

production is normally done by the month. Under these circumstances, the second for that month deposit should be adjusted to reflect the total barrels produced in that month.

(d) *Responsibility for payment of fee—*

(1) *In general.* Form 6009, Quarterly Report of Fees Due, must be filed and the fee must be paid either by the owner of the oil (§301.9001-1(a)(2)) or by a person authorized to act for the owner of the oil under an acceptable power of attorney filed with the Austin Service Center. For the purposes of the regulations at §§ 301.9001-1, 301.9001-2, and 301.9001-3, an operating agreement between the operator of the oil-producing facility and the owner of oil is considered an acceptable power of attorney if the operating agreement specifically states that the operator is authorized to pay the fee imposed by section 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. W, X, Y, and Z are oil companies that own equal interests in oil produced on the Outer Continental Shelf. W was selected to be the operator of the offshore facility. Additionally, X, Y, and Z authorized W to file Form 6009 and to pay the fee imposed by section 302(d) of the Act on the oil produced at this facility. Pursuant to this authorization, W paid a fee of \$16,600. Since the ownership of the oil is divided equally among W, X, Y, and Z, each company's share of the fee is \$4,150.

(e) *Penalty and Interest.* Failure to collect or pay the fee shall result in a civil penalty assessed by the Secretary of the Treasury. The amount of the penalty is not to exceed \$10,000 in addition to the fee and the interest on the unpaid fee that would have been earned if paid when due and invested in the special Treasury securities which are to be purchased by the fund. The computation of the rate of interest to be levied on underpayment of fees shall be based on the average interest rate earned by the interest-bearing special obligations of the United States in the fund for each calendar quarter for which there is underpayment. Unless it can be shown that the failure to collect or pay the fee is due to reasonable cause and not due to the willful ne-

glect, the amount of the penalty is the lesser of—

- (1) \$10,000 or
- (2) The amount of the fee.

(Sec. 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 672) and sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7697, 45 FR 33975, May 21, 1980]

§ 301.9001-2 Definitions.

The terms enumerated in this section are to be defined for the purposes of §§ 301.9001-1, 301.9001-2, and 301.9001-3 in the following manner:

(a) "Barrel" means 42 United States gallons at 60 degrees Fahrenheit.

(b) "Oil" means petroleum, including crude oil or any fraction or residue therefrom, and natural gas condensate, except that the term does not include natural gas.

(c) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity.

(d) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 1301 of title 43 and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(Sec. 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 672) and sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7697, 45 FR 33976, May 21, 1980]

§ 301.9001-3 Cross reference.

See the Coast Guard regulations under 33 CFR parts 135 and 136 for rules relating to the implementation of the Act.

(Sec. 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 672) and sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7697, 45 FR 33976, May 21, 1980]

§ 301.9100-0 Outline of regulations.

This section lists the paragraphs in §§ 301.9100-1 through 301.9100-3.

§ 301.9100-1 *Extensions of time to make elections.*

- (a) Introduction.
- (b) Terms.

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- (c) General standards for relief.
- (d) Exceptions.
- (e) Effective dates.

§ 301.9100-2 Automatic extensions.

- (a) Automatic 12-month extension.
 - (1) In general.
 - (2) Elections eligible for automatic 12-month extension.
- (b) Automatic 6-month extension.
- (c) Corrective action.
- (d) Procedural requirements.
- (e) Examples.

§ 301.9100-3 Other extensions.

- (a) In general.
- (b) Reasonable action and good faith.
 - (1) In general.
 - (2) Reasonable reliance on a qualified tax professional.
 - (3) Taxpayer deemed to have not acted reasonably or in good faith.
- (c) Prejudice to the interests of the Government.
 - (1) In general.
 - (i) Lower tax liability.
 - (ii) Closed years.
 - (2) Special rules for accounting method regulatory elections.
 - (3) Special rules for accounting period regulatory elections.
 - (d) Effect of amended returns.
 - (1) Second examination under section 7605(b).
 - (2) Suspension of the period of limitations under section 6501(a).
 - (e) Procedural requirements.
 - (1) In general.
 - (2) Affidavit and declaration from taxpayer.
 - (3) Affidavits and declarations from other parties.
 - (4) Other information.
 - (5) Filing instructions.
 - (f) Examples.

[T.D. 8742, 62 FR 68169, Dec. 31, 1997]

§ 301.9100-1 Extensions of time to make elections.

(a) *Introduction.* The regulations under this section and §§ 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. The regulations under this section and § 301.9100-2 also provide an automatic extension of time to make certain statutory elections. An extension of time is available for elections that a taxpayer is otherwise eligible to make. However, the granting of an extension of time is not a determination that the taxpayer is otherwise eligible to make the elec-

tion. Section 301.9100-2 provides automatic extensions of time for making regulatory and statutory elections when the deadline for making the election is the due date of the return or the due date of the return including extensions. Section 301.9100-3 provides extensions of time for making regulatory elections that do not meet the requirements of § 301.9100-2.

(b) *Terms.* The following terms have the meanings provided below—

Election includes an application for relief in respect of tax; a request to adopt, change, or retain an accounting method or accounting period; but does not include an application for an extension of time for filing a return under section 6081.

Regulatory election means an election whose due date is prescribed by a regulation published in the FEDERAL REGISTER, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

Statutory election means an election whose due date is prescribed by statute.

Taxpayer means any person within the meaning of section 7701(a)(1).

(c) *General standards for relief.* The Commissioner in exercising the Commissioner's discretion may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

(d) *Exceptions.* Notwithstanding the provisions of paragraph (c) of this section, an extension of time will not be granted—

(1) For elections under section 4980A(f)(5); or

(2) For elections that are expressly excepted from relief or where alternative relief is provided by a statute, a regulation published in the FEDERAL REGISTER, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

(e) *Effective dates.* In general, this section and §§ 301.9100-2 and 301.9100-3 apply to all requests for an extension