

Dated: July 14, 2010.

**Todd A. Stevenson,**

*Secretary, U.S. Consumer Product Safety Commission.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 54

[REG-125592-10]

RIN 1545-BJ62

#### Requirements for Group Health Plans and Health Insurance Issuers Relating to Internal Claims and Appeals and External Review Processes Under the Patient Protection and Affordable Care Act

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

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

**SUMMARY:** Elsewhere in this issue of the **Federal Register**, the IRS is issuing temporary regulations under the provisions of the Patient Protection and Affordable Care Act (the Affordable Care Act) regarding internal claims and appeals and external review processes. The IRS is issuing the temporary regulations at the same time that the Employee Benefits Security Administration of the U.S. Department of Labor and the Office of Consumer Information and Insurance Oversight of the U.S. Department of Health and Human Services are issuing substantially similar interim final regulations with respect to group health plans and health insurance coverage offered in connection with a group health plan under the Employee Retirement Income Security Act of 1974 and the Public Health Service Act. The temporary regulations provide guidance to employers, group health plans, and health insurance issuers providing group health insurance coverage. 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 October 21, 2010.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-125592-10), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered to:

CC:PA:LPD:PR (REG-125592-10), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-125592-10).

#### FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Karen Levin at 202-622-6080; concerning submissions of comments, Oluwafunmilayo Taylor at 202-622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background and Explanation of Provisions

The temporary regulations published elsewhere in this issue of the **Federal Register** add § 54.9815-2719T to the Miscellaneous Excise Tax Regulations. The proposed and temporary regulations are being published as part of a joint rulemaking with the Department of Labor and the Department of Health and Human Services (the joint rulemaking). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

##### 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 has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this proposed regulation. It is hereby certified that the collections of information contained in this notice of proposed rulemaking will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Section 54.9815-2719T of the temporary regulations requires both group health insurance issuers and group health plans to establish internal claims and appeals and external review processes for adverse benefit determinations. Those processes require the plan and issuer to disclose evidence relied upon in making an adverse benefit determination, to disclose any new rationale for upholding an adverse benefit determination as part of an internal appeal, to provide notice of an adverse benefit determination and of a

final internal adverse benefit determination, and to disclose the right to an external review. Under the temporary regulations, if a health insurance issuer satisfies the obligations to have effective internal claims and appeals and external review processes (including these information collection requirements that are an inherent part of those processes), those obligations are satisfied not just for the issuer but also for the group health plan. For group health plans maintained by small entities, it is anticipated that the health insurance issuer will satisfy those obligations to have effective internal claims and appeals and external review processes (including these information collection requirements that are an inherent part of those processes) for both the plan and the issuer in almost all cases. For this reason, these information collection requirements will not impose a significant impact on a substantial number of small entities. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been 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. Comments are specifically requested on the clarity of the proposed regulations and how they 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 proposed regulations is Karen Levin, Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), IRS. The proposed regulations, as well as the temporary regulations, have been developed in coordination with personnel from the U.S. Department of Labor and the U.S. Department of Health and Human Services.

**List of Subjects in 26 CFR Part 54**

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 54 is proposed to be amended as follows:

**PART 54—PENSION EXCISE TAXES**

**Paragraph 1.** The authority citation for part 54 is amended by adding an entry in numerical order to read in part as follows:

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

Section 54.9815–2719 also issued under 26 U.S.C. 9833. \* \* \*

**Par. 2.** Section 54.9815–2719 is added to read as follows:

**§ 54.9815–2719 Internal claims and appeals and external review processes.**

[The text of proposed § 54.9815–2719 is the same as the text of paragraphs (a) through (f) of § 54.9815–2719T published elsewhere in this issue of the **Federal Register**].

**Steven Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2010–18050 Filed 7–22–10; 8:45 am]

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 300**

[REG–139343–08]

RIN 1545–B171

**User Fees Relating to Enrollment and Preparer Tax Identification Numbers**

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

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

**SUMMARY:** This document contains proposed amendments to the regulations relating to the imposition of certain user fees on certain tax practitioners. The proposed regulations establish a new user fee for individuals who apply for or renew a preparer tax identification number (PTIN). The proposed regulations affect individuals who apply for or renew a PTIN. The charging of user fees is authorized by the Independent Offices Appropriations Act of 1952.

**DATES:** Written or electronic comments must be received by August 23, 2010. Outlines of topics to be discussed at the

public hearing scheduled for Tuesday, August 24, 2010, at 10 a.m. must be received by Monday, August 23, 2010.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–139343–08), Room 5205, Internal Revenue Service, P.O. Box 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–139343–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG–139343–08). The public hearing will be held in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Emily M. Lesniak at (202) 622–4940; concerning cost methodology, Eva J. Williams at (202) 435–5514; concerning submission of comments, the public hearing, or to be placed on the building access list to attend the public hearing, Richard A. Hurst at [Richard.A.Hurst@ircounsel.treas.gov](mailto:Richard.A.Hurst@ircounsel.treas.gov) or (202) 622–7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background**

Section 330 of title 31 of the United States Code authorizes the Secretary of the Treasury to regulate the practice of representatives before the Treasury Department. Pursuant to section 330 of title 31, the Secretary has published regulations governing practice before the IRS in 31 CFR part 10 and reprinted the regulations as Treasury Department Circular No. 230 (Circular 230). Circular 230 is administered by the IRS Office of Professional Responsibility (OPR).

**User Fee for PTINs**

Section 6109 of the Internal Revenue Code (Code) authorizes the Secretary to prescribe regulations for the inclusion of a tax return preparer's identifying number on a return, statement, or other document required to be filed with the IRS. Section 6109(c) further authorizes the Secretary "to require such information as may be necessary to assign an identifying number to any person." As currently prescribed in regulations, the identifying number of a tax return preparer who is an individual is the tax return preparer's social security number (SSN) or alternative number as prescribed by the IRS.

Proposed regulations under section 6109 (REG–134235–08) were published in the **Federal Register** (75 FR 14539) on

March 26, 2010, and provide that, for returns or claims for refund filed after December 31, 2010, the identifying number of a tax return preparer is the individual's PTIN or such other number prescribed by the IRS in forms, instructions, or other appropriate guidance. The proposed regulations under section 6109 require a tax return preparer who prepares all or substantially all of a return or claim for refund of tax after December 31, 2010 to have a PTIN. The proposed regulations also state that the IRS will provide through other guidance (including forms and instructions) guidance regarding how to apply for a PTIN or other prescribed preparer identifying number, for the regular renewal of a PTIN or other prescribed preparer identifying number, and for the payment of a user fee. Only attorneys, certified public accountants, enrolled agents, and registered tax return preparers will be eligible to apply for a PTIN. The requirements to become a registered tax return preparer will be provided in future Circular 230 guidance.

A third party vendor will administer the PTIN application and renewal process and will charge a reasonable fee that is independent of the user fee charged by the government. The vendor will develop a web-based database that individuals will use to apply for or renew a PTIN and will process paper PTIN applications. The database also will be used for applications to become registered tax return preparers, to renew the registered tax return preparers' status, to self-certify continuing professional education credits for registered tax return preparers, and to pay applicable user fees.

Proposed § 300.9 establishes a \$50 user fee to apply for or renew a PTIN. The \$50 user fee is based on an annual PTIN renewal period, and the procedures for renewing a PTIN will be provided in other guidance, including forms and instructions. The user fee is nonrefundable regardless of whether the applicant receives a PTIN.

PTINs were previously issued to tax return preparers solely for the convenience of the tax return preparers, providing an alternative to using the tax return preparers' social security numbers. Requiring registration through the use of PTINs will enable the IRS to better collect and track data on tax return preparers. This data will allow the IRS to track the number of persons who prepare returns, track the qualifications of those who prepare returns, track the number of returns each person prepares, and more easily locate and review returns prepared by a