established, the IRS will generally require the individual to apply for a social security number. In rare cases when a resident alien individual is not eligible for a social security number, the taxpayer will be entitled to use an IRS individual taxpayer identification number, and the IRS will note in its records that the number belongs to a U.S. person.

No re-filings are required in order to maintain foreign status described in proposed § 301.6109–1(g)(1). However, proposed § 301.6109–1(g)(2) provides that if circumstances change (for example, a taxpayer becomes a U.S. resident), then the taxpayer must notify the IRS to record the change of status. The IRS will issue guidance on procedures for notifying the IRS of a person's status or changes thereof.

Proposed § 301.6109–1(g)(3) concerns disclosure provisions. In order to make the acceptance agent's procedures possible, it is necessary that taxpayers requesting a TIN through an acceptance agent authorize the disclosure of taxpayer information to the extent necessary to allow communications between the IRS and the acceptance agent in the course of the issuance and administration of the number. Accordingly, the application form will include a waiver of the prohibition against disclosure of taxpayer information in order to permit the IRS to communicate with an acceptance agent regarding matters related to the assignment of a TIN.

#### Proposed Effective Date

These regulations would apply to returns, statements, or documents filed after December 31, 1995, except the provision relating to the requirement for an estate to obtain an employer identification number applies on and after January 1, 1984. Thus, these regulations would apply to foreign persons described in proposed § 301.6109–1(b)(2)(iv) who file a return of tax after December 31, 1995.

## Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the

Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for 10 a.m. on September 28, 1995. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic by September 7, 1995.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### **Drafting Information**

The principal author of these proposed regulations is Lilo A. Hester of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, IRS. However, other personnel from the IRS and Treasury Department participated in their development.

## Withdrawal of Proposed Regulations

The previously proposed regulations under § 301.6109–1, as published in the **Federal Register** on September 27, 1990, at 55 FR 39486, are hereby withdrawn.

## List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, 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 is amended by adding an entry in numerical order to read in part as follows:

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

Section 301.6109–1 also issued under 26 U.S.C. 6109(a), (c), and (d). \* \* \*

**Par. 2.** Section § 301.6109–1 is amended as follows:

- 1. Paragraphs (a)(1), (b), (c), and (d)(2) are revised.
  - 2. Paragraphs (d)(3) and (4) are added.
- 3. Paragraphs (f), (g), and (h) are revised.

The revisions and additions read as follows:

#### § 301.6109-1 Identifying numbers.

- (a) In general—(1) Taxpayer identifying numbers—(i) Types. There are generally three types of taxpayer identifying numbers: social security numbers, Internal Revenue Service (IRS) individual taxpayer identification numbers, and employer identification numbers. Social security numbers take the form 000-00-0000, IRS individual taxpayer identification numbers take the form 000-00-0000 but begin with a specific number designated by the IRS, and employer identification numbers take the form 00-000000. Both social security numbers and IRS individual taxpayer identification numbers identify individual persons. For the definition of social security number and employer identification number, see §§ 301.7701-11 and 301.7701-12, respectively. For the definition of IRS individual taxpayer identification number, see paragraph (d)(3) of this section.
- (ii) Uses. Except as otherwise provided in applicable regulations under this title or on a return, statement, or other document, and related instructions, taxpayer identifying numbers must be used as follows:
- (A) Except as otherwise provided in paragraphs (a)(1)(ii)(B) and (D) of this section, an individual required to furnish a taxpayer identifying number must use a social security number.
- (B) Except as otherwise provided in paragraph (a)(1)(ii)(D) of this section, an individual required to furnish a taxpayer identifying number but who is not eligible to obtain a social security number, must use an IRS individual taxpayer identification number.
- (C) Any person other than an individual (such as corporations, partnerships, nonprofit associations, trusts, estates, and similar nonindividual persons) that is required to furnish a taxpayer identifying number must use an employer identification number.
- (D) An individual, whether U.S. or foreign, who is an employer or who is engaged in trade or business as a sole proprietor should use an employer identification number as required by