

For dates of applicability, see §1.6081-4T and §301.6651-1T.

FOR FURTHER INFORMATION CONTACT: Margaret A. Owens, (202) 622-6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545-1479. Responses to this collection of information are required to obtain a benefit (an automatic 4-month extension of time to file an individual income tax return).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

For further information concerning the collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the Federal Register.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document amends the Income Tax Regulations (26 CFR Part 1) under section 6081 of the Internal Revenue Code of 1986 to implement Notice 93-22 (1993-1 C.B. 305). Notice 93-22, released April 7, 1993, grants relief to individuals who want an automatic 4-month extension of time to file an individual income tax return but who

are unable to pay by the due date for the return the tax properly estimated to be due. The notice allows these individuals to obtain an automatic 4-month extension of time to file their individual income tax returns for taxable years ending on or after December 31, 1992, by filing Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, without an accompanying remittance. Individuals may rely on Notice 93-22 for taxable years ending on or after December 31, 1992 and before December 31, 1995. Notice 93-22 also advised taxpayers that the regulations under section 6081 will be amended to reflect this change in the procedure for an individual to obtain an automatic 4-month extension of time to file. In addition, this document amends the Regulations on Procedure and Administration (26 CFR Part 301) (relating to an automatic extension of time for filing an individual income tax return).

Explanation of Provisions

Under §1.6081-4, an individual required to file an income tax return is allowed an automatic 4-month extension of time to file if (a) an application is prepared on Form 4868, (b) the application is signed by the individual or a person duly authorized by the individual, (c) the application is filed on or before the date the return is due, (d) the application shows the full amount properly estimated as tax, and (e) the application is accompanied by full remittance of the amount properly estimated as tax that is unpaid as of the date prescribed for the filing of the return.

These temporary regulations provide that individuals may obtain an automatic 4-month extension of time to file an individual income tax return without remitting the unpaid amount of any tax properly estimated to be due with the application for extension of time to file. Under these temporary regulations, an individual's inability to pay is not a condition for obtaining an automatic 4-month extension. However, taxpayers are encouraged to make payments, as large as possible, in order to reduce interest and penalties required by law.

In addition, these temporary regulations provide that the IRS may prescribe other manners for submitting an application in lieu of a paper application on Form 4868.

Section 6081.—Extensions of Time for Filing Returns

26 CFR 1.6081-4: Automatic extension of time for filing individual income tax returns.

T.D. 8651

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

Automatic Extension of Time for Filing Individual Income Tax Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that reflect new simpler procedures for an individual to obtain an automatic extension of time to file an individual income tax return. The text of the temporary regulations also serves as the text of the cross reference notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

DATES: These regulations are effective January 4, 1996.

The temporary regulations remove the regulatory requirement that applications for an automatic 4-month extension be signed. Thus, notwithstanding the 1995 Form 4868 instructions, an unsigned application will be processed. In addition, the Commissioner may prescribe additional methods of obtaining an extension of time to file that do not require a signature.

Special Analyses

It has been determined that these temporary regulations are not a significant regulatory action as defined in EO 12866. 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 these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Margaret A. Owens, Office of the Assistant Chief Counsel (Income Tax & Accounting), IRS. However, other personnel from the IRS and the Treasury Department participated in their development.

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26 CFR Part 301

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

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1, 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. Section 1.6081-4 is amended by revising paragraph (a) to read as follows:

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

(a) [Reserved] For further guidance see §1.6081-4T(a).

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Par. 3. Section 1.6081-4T is added to read as follows:

§1.6081-4T Automatic extension of time for filing individual income tax returns—taxable years ending on or after December 31, 1995 (temporary).

(a) *In general*—(1) *Period of extension.* An individual who is required to file an individual income tax return for any taxable year ending on or after December 31, 1995, will be allowed an automatic 4-month extension of time to file the return after the date prescribed for filing the return provided the requirements contained in paragraphs (a)(2), (3), and (4) of this section are met. In the case of an individual described in §1.6081-5(a)(5) or (6), the automatic 4-month extension will run concurrently with the extension of time to file granted pursuant to §1.6081-5.

(2) *Manner for submitting an application.* An application must be submitted—

(i) On Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return; or

(ii) In any other manner as may be prescribed by the Commissioner.

(3) *Time and place for filing application.* Except in the case of an individual described in §1.6081-5(a)(5) or (6), the application must be filed on or before the date prescribed for filing the individual income tax return. In the case of an individual described in §1.6081-5(a)(5) or (6), the application must be filed on or before the expiration of the extension of time to file granted pursuant to §1.6081-5. The application must be filed with the IRS office designated in the application's instructions.

(4) *Proper estimate of tax.* An application for extension must show the full amount properly estimated as tax for the taxable year.

(5) *Allowance of extension.* Upon properly preparing and timely filing an application, the 4-month extension will be considered as allowed. Except in undue hardship cases, no extension of time for filing an individual income tax return will be granted under §1.6081-1 until an automatic extension has been allowed pursuant to the provisions of this paragraph (a).

(b) and (c) [Reserved].

(d) *Penalties.* See section 6651 and the regulations under that section for the additions to tax 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).

PART 301—PROCEDURE AND ADMINISTRATION

Par. 4. The authority citation for part 301 continues to read in part as follows:

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

Par. 5. Section 301.6651-1 is amended by revising paragraph (c)(3) to read as follows:

§301.6651-1 Failure to file tax return or to pay tax.

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(c)(3) [Reserved] For further guidance see §301.6651-1T (c)(3).

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Par. 6. Section 301.6651-1T is added to read as follows:

§301.6651-1T Failure to file tax return or to pay tax—taxable years ending on or after December 31, 1995 (temporary).

(a) through (c)(2) [Reserved].

(c)(3) If, for a taxable year ending on or after December 31, 1995, an individual taxpayer satisfies the requirements of §1.6081-4T(a) of this chapter (relating to an automatic extension of time for filing an individual income tax return), reasonable cause shall be presumed, for the period of the extension of time to file, with respect to any underpayment of tax if—

(i) The excess of the amount of tax shown on the individual income tax return over the amount of tax paid on or before the regular due date of the return (by virtue of taxes withheld by the employer, estimated tax payments, and any payment with an application for extension of time to file pursuant to §1.6081-4T of this chapter) is no greater than 10 percent of the amount of tax shown on the individual income tax return; and

(ii) Any balance due shown on the individual income tax return is remitted with the return.

PART 602—OMB CONTROL
NUMBERS UNDER THE
PAPERWORK REDUCTION ACT

Par. 7. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§602.101 [Amended]

Par. 8. In §602.101, paragraph (c) is amended by adding an entry in numerical order to the table to read “1.6081-4T 1545-1479”.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved December 20, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on January 3, 1996, 8:45 a.m., and published in the issue of the Federal Register for January 4, 1996, 61 F.R. 260)