

**Par. 2.** Section 1.59–1 is added to read as follows:

**§ 1.59–1 Optional 10-year writeoff of certain tax preferences.**

(a) *In general.* Section 59(e) allows any qualified expenditure to which an election under section 59(e) applies to be deducted ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which the expenditure was made (or, in the case of intangible drilling and development costs deductible under section 263(c), over the 60-month period beginning with the month in which the expenditure was paid or incurred).

(b) *Election—(1) Time and manner of election.* An election under section 59(e) shall only be made by attaching a statement to the taxpayer's income tax return (or amended return) for the taxable year in which the amortization of the qualified expenditures subject to the section 59(e) begins. A taxpayer must make a separate election for each specific activity or project with respect to which qualified expenditures are paid or incurred. The statement must be filed no later than the date prescribed by law for filing the taxpayer's original income tax return (including any extensions of time) for the taxable year in which the amortization of the qualified expenditures subject to the section 59(e) begins. Additionally, the statement must include the following information—

(i) The taxpayer's name, address, and taxpayer identification number;

(ii) The type and amount, for each activity or project, of qualified expenditures identified in section 59(e)(2) the taxpayer elects to deduct ratably over the applicable period described in section 59(e)(1); and

(iii) A description of each specific activity or project to which the qualified expenditures identified in paragraph (b)(1)(ii) of this section relate.

(2) *Elected amount.* A taxpayer may make an election under section 59(e) with respect to any portion of any qualified expenditure paid or incurred by the taxpayer in the taxable year to which the election applies. An election under section 59(e) must be for a specific dollar amount and the amount subject to an election under section 59(e) may not be made by reference to a formula.

(c) *Revocation—(1) In general.* An election under section 59(e) may be revoked for any project or activity only with the consent of the Commissioner. Such consent will only be granted in rare and unusual circumstances. The

revocation, if granted, will be effective in the first taxable year in which the section 59(e) election was applicable. However, if the period of limitations for the first taxable year the section 59(e) election was applicable has expired, the revocation, if granted, will be effective in the earliest taxable year for which the period of limitations has not expired.

(2) *Time and manner for requesting consent.* A taxpayer requesting the Commissioner's consent to revoke a section 59(e) election must submit the request prior to the end of the taxable year the applicable amortization period described in section 59(e)(1) ends. The application for consent to revoke the election must be submitted to the Internal Revenue Service in the form of a letter ruling request.

(3) *Information to be provided.* A request to revoke a section 59(e) election must contain all of the information necessary to support why the Commissioner's consent should be granted and must specify the project activity to which the revocation shall apply.

(4) *Treatment of unamortized costs.* The unamortized balance of the qualified expenditures subject to the revoked section 59(e) election as of the first day of the taxable year the revocation is effective is deductible in the year the revocation is effective (subject to the requirements of any other provision under the Code, regulations, or any other published guidance) and the taxpayer will be required to amend any income tax returns affected by the revocation.

(d) *Effective date.* These regulations apply to a section 59(e) election made for a taxable year ending, or a request to revoke a section 59(e) election submitted, on or after the date the final regulations are published in the **Federal Register**.

**Mark Matthews,**

*Deputy Commissioner for Services and Enforcement.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG–131786–03]

RIN 1545–BC32

#### Deemed Election To Be an Association Taxable as a Corporation for a Qualified Electing S Corporation

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

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

**SUMMARY:** In the rules and regulations portion of this issue of the **Federal Register**, the IRS is issuing temporary regulations that deem certain eligible entities that file timely S corporation elections to have elected to be classified as associations taxable as corporations. The text of those temporary regulations also serves as the text of these proposed regulations. These regulations affect certain eligible entities filing timely elections to be S corporations on or after July 20, 2004.

**DATES:** A request for a public hearing and written or electronic comments must be received by October 18, 2004.

**ADDRESSES:** Send submissions to CC:PA:LPD:PR (REG–131786–03), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC, 20044. Submissions may be hand delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–131786–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at: [www.irs.gov/regs](http://www.irs.gov/regs) or via the Federal E-Rulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS and REG–131786–03).

**FOR FURTHER INFORMATION CONTACT:** Rebekah A. Myers at (202) 622–3050 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

Temporary regulations published elsewhere in this issue of the **Federal Register** amend § 301.7701–3T(c)(1)(v)(C) to provide that certain eligible entities that file timely S corporation elections are deemed to have elected to be classified as associations taxable as corporations. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

## Special Analysis

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 is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the purpose of the regulation is to decrease the number of entities required to file an entity classification election, Form 8832. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this Notice of proposed regulation 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 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. 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 of the public hearing will be published in the **Federal Register**.

## Drafting Information

The principal author of this regulation is Rebekah A. Myers, Office of Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

## List of Subjects in 26 CFR Part 301

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

## Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

## PART 301—PROCEDURE AND ADMINISTRATION

**Paragraph 1.** The authority citation for part 301 continues to read, in part, as follows:

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

**Par. 2.** Section 301.7701-3 is amended by adding paragraphs (c)(1)(v)(C) and (h)(3) to read as follows:

### § 301.7701-3 Classification of certain business entities.

[The text of the proposed amendment is the same as the text of § 301.7701-3T published elsewhere in this issue of the **Federal Register**.]

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 04-16233 Filed 7-19-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R05-OAR-2004-OH-0001; FRL-7789-3]

### Approval and Promulgation of Implementation Plans; Ohio

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve Ohio's submittal of a revision to the Ohio portion of the Cincinnati 1-Hour ozone maintenance plan under the Clean Air Act. Ohio held a public hearing on the submittal on March 30, 2004. This maintenance plan revision establishes a new transportation conformity motor vehicle emissions budget (MVEB) for the area for the year 2010. EPA is approving the allocation of a portion of the safety margin for oxides of nitrogen (NO<sub>x</sub>) to the area's 2010 MVEB for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. The transportation conformity budget for volatile organic compounds will remain the same as previously approved in the maintenance plan.

In the final rules section of this **Federal Register**, EPA is approving the SIP revision as a direct final rule without prior proposal, because EPA views this as a noncontroversial revision and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final

rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before August 19, 2004.

**ADDRESSES:** Submit comments, identified by Docket ID No. R05-OAR-2004-OH-0001 by one of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

E-mail: [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).

Fax: (312)886-5824.

Mail: You may send written comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR-18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: J. Elmer Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. R05-OAR-1994-OH-0001. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov), or e-mail. The Federal [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA