

for, the affiliate's fiscal year, unless the nonbank foreign affiliate is selected to be reported on Form BE-11B(EZ).

(B) BE-11B(SF)(Short Form) is required to be filed for each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than \$40 million (positive or negative), but for which no one of these items was greater than \$150 million (positive or negative), at the end of, or for, the affiliate's fiscal year, unless the nonbank foreign affiliate is selected to be reported on Form BE-11B(EZ).

(C) A BE-11B(EZ) is required to be filed for each nonbank foreign affiliate that is selected to be reported on this form in lieu of Form BE-11B(LF) or Form BE-11B(SF).

(iii) Form BE-11C (Report for Minority-owned Foreign Affiliate) must be filed for each minority-owned nonbank foreign affiliate that is owned at least 20 percent, but not more than 50 percent, directly and/or indirectly, by all U.S. Reporters of the affiliate combined, and for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than \$40 million (positive or negative) at the end of, or for, the affiliate's fiscal year. In addition, for the report covering fiscal year 2007 only, a Form BE-11C must be filed for each minority-owned nonbank foreign affiliate that is owned, directly or indirectly, at least 10 percent by one U.S. Reporter, but less than 20 percent by all U.S. Reporters of the affiliate combined, and for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than \$100 million (positive or negative) at the end of, or for, the affiliate's fiscal year.

(iv) Based on the preceding, an affiliate is exempt from being reported if it meets any one of the following criteria:

(A) None of the three items listed in paragraph (f)(3)(ii)(A) of this section exceeds \$40 million (positive or negative). (However, affiliates that were established or acquired during the year and for which at least one of these items was greater than \$10 million but not over \$40 million must be listed, and key data items reported, on a supplement schedule on Form BE-11A.)

(B) For fiscal year 2007 only, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined and none of the three items listed in paragraph (f)(3)(ii)(A) of this section exceeds \$100 million (positive or negative).

(C) For fiscal years other than 2007, it is less than 20 percent owned, directly

or indirectly, by all U.S. Reporters of the affiliate combined.

(D) Its U.S. parent (U.S. Reporter) is a bank.

(E) It is itself a bank.

(v) Notwithstanding paragraph (f)(3)(iv) of this section, a Form BE-11B(LF), (SF), (EZ) or BE-11C must be filed for a foreign affiliate of the U.S. Reporter that owns another non-exempt foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt. That is, all affiliates upward in the chain of ownership must be reported.

\* \* \* \* \*

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## DELAWARE RIVER BASIN COMMISSION

### 18 CFR Part 410

#### Proposed Temporary Amendment to the Water Quality Regulations, Water Code and Comprehensive Plan To Extend Designation of the Lower Delaware River as a Special Protection Water

**AGENCY:** Delaware River Basin Commission.

**ACTION:** Notice of proposed rulemaking and public hearing.

**SUMMARY:** The Delaware River Basin Commission will hold a public hearing to receive comments on a proposed amendment to the Commission's *Water Quality Regulations, Water Code, and Comprehensive Plan* to extend the temporary classification of the Lower Delaware River as Significant Resource Waters. The temporary classification was enacted by Commission Resolution No. 2005-2 on January 19, 2005 following notice and comment rulemaking. Its effect was to make the Lower Delaware subject to all applicable provisions of the Commission's Special Protection Waters regulations, except those that depend for implementation upon the use of numeric values for existing water quality. Absent further amendment to extend the classification, it will expire on September 30, 2005. The Commission today proposes to extend that date by up to twelve months. The classification would thus expire on September 30, 2006 unless the Commission should either permanently classify the Lower Delaware River or once again extend the temporary classification by rule amendment prior to that date.

The proposed extension is needed because before deciding whether or not

to classify certain sections of the Lower Delaware River as Outstanding Basin Waters as originally proposed, and whether to make the temporary Special Protection Waters designation permanent for some or all of the Lower Delaware River, the Commission wishes to fully evaluate implementation options and establish numeric values for existing water quality based upon analysis of a five-year (2000-2004) data set, for which the final year of data only became available late in 2004. Extension of the temporary designation will protect the exceptional value of the Lower Delaware from degradation during the period required to complete this evaluation and conduct a notice and comment rulemaking process on the numeric values and permanent classification.

**DATES:** The public hearing will be held on Monday, September 26, 2005 at the Commission's regular business meeting, which will begin at 1:30 p.m. Persons wishing to testify are asked to register in advance with the Commission Secretary, at (609) 883-9500 ext. 203. Written comments will be accepted through the close of the public hearing; however earlier submittals would be appreciated.

**ADDRESSES:** The public hearing will take place at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ. Directions are posted on the Commission's Web site, <http://www.drbc.net>. The complete text of Resolution No. 2005-2, temporarily amending the *Water Quality Regulations, Water Code, and Comprehensive Plan* by classifying the Lower Delaware River as Special Protection Waters, is available on the Commission's Web site at <http://www.drbc.net> or upon request from the Delaware River Basin Commission, PO Box 7360, West Trenton, NJ 08628-0360.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact Pamela M. Bush, Commission Secretary and Assistant General Counsel, Delaware River Basin Commission, at 609-883-9500 ext. 203.

**SUPPLEMENTARY INFORMATION:** On September 22, 2004, the Delaware River Basin Commission published on its Web site a Notice of Proposed Rulemaking to amend the *Water Quality Regulations, Water Code* and *Comprehensive Plan* to designate the Lower Delaware River—the reach between River Mile 209.5, which is the downstream boundary of the Delaware Water Gap National Recreation Area, and River Mile 133.4, which is the head of tide at Trenton,

NJ—a Special Protection Water. Notice was published in the **Federal Register** on September 23, 2004 (69 FR 57008), the *Delaware Register of Regulations* on October 1, 2004, the *New Jersey Register* on October 4, 2004, the *Pennsylvania Code and Bulletin* on October 9, 2004, and the *New York Register* on October 20, 2004. A public hearing was held on October 27, 2004, and the public was invited to comment, either in person at the hearing or in writing through November 30, 2004. When by Resolution No. 2005–2, the Commission amended its regulations by temporarily designating the Lower Delaware a Special Protection Water, the Commission modified its proposed rule in part based upon comments received on the proposed designation and in part based upon the need for additional analysis before all provisions of the Special Protection Waters regulations could be put into effect in the Lower Delaware.

Dated: August 16, 2005.

**Pamela M. Bush,**

*Commission Secretary.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG–122857–05]

RIN 1545–BE65

#### Converting an IRA Annuity to a Roth IRA

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations under section 408A of the Internal Revenue Code (Code). The temporary regulations provide guidance concerning the tax consequences of converting a non-Roth IRA annuity to a Roth IRA. The temporary regulations affect individuals establishing Roth IRAs, beneficiaries under Roth IRAs, and trustees, custodians and issuers of Roth IRAs. The text of those temporary regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by November 21, 2005.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–122857–05), room 5203, 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 4 p.m. to CC:PA:LPD:PR (REG–122857–05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the IRS Internet site at <http://www.irs.gov/regs> or the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS–REG–122857–05).

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Cathy A. Vohs, 202–622–6060; concerning submissions and requests for a public hearing, contact Treena Garrett, 202–622–7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 408A. The temporary regulations (§ 1.408A–4T) contain rules concerning the tax consequences of converting a traditional IRA annuity to a Roth IRA. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary and proposed regulations.

##### Applicability Date

These regulations are proposed to be applicable to any Roth IRA conversion where an annuity contract is distributed or treated as distributed from a traditional IRA on or after August 19, 2005. No implication is intended concerning whether or not a rule to be adopted in these regulations is applicable law for taxable years ending before that date.

##### 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 proposed 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 (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. Comments are specifically requested regarding the proposed additional guidance discussed in the preamble to the Temporary Regulations under section 408A (i.e., § 1.408A–4T). The IRS and Treasury Department also request comments regarding whether the method used to calculate the fair market value of an annuity contract that is converted to a Roth IRA should also apply for purposes of determining the fair market value of an annuity contract under sections 408(e) and 401(a)(9). All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

#### Drafting Information

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

#### 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 \* \* \*  
§ 1.408A–4 also issued under 26 U.S.C. 408A \* \* \*

**Par. 2.** Section 1.408A–4 is amended by adding, in numerical order, Q–14 and A–14, to read as follows: