PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW AR E5 Blytheville, AR [Amended]

Blytheville, Arkansas International Airport, AR
(Lat. 35°57′52″ N., long. 89°56′38″ W.)
Blytheville Municipal Airport, AR
(Lat. 35°56′26″ N., long. 89°49′51″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Arkansas International Airport and within a 6.5-mile radius of Blytheville Municipal Airport.

ASW AR E5 Brinkley, AR [Amended]

Brinkley, Frank Federer Memorial Airport, AR
(Lat. 34°52′49″ N., long. 91°10′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Frank Federer Memorial Airport.

* * * * *

ASW AR E5 Clarksville, AR [Amended]

Clarksville Municipal Airport, AR
(Lat. 35°28′15″ N., long. 93°25′38″ W.)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of Clarksville Municipal Airport.

* * * * *

ASW AR E5 De Queen, AR [Amended]

De Queen, J. Lynn Helms Sevier County Airport, AR
(Lat. 34°02′49″ N., long. 94°23′58″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of J. Lynn Helms Sevier County Airport.

Issued in Fort Worth, Texas, on November 2, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–27093 Filed 11–9–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9793]

RIN 1545–BM01

Removal of the 36-Month Non-Payment Testing Period Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations that remove the rule that a deemed discharge of indebtedness for which a Form 1099–C, ''Cancellation of Debt,'' must be filed occurs at the expiration of a 36-month non-payment testing period. The Treasury Department and the IRS are concerned that the rule creates confusion for taxpayers and does not increase tax compliance by debtors or provide the IRS with valuable third-party information that may be used to ensure taxpayer compliance. The final regulations affect certain financial institutions and governmental entities.

DATES: *Effective Date:* These regulations are effective on November 10, 2016.

Applicability Date: For dates of applicability, see § 1.6050P–1(h).

FOR FURTHER INFORMATION CONTACT: Eliezer Mishory at (202) 317–6844 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 6050P of the Internal Revenue Code (Code), relating to the rule in § 1.6050P–1(b)(2)(iv) that the 36-month non-payment testing period is an identifiable event triggering an information reporting obligation on Form 1099–C for discharge of indebtedness by certain entities. On October 15, 2014, a notice of proposed rulemaking (REG–136676–13) was published in the **Federal Register** (79 FR 61791). The notice of proposed rulemaking proposed to remove the 36-month non-payment testing period. Written comments responding to the proposed regulations were received. The comments have been considered in connection with these final regulations and are available for public inspection at www.regulations.gov or on request. No public hearing was requested or held. After consideration of all the comments, the proposed regulations are adopted as final regulations without significant modification by this Treasury decision.

Statutory Provisions

Section 61(a)(12) provides that income from discharge of indebtedness is includible in gross income. Section 6050P was added to the Code by section 13252 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66 (107 Stat. 312, 531–532 (1993)). Section 6050P was enacted in part ''to encourage taxpayer compliance with respect to discharged indebtedness'' and to ''enhance the ability of the IRS to enforce the discharge of indebtedness rules.'' H.R. Rep. No. 103–111, at 758 (1993). As originally enacted, section 6050P generally required applicable financial entities (generally financial institutions, credit unions, and federal executive agencies) that discharge (in whole or in part) indebtedness of $600 or more during a calendar year to file information returns with the IRS and to furnish information statements to the persons whose indebtedness was discharged. In addition to other information prescribed by regulations, an applicable financial entity is required to include on the information return the debtor's name, taxpayer identification number, the date of the discharge, and the amount discharged. *See* 26 U.S.C. 6050P(a) (1994).

The Debt Collection Improvement Act of 1996 (1996 Act), Public Law 104–134 (110 Stat. 1321, 1321–368 through 1321–369 (1996)) was enacted on April 26, 1996. Section 31001(m)(2)(B)(i) and (ii) of the 1996 Act amended section 6050P to expand the reporting requirement to cover ''applicable entities,'' which includes any executive, judicial, or legislative agency, not just federal executive agencies, and any previously covered applicable financial entity. Effective for discharges of indebtedness occurring after December 31, 1999, section 533(a) of the Ticket to Work and Work Incentives Improvement Act of 1999 (1999 Act), Public Law 106–170 (113 Stat. 1860, 1931 (1999)), added subparagraph (c)(2)(D) to section 6050P, to further expand entities covered by the reporting requirements to include any organization the ''significant trade or business of which is the lending of money.''

On April 4, 2000, the IRS released Notice 2000–22 (2000–1 CB 902) to provide penalty relief to organizations that were newly made subject to section 6050P by the 1999 Act (organizations with a significant trade or business of lending money). The relief applied to penalties for failure to file information returns or furnish payee statements for discharges of indebtedness occurring before January 1, 2001. On December 26,

2000, the IRS released Notice 2001–8 (2001–1 CB 374) to extend the penalty relief for organizations described in Notice 2000–22 for discharges of indebtedness that occurred prior to the first calendar year beginning at least two months after the date that appropriate guidance is issued.

Regulatory History

On December 27, 1993, temporary regulations under section 6050P relating to the reporting of discharge of indebtedness by applicable financial entities were published in the **Federal Register** (TD 8506; 58 FR 68301). The temporary regulations provided that an applicable financial entity must report a discharge of indebtedness upon the occurrence of an identifiable event that, considering all the facts and circumstances, indicated the debt would never have to be repaid. The temporary regulations provided a non-exhaustive list of three identifiable events that would give rise to the reporting requirement under section 6050P: (1) A discharge of indebtedness under title 11 of the United States Code (Bankruptcy Code); (2) an agreement between the applicable financial entity and the debtor to discharge the indebtedness, provided that the last event to effectuate the agreement has occurred; and (3) a cancellation or extinguishment of the indebtedness by operation of law. These regulations were effective for discharges of indebtedness occurring after December 31, 1993.

A concurrently published notice of proposed rulemaking (IA–63–93; 58 FR 68337) proposed to adopt those and other rules in the temporary regulations. Written comments were received in response to the notice of proposed rulemaking, and testimony was given at a public hearing held on March 30, 1994. In response to the comments and testimony, the IRS provided, in Notice 94–73 (1994–2 CB 553), interim relief from penalties for failure to comply with certain of the reporting requirements of the temporary regulations for discharges of indebtedness occurring before the later of January 1, 1995, or the effective date of final regulations under section 6050P.

On January 4, 1996, prior to the amendments made by the 1996 Act, final regulations relating to the information reporting requirements of applicable financial entities for discharges of indebtedness were published in the **Federal Register** (TD 8654; 61 FR 262) (the 1996 final regulations). The 1996 final regulations were generally effective for discharges of indebtedness occurring after December 21, 1996, although applicable financial entities at their discretion could apply the 1996 final regulations to any discharge of indebtedness occurring on or after January 1, 1996, and before December 22, 1996. Finally, the preamble to these regulations provided that the temporary regulations and the interim relief provided in Notice 94–73 remained in effect until December 21, 1996.

In response to objections by commenters, the 1996 final regulations did not adopt the facts and circumstances test to determine whether a discharge of indebtedness had occurred and information reporting was required. Instead, the 1996 final regulations provided that a person's indebtedness is deemed to be discharged for information reporting purposes only upon the occurrence of an identifiable event specified in an exhaustive list under § 1.6050P–1(b)(2), whether or not an actual discharge has occurred on or before the date of the identifiable event. *See* § 1.6050P–1(a)(1).

Section 1.6050P–1(b)(2) of the 1996 final regulations listed eight identifiable events that trigger information reporting obligations on the part of an applicable financial entity: (1) A discharge of indebtedness under the Bankruptcy Code; (2) a cancellation or extinguishment of an indebtedness that renders the debt unenforceable in a receivership, foreclosure, or similar proceeding in a federal or state court, as described in section 368(a)(3)(A)(ii) (other than a discharge under the Bankruptcy Code); (3) a cancellation or extinguishment of an indebtedness upon the expiration of the statute of limitations for collection (but only if, and only when, the debtor's statute of limitations affirmative defense has been upheld in a final judgment or decision in a judicial proceeding, and the period for appealing it has expired) or upon the expiration of a statutory period for filing a claim or commencing a deficiency judgment proceeding; (4) a cancellation or extinguishment of an indebtedness pursuant to an election of foreclosure remedies by a creditor that statutorily extinguishes or bars the creditor's right to pursue collection of the indebtedness; (5) a cancellation or extinguishment of an indebtedness that renders a debt unenforceable pursuant to a probate or similar proceeding; (6) a discharge of indebtedness pursuant to an agreement between an applicable entity and a debtor to discharge indebtedness at less than full consideration; (7) a discharge of indebtedness pursuant to a decision by the creditor, or the application of a defined policy of the creditor, to discontinue collection activity and discharge debt; and (8) the expiration of a 36-month non-payment testing period.

The first seven identifiable events are specific occurrences that typically result from an actual discharge of indebtedness. The eighth identifiable event, the expiration of a 36-month non-payment testing period, may not result from an actual discharge of indebtedness. The 36-month non-payment testing period was added to the 1996 final regulations as an additional identifiable event in response to concerns of creditors that the facts and circumstances approach taken in the temporary and proposed regulations was unclear regarding the effect of continuing collection activity. Creditors proposed (among other things) that the final regulations require reporting after a fixed time period during which there had been no collection efforts.

Section 1.6050P–1(b)(2)(iv) of the 1996 regulations sets forth the 36-month non-payment testing period rule (the 36-month rule). Under that rule, a rebuttable presumption arises that an identifiable event has occurred if a creditor does not receive a payment within a 36-month testing period. The creditor may rebut the presumption if the creditor engaged in significant bona fide collection activity at any time within the 12-month period ending at the close of the calendar year or if the facts and circumstances existing as of January 31 of the calendar year following the expiration of the non-payment testing period indicate that the indebtedness has not been discharged. A creditor's decision not to rebut the presumption that an identifiable event has occurred pursuant to the 36-month rule is not an indication that it has discharged the debt, but the creditor is nonetheless required, for information reporting purposes, to report amounts on a Form 1099–C to the debtor taxpayer. Taxpayers receiving Forms 1099–C may conclude that the debts have, in fact, been discharged, causing the taxpayers to erroneously include in income the amounts reported on Forms 1099–C even though creditors may continue to attempt to collect the debt after issuing a Form 1099–C as required by the 36-month rule. *See* § 1.6050P–1(a)(1) and (b)(2)(iv). Finally, the 1996 final regulations provided that an identifiable event with respect to the 36-month non-payment testing period in § 1.6050P–1(b)(2)(i)(H) and (b)(2)(iv) could not occur prior to December 31, 1997. *See* § 1.6050P–1(b)(2)(iv)(C) of the 1996 regulations.

On October 25, 2004, final regulations reflecting the amendments to section 6050P(c) made by the 1999 Act were published in the **Federal Register** (TD

9160; 69 FR 62181). These regulations describe circumstances in which an organization has a significant trade or business of lending money and provide three safe harbors under which organizations will not be considered to have a significant trade or business of lending money.

On November 10, 2008, final and temporary regulations were published in the **Federal Register** (TD 9430; 73 FR 66539) (the 2008 regulations) to amend the regulations under section 6050P to exempt from the 36-month rule entities that were not within the scope of section 6050P as originally enacted (organizations with a significant trade or business of lending money and agencies other than federal executive agencies). The changes made by the 2008 regulations reduced the burden on these entities and protected debtors from receiving information returns that reported discharges of indebtedness from these entities before a discharge had occurred. The 2008 regulations also added § 1.6050P–1(b)(2)(v), which provided that, for organizations with a significant trade or business of lending money and agencies other than federal executive agencies that were required to file information returns pursuant to the 36-month rule in a tax year prior to 2008 and failed to file them, the date of discharge would be the first identifiable event, if any, described in § 1.6050P–1(b)(2)(i)(A) through (G) that occurs after 2007. On September 17, 2009, final regulations were published in the **Federal Register** (TD 9461; 74 FR 47728–01) adopting the 2008 regulations without change.

Notice 2012–65

Even after the amendments to the regulations in 2008 and 2009, concerns continued to arise about the 36-month rule, and taxpayers remained confused regarding whether the receipt of a Form 1099–C represents cancellation of indebtedness that must be included in gross income. To address those concerns, in Notice 2012–65 (2012–52 IRB 773 (Dec. 27, 2012)), the Treasury Department and the IRS requested comments from the public regarding whether to remove or modify the 36-month rule as an identifiable event for purposes of information reporting under section 6050P. Ten comments were received, all recommending removal or revision of the 36-month rule. Several commenters generally expressed concerns that the expiration of a 36-month non-payment testing period does not necessarily coincide with an actual discharge of the indebtedness, leading to confusion on the part of the debtor and, in some instances, uncertainty on the part of the creditor regarding whether it may lawfully continue to pursue the debt. Additionally, commenters noted that the IRS's ability to collect tax on discharge of indebtedness income may be undermined if the actual discharge occurs in a different year than the year of information reporting.

Proposed Regulations

In response to the comments received, on October 15, 2014, a notice of proposed rulemaking (REG–136676–13) proposing removing the 36-month rule was published in the **Federal Register** (79 FR 61791). The Treasury Department and the IRS agreed that information reporting under section 6050P should generally coincide with the actual discharge of a debt. Because reporting under the 36-month rule may not reflect a discharge of indebtedness, a debtor may conclude that the debtor has taxable income even though the creditor has not discharged the debt and continues to pursue collection. Issuing a Form 1099–C before a debt has been discharged may also cause the IRS to initiate compliance actions even though a discharge has not occurred. Additionally, § 1.6050P–1(e)(9) provides that no additional reporting is required if a subsequent identifiable event occurs. Therefore, in cases in which the Form 1099–C is issued because of the 36-month rule but before the debt is discharged, the IRS does not subsequently receive third-party reporting when the debt is discharged. The IRS's ability to enforce collection of tax for discharge of indebtedness income may, thus, be diminished when the information reporting does not reflect an actual cancellation of indebtedness.

Section 1.6050P–1(b)(2)(i)(H), (b)(2)(iv), and (b)(2)(v) were proposed to be removed on the date final regulations are published in the **Federal Register**. The proposed regulations also proposed conforming amendments to the effective/applicability date provision, § 1.6050P–1(h).

Explanation and Summary of Comments

The notice of proposed rulemaking invited comments on the proposed removal of the 36-month rule. A public hearing was not requested and none was held. Four comments were received. All commenters supported the proposal and agreed that the 36-month rule did not increase compliance and caused confusion, and supported its removal. Accordingly, these final regulations adopt the proposed regulations without change (except as described in the Applicability Date section of this preamble), remove the 36-month rule from the list of identifiable events, and remove related provisions.

Applicability Date

The notice of proposed rulemaking proposed to amend the effective/applicability date paragraph in § 1.6050P–1(h) to remove references to the 36-month rule that were added along with the 36-month rule in TD 9461, 74 FR 47728–01, and such amendments would have been both effective and applicable as of the date of publication of these final regulations in the **Federal Register**. The Treasury Department and the IRS have determined that it is not in the interest of sound tax administration to have the removal of the 36-month rule apply for a portion of a calendar year. Therefore, these final regulations do not adopt the effective/applicability date provision of the proposed regulations. Information returns required to be filed under section 6050P must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the identifiable event occurs and payee statements must be furnished on or before January 31 of the year following the calendar year in which the identifiable event occurs. The final regulations are applicable to information returns required to be filed, and payee statements required to be furnished, after December 31, 2016. Because the deadline for filing information returns and furnishing payee statements for calendar year 2016 would be after December 31, 2016, the expiration of the 36-month testing period during 2016 does not create a requirement to file information returns and furnish payee statements. However, § 1.6050P–1 (as contained in 26 CFR part 1, revised April 2016) continues to apply to information returns required to be filed, and payee statements required to be furnished, on or before December 31, 2016.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. Because the 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, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business

Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal author of these final regulations is Eliezer Mishory of the Office of Associate Chief Counsel (Procedure and Administration).

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 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 1.6050P–1 is amended by:

■ 1. Removing paragraphs (b)(2)(i)(H), (b)(2)(iv), and (b)(2)(v).

■ 2. Adding the word ''or'' at the end of paragraph (b)(2)(i)(F).

■ 3. Removing the semicolon and adding a period in its place at the end of paragraph (b)(2)(i)(G).

■ 4. Revising paragraph (h).

The revision reads as follows:

§ 1.6050P–1 Information reporting for discharge of indebtedness by certain entities.

* * * * *

(h) *Applicability dates.* This section applies to information returns required to be filed, and payee statements required to be furnished, after December 31, 2016. Section 1.6050P–1 (as contained in 26 CFR part 1, revised April 2016) applies to information returns required to be filed, and payee statements required to be furnished, on or before December 31, 2016.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: October 17, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2016–27160 Filed 11–9–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 635

RIN 0702–AA75

[Docket No. USA–2016–HQ–0033]

Law Enforcement Reporting

AGENCY: Department of the Army, DoD.

ACTION: Direct final rule.

SUMMARY: The Department of the Army is amending its Law Enforcement Regulation. Specifically, Army is clarifying language for contractors who are required to register as sex offenders on Army installations. This change will allow the Department to collect information from registered sex offenders in accordance with their contract requirements. This ensures contractors meet the government requirements under the terms and conditions of the contract.

DATES: The rule will be effective on December 15, 2016 unless comments are received that would result in a contrary determination. Comments will be accepted on or before December 12, 2016.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Brennan, (703) 692–6721.

SUPPLEMENTARY INFORMATION: This direct final rule makes changes to the Department of the Army's Law Enforcement Reporting rule which published in the **Federal Register** on March 29, 2016 (81 FR 17385).

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves a change that clarifies language for contractors who are required to register as sex offenders on Army installations per the requirements of their contracts. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Summary

This rule provides policies and procedures for Army's implementation of Law Enforcement Reporting. The authority citation is 28 U.S.C. 534, 42 U.S.C. 10601, 18 U.S.C. 922, 10 U.S.C. 1562, 10 U.S.C. Chap. 47, 42 U.S.C. 16901 *et seq.,* 10 U.S.C. 1565, 42 U.S.C. 14135a.

The Army is clarifying language for contractors who are required to register as sex offenders on Army installations.

This regulatory action imposes no monetary costs to the Agency or public. The benefit to the public is the Army law enforcement community is ensuring the safety and security of the Army installations by ensuring sex offenders required to register are complying with their registration requirements.

Regulatory Procedures

A. Regulatory Flexibility Act

The Department of the Army has certified that the Regulatory Flexibility Act does not apply because the rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

B. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the rule does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of $100 million or more.

C. National Environmental Policy Act

The Department of the Army has determined that the National