction under this subpart, does not include an auxiliary facility that qualifies for construction under § 2.55(a) of this chapter or a replacement facility that qualifies for construction under § 2.55(b).

* * * * *

■ 5. Amend § 157.216 by revising paragraphs (a)(2) and (b)(2) to read as follows:

§ 157.216 Abandonment.

(a) * * *

(2)(i) An auxiliary facility as described in § 2.55(a) of this chapter when the abandonment:

(A) Will not exceed the cost limit in § 157.208(d) for activities under the automatic provisions;

(B) Will have no adverse impact on customers' certificated services; and

(C) Cannot satisfy the right-of-way, facility site, and work space limitations for the pre-granted abandonment authority in § 2.55(a)(3);

(ii) A replacement facility that was or could have been constructed under § 2.55(b) of this chapter, provided the current cost to construct the facilities would not exceed the cost limit in § 157.208(d) for activities under the automatic provisions and the certificate holder obtains the written consent of each customer served using the facility during the past 12 months;

(iii) Any other facility that did or could now qualify for automatic authorization as described in § 157.203(b), provided the certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

(b) * * *

(2)(i) An auxiliary facility as described in § 2.55(a) of this chapter when the abandonment:

(A) Will exceed the cost limit in § 157.208(d) for activities under the prior notice provisions;

(B) Will have no adverse impact on customers' certificated services; and

(C) Cannot satisfy the right-of-way, facility site, and work space limitations for the pre-granted abandonment authority in § 2.55(a)(3).

(ii) A replacement facility that was or could have been constructed under § 2.55(b) of this chapter, provided the current cost to construct the facilities would not exceed the cost limit in § 157.208(d) for activities under the prior notice provisions and the certificate holder obtains the written consent of each customer served using the facility during the past 12 months;

(iii) Any other facility that did or could now qualify for prior notice authorization as described in § 157.203(c), provided the certificate holder obtains the written consent of each customer served using the facility during the past 12 months.

* * * * *

[FR Doc. 2015–17919 Filed 7–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9727]

RIN 1545–BI36

Claims for Credit or Refund

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations for filing a claim for credit or refund. The regulations provide guidance to taxpayers generally as to the proper place to file a claim for credit or refund. The regulations are updated to reflect changes made by the Tax Reform Act of 1976, section 1210, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Community Renewal Tax Relief Act of 2000. The regulations are further updated to reflect that the IRS may prescribe additional claim forms.

DATES:

Effective Date: These regulations are effective on July 24, 2015.

Applicability Dates: For dates of applicability, see §§ 301.6402–2(g), 301.6402–3(f) and 301.6402–4(b).

FOR FURTHER INFORMATION CONTACT: Micah A. Levy, (202) 317–6832 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

These final regulations amend current regulations under section 6402 of the Internal Revenue Code (Code). Section 6402 of the Code authorizes the Secretary to make credits or refunds of overpayments. Section 6511 provides the limitations period within which a taxpayer must file a claim for credit or refund and restricts the ability of the Secretary to issue a credit or refund unless the claim is filed by the taxpayer within that period. Section 7422 prohibits the maintenance of a suit for refund until a claim has been duly filed with the Secretary. Currently, § 301.6402–2(a)(2) provides generally that a claim for credit or refund must be filed with the service center serving the internal revenue district in which the tax was paid. These final regulations clarify that, unless otherwise directed, the proper place to file a claim for credit or refund is with the service center at which the taxpayer currently would be required to file a tax return for the type of tax to which the claim relates, irrespective of where the tax was paid or was required to have been paid.

These final regulations remove outdated portions of § 301.6402–2 that provided rules for claims filed prior to April 15, 1968 and § 301.6402–3 that provided special rules for claims for credit or refund of income taxes filed before July 1, 1976, and revises the reference in § 301.6402–4 to reflect the threshold for referral to the Joint Committee on Taxation pursuant to section 6405. These final regulations do not affect § 301.6402–3T as promulgated in Treasury Decision 9658 (79 FR 12880) (March 6, 2014). Other stylistic revisions were adopted solely to conform the regulations to modern drafting style and usage.

On June 10, 2011, the IRS published a notice of proposed rulemaking (REG–137128–08) in the **Federal Register** (76 FR 34017). No request for a public hearing was received. The IRS received written and electronic comments responding to the notice of proposed

rulemaking. After consideration of the comments, the proposed regulations are adopted as amended by this Treasury decision. All comments are available at *www.regulations.gov* or upon request.

Explanation of Provisions and Summary of Comments

I. Electronic Filing

Commentators suggested that the regulations should provide for electronic filing, when available. Although the final regulations do not explicitly refer to electronic filing, the final regulations instruct taxpayers to file a claim for credit or refund in a manner consistent with forms, form instructions, publications, and other guidance on the IRS Web site. To the extent that electronic filing is or becomes available for filing a claim for credit or refund, it will be described elsewhere—for example, in forms, form instructions, publications, or the IRS Web site.

2. Claims Unrelated to a Tax for Which a Return Is Required

Commentators noted that some penalties are not related to any tax for which a return is required. These commentators observed that the instructions to Form 843, ''Claim for Refund and Request for Abatement,'' that taxpayers use to file a claim for credit or refund of penalties that are unrelated to any tax for which a return is required are unhelpful because they instruct taxpayers to file Form 843 with the service center in which the taxpayer would be required to file a current tax return for ''the tax to which your claim or request relates.'' For an assessable penalty that is unrelated to a particular tax, the notice containing or issued along with demand for payment would provide the proper address for filing a claim for credit or refund and the taxpayer should file a claim in accordance with any specific instructions contained therein.

The locations at which the IRS processes the various forms for any given subset of taxpayers may change and the proper place to identify such locations is in the various forms, instructions, publications, and the IRS.gov Web site. These regulations appropriately cross-reference such authorities.

3. Protective and Informal Claims

Commentators suggested that the regulations be amended to discuss protective claims and informal claims. Although not provided for in the Code, case law provides that protective claims may be filed to preserve a taxpayer's right to claim a refund when the taxpayer's right to the refund is contingent on future events and may not be determinable until after the statute of limitations expires. Case law also provides that a claim for refund that is technically deficient with respect to some formal claim requirement (*that is,* an ''informal'' claim) might nonetheless be a valid claim as long as it meets certain basic requirements (for example, even an informal claim must contain a written component). While the IRS has recognized both protective and informal claims in some circumstances, neither is within the scope of these regulations.

4. Authority To Make Refunds on Equitable Grounds

Commentators suggested that Treas. Reg. sec. 301.6402–2(b)(2), which explains that the IRS lacks the authority to make a refund on equitable grounds, should include exceptions for sections 6015(f) and 6343(d). Those and other Code provisions allow the IRS to consider equitable factors in making certain determinations, such as whether a taxpayer is eligible for innocent spouse relief or whether a levy may be released. The equitable factors that the IRS may consider in these statutorily prescribed situations affect only whether the taxpayer has an overpayment or otherwise may be entitled to particular relief. Once an overpayment is determined, whether by taking equitable considerations into account or not, such overpayment may be refunded only if the taxpayer or IRS follows all of the statutory and administrative prerequisites required to allow and make a refund. *See United States* v. *Clinton Elkhorn Mining Co.,* 553 U.S. 1 (2008). None of those equitable factors otherwise determine whether or how the IRS is to issue a refund. Section 6402, in turn, prescribes the treatment of overpayments and provides the regime under which the IRS may issue a refund. In other words, although equitable considerations may be taken into account under some Code sections in determining either the existence or amount of an overpayment, those sections do not provide any authority (equitable or statutory) to allow or make credits and refunds under section 6402. The statutory language of section 6402(a) provides that, if there is an overpayment, then the IRS *shall* refund that overpayment (subject to certain exceptions enumerated in the statute).

The IRS has discretion to grant equitable relief from joint and several liability under section 6015(f) to a requesting spouse if, considering all of the facts and circumstances, it would be inequitable to hold the requesting spouse jointly and severally liable. In those cases in which the IRS does apply equitable factors to determine whether a taxpayer is in an overpayment situation, such as under section 6015(f), the IRS considers things such as (1) whether the taxpayer is divorced, (2) whether the tax liability is due to income of the non-requesting spouse, and (3) the health of the requesting spouse. *See,* Rev. Proc. 2013–34, 2013–43 IRB 397 (Sept. 16, 2013). When a requesting spouse is relieved of joint and several liability, relief will rarely result in an overpayment because equitable relief under section 6015(f) generally involves unpaid liabilities. As a result, in many cases in which the IRS determines that a requesting spouse is entitled to equitable relief, the IRS ceases collection activity against the requesting spouse for any due, but unpaid, tax liabilities. Nonetheless, when equitable relief does result in an overpayment, the requesting spouse may receive a refund by filing a claim for refund using a Form 8857, Request for Innocent Spouse Relief, that complies with section 6402. Thus, the equitable considerations in section 6015(f) relate to whether the requesting spouse is entitled to relief, not whether a resulting overpayment is refunded.

Section 6343(d) provides for the return of levied property to a taxpayer in certain circumstances, including when, ''with the consent of the taxpayer or the National Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States.'' Although section 6343(d) may allow the IRS to consider equitable factors in determining whether to return the property, the return of levied property does not affect the amount of a taxpayer's tax liability and will not result in an overpayment. Accordingly, if the IRS returns property under section 6343(d) and the taxpayer fails to pay the previously assessed liability for which the levy was made on the returned property, then the IRS may collect the liability again, administratively or otherwise.

The refund provisions of section 6402 are only triggered once an overpayment exists and is established. Indeed, the section begins ''[i]n the case of any overpayment. . . .'' By presupposing the existence of an overpayment, the equitable factors that the IRS may have considered are not implicated or relevant in the determination of whether the overpayment is credited or refunded. Moreover, once the equitable factors have been used to establish the

taxpayer's ability to claim a refund, the amount of any overpayment is a purely mathematical calculation—no equitable factors exist at this stage. The final regulations continue to make clear that the IRS lacks the authority to refund on equitable grounds penalties or other amounts legally collected that comprise an overpayment.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to the regulations and, therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business, and no comments were received.

Drafting Information

The principal author of the regulations is Micah A. Levy, Office of the Associate Chief Counsel (Procedure & Administration). Mr. Levy can be reached at (202) 317–6832 (not a toll-free number).

List of Subjects in 26 CFR Part 301

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

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

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

■ **Par. 2.** Section 301.6402–2 is amended by:

■ 1. Revising paragraphs (a)(2), (b)(2), (c), and (d).

■ 2. Adding paragraph (g).

The revisions and addition read as follows:

§ 301.6402–2 Claims for credit or refund.

(a) * * *

(2) Except as provided in paragraph (b) of § 301.6091–1 (relating to hand-carried documents), if a taxpayer is required to file a claim for credit or refund using a particular form, then the claim, together with appropriate supporting evidence, shall be filed in a manner consistent with such form, form instructions, publications, or other guidance found on the IRS.gov Web site. If a taxpayer is filing a claim in response to an IRS notice or correspondence, then the claim must be filed in accordance with the specific instructions contained in the notice or correspondence regarding the manner of filing. Any other claim not described in the preceding sentences generally must be filed with the service center at which the taxpayer currently would be required to file a tax return for the type of tax to which the claim relates or via the appropriate electronic portal. For rules relating to interest in the case of credits or refunds, see section 6611. For rules treating timely mailing as timely filing, see section 7502. For rules relating to the time for filing a claim when the last day falls on Saturday, Sunday, or a legal holiday, see section 7503.

(b) * * *

(2) The IRS does not have the authority to refund on equitable grounds penalties or other amounts legally collected.

(c) *Form for filing claim.* If a particular form is prescribed on which the claim must be made, then the claim must be made on the form so prescribed. For special rules applicable to refunds of income taxes, see § 301.6402–3. For provisions relating to credits and refunds of taxes other than income tax, see the regulations relating to the particular tax. All claims by taxpayers for the refund of taxes, interest, penalties, and additions to tax that are not otherwise provided for must be made on Form 843, ''Claim for Refund and Request for Abatement.''

(d) *Separate claims for separate taxable periods.* In the case of income and gift taxes, income tax withheld, taxes under the Federal Insurance Contributions Act, taxes under the Railroad Retirement Tax Act, and taxes under the Federal Unemployment Tax Act, a separate claim must be made for each return for each taxable period.

* * * * *

(g) *Effective/applicability date.* Paragraphs (a)(2), (b)(2), (c), and (d) of this section apply to claims for credit or refund filed on or after July 24, 2015. Paragraphs (a)(1), (b)(1), (e), and (f) of this section apply to claims for credit or refund filed before, on or after July 24, 2015.

■ **Par. 3.** Section 301.6402–3 is amended by:

■ 1. Revising the introductory text of paragraph (a).

■ 2. Removing and reserving paragraph (b).

■ 3. Revising paragraphs (c) and (f).

The revisions read as follows:

§ 301.6402–3 Special rules applicable to income tax.

(a) The following rules apply to a claim for credit or refund of income tax:—

* * * * *

(b) [Reserved]

(c) If the taxpayer is not required to show the tax on the form (see section 6014 and the accompanying regulations), the IRS will treat a properly filed income tax return as a claim for refund and such return will constitute a claim for refund within the meaning of section 6402 and section 6511 for the amount of the overpayment shown by the computation of the tax made by the IRS on the basis of the return. For purposes of the limitations period of section 6511, such claim will be treated as filed on the date the return is treated as filed.

* * * * *

(f) *Effective/applicability date.* (1) Paragraph (c) of this section, as revised, applies to claims for credit or refund filed on or after July 24, 2015. Paragraphs (a), (d), and (e) of this section apply to claims for credit or refund filed before, on or after July 24, 2015, except references in paragraph (e) to Form 8805 or other statements required under § 1.1446–3(d)(2) of this chapter apply to partnership taxable years beginning after April 29, 2008.

(2) [Reserved]. For further guidance, see § 301.6402–3T(f)(2).

■ **Par. 4.** Section 301.6402–4 is revised to read as follows:

§ 301.6402–4 Payments in excess of amounts shown on return.

(a) If the IRS determines that the payments by the taxpayer that are made within the period prescribed for payment and before the filing of the return exceed the amount of tax shown on the return (for example, excessive estimated income tax payments or excessive withholding), the IRS may credit or refund such overpayment without awaiting examination of the completed return and without awaiting the filing of a claim for refund. The provisions of §§ 301.6402–2 and 301.6402–3 are applicable to such

overpayment, and taxpayers should submit claims for refund (if the income tax return is not itself a claim for refund, as provided in § 301.6402–3) to protect themselves in the event the IRS fails to make such determination and credit or refund. The provisions of section 6405 (relating to reports of refunds in excess of the statutorily prescribed threshold referral amount to the Joint Committee on Taxation) do not apply to the overpayments described in this section.

(b) *Effective/applicability date.* The rules of this section apply to payments made on or after July 24, 2015.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: July 8, 2015.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2015–18119 Filed 7–23–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0618]

RIN 1625–AA00

Safety Zone; Red Bull GRC Air Show, Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Detroit River in the vicinity of Detroit, MI. This zone is intended to restrict and control the movement of vessels in a portion of the Detroit River. This zone is necessary to protect spectators and vessels from the hazards associated with an air show.

DATES: This rule is effective from 1:30 p.m. on July 25, 2015 until 4:30 p.m. on July 26, 2015. It will be enforced from 1:30 p.m. to 4:30 p.m. each day on July 25 and 26, 2015.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2015–0618 and are available online by going to *www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground floor, Room W12–140, 1200 New Jersey Avenue SE., Washington DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, contact or email PO1 Todd Manow, Prevention Department, Sector Detroit, Coast Guard; telephone 313–568–9580, or email *Todd.M.Manow@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NAD 83 North American Datum of 1983

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency, for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details of this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect workers, the surrounding public, and vessels from the hazards associated with the maritime air show.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1231; 33 CFR 1.05–1 and 160.5; Department of Homeland Security Delegation No. 0170.1.

The Coast Guard was informed that on July 25, 2015, and July 26, 2015, an air show will take place on the Detroit River in the vicinity of Detroit, MI. The Captain of the Port Detroit has determined that the air show may pose a significant risk to public safety and property.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Detroit has determined a temporary safety zone is necessary to ensure the safety of spectators and vessels during the Red Bull GRC air show. This safety zone will encompass U.S. navigable waters of the Detroit River from the Belle Isle Bridge to position: 42°19′58.60″ N., 083°0′38.47″ W. (NAD 83).

Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port or his on-scene representative.