

requirements for Forms 941, W-2 and W-3. In addition, employees of these employers receive social security credit on the same basis as employers who file the Forms 941, W-2 and W-3. Thus, these employers are subject to the regulations.

#### *Special Analyses*

It has been determined that this Treasury decision 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, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

#### *Drafting Information*

The principal author of these regulations is Jean M. Casey, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

#### *List of Subjects*

##### *26 CFR Part 31*

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

##### *26 CFR Part 301*

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

#### *Adoption of Amendments to the Regulations*

Accordingly, 26 CFR part 31 and part 301 are amended as follows:

### **PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE**

Paragraph 1. The authority citation for part 31 is amended by adding the following entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 \* \* \*  
Section 31.6051-1(d) also issued under 26 U.S.C. 6051.  
Section 31.6051-2 also issued under 26 U.S.C. 6051 \* \* \*

Section 31.6071-1 also issued under 26 U.S.C. 6071 \* \* \*  
Section 31.6081-1 also issued under 26 U.S.C. 6081 \* \* \*

Par. 2. Section 31.6051-1, paragraph (d) is amended as follows:

1. Paragraph (d)(1) is redesignated as (d)(1)(i).

2. Paragraph (d)(1)(ii) is added.

3. Paragraph (d)(2) is revised.

The addition and revision read as follows:

#### **§ 31.6051-1 Statements for employees.**

\* \* \* \* \*  
(d) \* \* \* (1)(i) \* \* \*

(ii) *Expedited furnishing*—(A) *General rule.* If an employer is required to make a final return under § 31.6011(a)-6(a)(1) (relating to the final return for Federal Insurance Contributions Act taxes and income tax withholding from wages) on Form 941, or a variation thereof, the employer must furnish the statement required by this section on or before the date required for filing the final return. See § 31.6071(a)-1(a)(1). However, if the final return under § 31.6011(a)-6(a)(1) is a monthly return, as described in § 31.6011(a)-5, the employer must furnish the statement required by this section on or before the last day of the month in which the final return is required to be filed. See § 31.6071(a)-1(a)(2). Except as provided in paragraph (d)(2)(i) of this section, in no event may an employer furnish the statement required by this section later than January 31 of the year succeeding the calendar year to which it relates. The requirements set forth in this paragraph (d)(1)(ii) do not apply to employers with respect to employees whose wages are for domestic service in the private home of the employer. See § 31.6011(a)-1(a)(3).

(B) *Requests by employees.* An employer is not permitted to furnish a statement pursuant to the provisions of the third sentence of paragraph (d)(1)(i) of this section (relating to written requests by terminated employees for Form W-2) at a time later than that required by the provisions of paragraph (d)(1)(ii)(A) of this section.

(C) *Effective date.* This paragraph (d)(1)(ii) is effective January 1, 1997.

(2) *Extensions of time*—(i) *In general* (a) The Director, Martinsburg Computing Center, may grant an extension of time in which to furnish to employees the statements required by this section. A request may be made by a letter to the Director, Martinsburg Computing Center. The request must contain:

(1) The employer's name and address;  
(2) The employer's taxpayer identification number;

(3) The type of return (i.e., Form W-2) and

(4) A concise statement of the reasons for requesting the extension.

(b) The application must be mailed or delivered on or before the applicable due date prescribed in paragraph (d)(1) of this section for furnishing the statements required by this section.

(c) In any case in which an employer is unable, by reason of illness, absence, or other good cause, to sign a request for an extension, any person standing in close personal or business relationship to the employer may sign the request on his behalf, and shall be considered as a duly authorized agent for this purpose, provided the request sets forth a reason for a signature other than the employer's and the relationship existing between the employer and the signer. For provisions relating to extensions of time for filing the Social Security Administration copies of the statement, see § 31.6081(a)-1(a)(3).

(ii) *Automatic Extension of Time.* The Commissioner may, in appropriate cases, publish procedures for automatic extensions of time to furnish Forms W-2 where the employer is required to furnish the Form W-2 on an expedited basis.

\* \* \* \* \*

Par. 3. Section 31.6051-2, paragraph (c), first sentence is revised to read as follows:

#### **§ 31.6051-2 Information returns on Form W-3 and Internal Revenue Service copies of Form W-2.**

\* \* \* \* \*

(c) *Cross references.* For provisions relating to the time for filing the information returns required by this section and to extensions of the time for filing, see §§ 31.6071(a)-1(a)(3) and 31.6081(a)-1(a)(3), respectively. \* \* \*

Par. 4. Section 31.6071(a)-1(a)(3) is amended as follows:

1. Paragraph (a)(3)(i) is removed.

2. Paragraph (a)(3)(ii) is redesignated as paragraph (a)(3)(i) and the heading is revised.

3. A new paragraph (a)(3)(ii) is added.

The addition and revision read as follows:

#### **§ 31.6071(a)-1 Time for filing returns and other documents.**

(a) \* \* \*

(3) \* \* \* (i) *General rule.* \* \* \*

(ii) *Expedited filing*—(A) *General rule.* If an employer who is required to make a return pursuant to § 31.6011(a)-1 or § 31.6011(a)-4 is required to make a final return on Form 941, or a variation thereof, under § 31.6011(a)-6(a)(1) (relating to the final return for Federal Insurance Contributions Act taxes and