

procedures for a partnership, trust, and Real Estate Mortgage Investment Conduit (REMIC) to obtain an automatic extension of time to file partnership, trust, and REMIC returns.

**EFFECTIVE DATE:** The regulations are effective December 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Margaret A. Owens, (202) 622-6232 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

*Paperwork Reduction Act*

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control numbers 1545-1479 and 1545-0148. Responses to this collection of information are required to obtain a benefit (an automatic 4-month extension of time to file an individual income tax return or an automatic 3-month extension of time to file a partnership return of income, a trust income tax return, or a REMIC income tax return).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Estimates of the reporting burden in these final regulations are reflected in the burden estimates of either Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, or Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC or for Certain Trusts.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Background*

*Extensions for Individual Income Tax Returns*

On January 4, 1996, temporary regulations (T.D. 8651 [1996-1 C.B. 312]) providing new and simpler procedures for individuals to obtain an automatic extension of time to file an individual income tax return were published in the **Federal Register** (61 FR 260). A notice of proposed rulemaking (IA-41-93 [1996-1 C.B. 770]) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (61 FR 338).

Written comments responding to the notice of proposed rulemaking were received. No public hearing was requested or held. After consideration of all the comments, the temporary regulations under sections 6081 and 6651 relating to the automatic extension of time to file individual income tax returns are adopted as revised by this Treasury Decision, and the corresponding temporary regulations are removed. The comments and revisions are discussed below in the section on Explanation of Provisions and Summary of Comments.

*Extensions for Partnership Returns of Income and Trust Income Tax Returns*

On April 5, 1988, temporary regulations (T.D. 8190 [1988-1 C.B. 394]) relating to the automatic extension of time to file partnership returns of income and trust income tax returns were published in the **Federal Register** (53 FR 11066). A notice of proposed rulemaking (LR-29-88 [1988-1 C.B. 934]) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (53 FR 11103).

In accordance with section 860F(e), REMICs have been generally treated as partnerships with regard to extensions of time to file. A REMIC has been allowed an automatic 3-month extension of time to file if (1) an application was prepared on Form 8736, (2) the application was signed by the person duly authorized, (3) the application was filed on or before the date Form 1066, U.S. Real Estate Mortgage Investment Conduit Income Tax Return, was due, (4) the application showed the full amount properly estimated as tax, and (5) the application was accompanied by full remittance of the amount properly esti-

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**Section 6081.—Extension of Time for Filing Returns**

*26 CFR 1.6081-4: Automatic extension of time for filing individual income tax returns.*

**T.D. 8703**

**DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
26 CFR Parts 1, 301, and 602**

**Automatic Extension of Time for Filing Individual Income Tax Returns; Automatic Extension of Time to File Partnership Return of Income, Trust Income Tax Return, and U.S. Real Estate Mortgage Investment Conduit Income Tax Return**

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations that reflect new and simpler procedures for an individual to obtain an automatic extension of time to file an individual income tax return. This document also contains final regulations that provide new and simpler

mated as tax that was unpaid as of the date prescribed for filing Form 1066.

Written comments responding to the notice of proposed rulemaking and the request for comments were received. No public hearing was requested or held. After consideration of all the comments, the temporary regulations under section 6081 relating to the automatic extension of time to file partnership returns of income, trust income tax returns, and REMIC income tax returns are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed. The comments and revisions are discussed below.

#### *Explanation of Provisions and Summary of Comments*

These final regulations provide that individuals may obtain an automatic 4-month extension of time to file an individual income tax return without remitting the unpaid amount of any tax properly estimated to be due with the application for extension of time to file. Under these final regulations, an individual's inability to pay is not a condition for obtaining an automatic 4-month extension. However, taxpayers are encouraged to make payments in order to minimize interest and penalties imposed on unpaid amounts.

The final regulations remove the regulatory requirement that Forms 4868 be signed.

Most commentators responded favorably to the proposed and temporary regulations. Some commentators suggested that the IRS should develop a bulk method for submitting applications for automatic extensions so that return preparers could submit a list of the required information for all their clients on one Form 4868. The final regulations provide that the IRS may prescribe other methods for submitting an application in lieu of a paper application on Form 4868. In April 1996, the IRS provided a method of filing Forms 4868 electronically through the Electronic Transmitted Documents System. See Publication 1346. The IRS continues to offer this method of filing Forms 4868. If there is still a need for other methods, suggestions should be sent to: CC:DOM:-CORP:R (REG-209643-93), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044.

One commentator recommended that the requirement to "properly estimate" the tax be dropped, since payment of the

unpaid amount of tax due is not a condition of obtaining an automatic 4-month extension of time to file an individual income tax return. The requirement has been retained to assist taxpayers in determining the amount of interest and penalties for which they will be liable if timely tax payments are not made, and to thereby encourage payments, as large as possible, with the application for extension of time to file.

The final regulations provide the requirements for partnerships, trusts, and REMICs to obtain an automatic 3-month extension of time to file partnership, trust, and REMIC returns. The final regulations remove the regulatory requirement that Forms 8736 be signed. Notwithstanding the current instructions to Form 8736, an unsigned Form 8736 will be processed. In addition, these final regulations provide that trusts and REMICs may obtain an automatic 3-month extension of time to file a trust income tax return or a REMIC income tax return without remitting the unpaid amount of any tax properly estimated to be due with the application for extension of time to file.

The final regulations provide that the IRS may prescribe additional methods of obtaining an extension of time to file in lieu of a paper application on Form 8736.

Some commentators suggested that allowing automatic extensions for partnership returns of income and trust income tax returns will give rise to filing difficulties for partners and trust beneficiaries. The Treasury and the IRS took this concern into account when limiting partnership and trust extensions to 3 months rather than the 4 months permitted individuals.

#### *Special Analyses*

It has been determined that these final regulations are 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) does not apply to these regulations, and because the notices of proposed rulemaking preceding the regulations were issued prior to March 29, 1996, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of the notice of proposed rulemaking providing an automatic extension of time to file an individual income tax return that

precedes these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### *Drafting Information*

The principal authors of these regulations are Margaret A. Owens, and Philip E. Bennet, Office of the Assistant Chief Counsel (Income Tax & Accounting), IRS. However, other personnel from the IRS and the Treasury Department participated in their development.

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

Accordingly, 26 CFR parts 1, 301, and 602 are amended as follows:

#### PART 1—INCOME TAXES

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

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

Section 1.6081-2 also issued under 26 U.S.C. 6081(a).

Section 1.6081-4 also issued under 26 U.S.C. 6081(a).

Section 1.6081-6 also issued under 26 U.S.C. 6081(a).

Section 1.6081-7 also issued under 26 U.S.C. 6081(a).\* \* \*

Par. 2. Section 1.6081-2 is added to read as follows:

#### *§ 1.6081-2 Automatic extension of time to file partnership return of income.*

(a) *In general.* A partnership required to file a return of income on Form 1065, U.S. Partnership Return of Income, for any taxable year will be allowed an automatic 3-month extension of time to file the return after the date prescribed for filing the return if an application under this section is filed in accordance with paragraph (b) of this section. In the case of a partnership described in § 1.6081-5(a)(1), the automatic extension allowed under this section runs concurrently with an extension of time to file granted pursuant to § 1.6081-5(a).

(b) *Requirements.* In order to satisfy this paragraph (b), an application for an automatic extension under this section must be—

(1) Submitted on Form 8736, Application for Automatic Extension of Time

To File U.S. Return for a Partnership, REMIC or for Certain Trusts, or in any other manner as may be prescribed by the Commissioner;

(2) Filed on or before the later of—

(i) The date prescribed for filing the partnership return (without regard to any extensions of the time for filing such return); or

(ii) The expiration of any extension of time to file granted such partnership pursuant to § 1.6081-5(a); and

(3) Filed with the Internal Revenue Service office designated in the application's instructions.

(c) *Payment of section 7519 amount.* An automatic extension of time for filing a partnership return under this section does not extend the time for payment of any amount due under section 7519, relating to required payments for entities electing not to have a required taxable year.

(d) *Section 444 election.* An automatic extension of time for filing a partnership return will run concurrently with any extension of time for filing a return allowed because of section 444, relating to the election of a taxable year other than a required taxable year.

(e) *Effect of extension on partner.* An automatic extension of time for filing a partnership return under this section does not operate to extend the time for filing a partner's income tax return or the time for the payment of any tax due on the partner's income tax return.

(f) *Termination of automatic extension.* The district director, including the Assistant Commissioner (International), or the director of a service center may terminate at any time an automatic extension by mailing to the partnership a notice of termination. The notice must be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination must be mailed to the address shown on Form 8736 or to the partnerships's last known address.

(g) *Penalties.* See section 6698 for failure to file a partnership return.

(h) *Coordination with § 1.6081-1.* Except in undue hardship cases, no extension of time for filing a partnership return of income will be granted under § 1.6081-1 until an automatic extension has been allowed pursuant to the provisions of this section.

(i) *Effective date.* This section is effective for applications for an automatic extension of time to file a partnership

return of income filed on or after December 31, 1996.

#### § 1.6081-2T [Removed]

Par. 3. Section 1.6081-2T is removed.

#### § 1.6081-3T [Removed]

Par. 4. Section 1.6081-3T is removed.

Par. 5. Section 1.6081-4 is amended as follows:

1. Paragraphs (a) and (c) are revised.

2. Paragraphs (d) and (e) are added.

The revised and added provisions read as follows:

#### § 1.6081-4 Automatic extension of time for filing individual income tax returns.

(a) *In general*—(1) *Period of extension.* An individual who is required to file an individual income tax return will be allowed an automatic 4-month extension of time to file the return after the date prescribed for filing the return provided the requirements contained in paragraphs (a)(2), (3), and (4) of this section are met. In the case of an individual described in § 1.6081-5(a)(5) or (6), the automatic 4-month extension will run concurrently with the extension of time to file granted pursuant to § 1.6081-5.

(2) *Manner for submitting an application.* An application must be submitted—

(i) On Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return; or

(ii) In any other manner as may be prescribed by the Commissioner.

(3) *Time and place for filing application.* Except in the case of an individual described in § 1.6081-5(a)(5) or (6), the application must be filed on or before the date prescribed for filing the individual income tax return. In the case of an individual described in § 1.6081-5(a)(5) or (6), the application must be filed on or before the expiration of the extension of time to file granted pursuant to § 1.6081-5. The application must be filed with the Internal Revenue Service office designated in the application's instructions.

(4) *Proper estimate of tax.* An application for extension must show the full amount properly estimated as tax for the taxable year.

(5) *Coordination with § 1.6081-1.* Except in undue hardship cases, no extension of time for filing an individual

income tax return will be granted under § 1.6081-1 until an automatic extension has been allowed pursuant to the provisions of this paragraph (a).

\* \* \* \* \*

(c) *Termination of automatic extension.* The district director, including the Assistant Commissioner (International), or the director of a service center may terminate at any time an automatic extension by mailing to the taxpayer a notice of termination. The notice must be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination must be mailed to the taxpayer at the address shown on Form 4868 or to the taxpayer's last known address.

(d) *Penalties.* See section 6651 for failure to file an individual income tax return or failure to pay the amount shown as tax on the return. In particular, see § 301.6651-1(c)(3) of this chapter (relating to a presumption of reasonable cause in certain circumstances involving an automatic extension of time for filing an individual income tax return).

(e) *Effective date.* This section is effective for applications for an automatic extension of time to file an individual income tax return filed on or after December 31, 1996.

#### § 1.6081-4T [Removed]

Par. 6. Section 1.6081-4T is removed.

Par. 7. Section 1.6081-6 is added under the undesignated centerheading "Extension of Time for Filing Returns" to read as follows:

#### § 1.6081-6 Automatic extension of time to file trust income tax return.

(a) *In general.* A trust required to file an income tax return on Form 1041, U.S. Income Tax Return for Estates and Trusts, for any taxable year will be allowed an automatic 3-month extension of time to file the return after the date prescribed for filing the return if an application under this section is filed in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), an application for an automatic extension under this section must—

(1) Be submitted on Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC or for Certain Trusts, or in

any other manner as may be prescribed by the Commissioner;

(2) Be filed on or before the date prescribed for filing the trust income tax return with the Internal Revenue Service office designated in the application's instructions; and

(3) Show the full amount properly estimated as tax for the trust for the taxable year.

(c) *Effect of extension on beneficiary.* An automatic extension of time to file a trust income tax return under this section will not operate to extend the time for filing the income tax return of a beneficiary of the trust or the time for the payment of any tax due on the beneficiary's income tax return.

(d) *Termination of automatic extension.* The district director, including the Assistant Commissioner (International), or the director of a service center may terminate at any time an automatic extension by mailing to the trust a notice of termination. The notice must be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination must be mailed to the address shown on Form 8736 or to the trust's last known address.

(e) *Penalties.* See section 6651 for failure to file a trust income tax return or failure to pay the amount shown as tax on the return.

(f) *Coordination with § 1.6081-1.* Except in undue hardship cases, no extension of time for filing a trust income tax return will be granted under § 1.6081-1 until an automatic extension has been allowed pursuant to the provisions of this section.

(g) *Effective date.* This section is effective for applications for an automatic extension of time to file a trust income tax return filed on or after December 31, 1996.

Par. 8. Section 1.6081-7 is added under the undesignated centerheading "Extension of Time for Filing Returns" to read as follows:

*§ 1.6081-7 Automatic extension of time to file Real Estate Mortgage Investment Conduit (REMIC) income tax return.*

(a) *In general.* A Real Estate Mortgage Investment Conduit (REMIC) required to file an income tax return on Form 1066, U.S. Real Estate Mortgage Investment Conduit Income Tax Return, for any taxable year will be allowed an

automatic 3-month extension of time to file the return after the date prescribed for filing the return if an application under this section is filed in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), an application for an automatic extension under this section must—

(1) Be submitted on Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC or for Certain Trusts, or in any other manner as may be prescribed by the Commissioner;

(2) Be filed on or before the date prescribed for filing the REMIC income tax return with the Internal Revenue Service office designated in the application's instructions; and

(3) Show the full amount properly estimated as tax for the REMIC for the taxable year.

(c) *Effect of extension on residual or regular interest holders.* An automatic extension of time to file a REMIC income tax return under this section will not operate to extend the time for filing the income tax return of a residual or regular interest holder of the REMIC or the time for the payment of any tax due on the residual or regular interest holder's income tax return.

(d) *Termination of automatic extension.* The district director, including the Assistant Commissioner (International), or the director of a service center may terminate at any time an automatic extension by mailing to the REMIC a notice of termination. The notice must be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination must be mailed to the address shown on Form 8736 or to the REMIC's last known address.

(e) *Penalties.* See sections 6698 and 6651 for failure to file a REMIC income tax return or failure to pay the amount shown as tax on the return.

(f) *Coordination with § 1.6081-1.* Except in undue hardship cases, no extension of time for filing a REMIC income tax return will be granted under § 1.6081-1 until an automatic extension has been allowed pursuant to the provisions of this section.

(g) *Effective date.* This section is effective for applications for an automatic extension of time to file a REMIC

income tax return filed on or after December 31, 1996.

## PART 301—PROCEDURE AND ADMINISTRATION

Par. 9. The authority citation for part 301 continues to read in part as follows:

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

Par. 10. Section 301.6651-1 is amended by revising paragraph (c)(3) to read as follows:

*§ 301.6651-1 Failure to file tax return or to pay tax.*

\* \* \* \* \*

(c) \* \* \*

(3) If, for a taxable year ending on or after December 31, 1995, an individual taxpayer satisfies the requirement of § 1.6081-4(a) of this chapter (relating to automatic extension of time for filing an individual income tax return), reasonable cause will be presumed, for the period of the extension of time to file, with respect to any underpayment of tax if—

(i) The excess of the amount of tax shown on the individual income tax return over the amount of tax paid on or before the regular due date of the return (by virtue of tax withheld by the employer, estimated tax payments, and any payment with an application for extension of time to file pursuant to § 1.6081-4 of this chapter) is no greater than 10 percent of the amount of tax shown on the individual income tax return; and

(ii) Any balance due shown on the individual income tax return is remitted with the return.

\* \* \* \* \*

*§ 301.6651-1T [Removed]*

Par. 11. Section 301.6651-1T is removed.

## PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 12. The authority citation for part 602 continues to read as follow:

Authority: 26 U.S.C. 7805.

Par. 13. In § 602.101, paragraph (c) is amended by removing the entries for § § 1.6081-2T, 1.6081-3T, and 1.6081-4T from the table, revising the entry for § 1.6081-4, and adding the following entries in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

\*- \*- \*- \*- \*

(c)

CFR part or section where identified and described	Current OMB control No.
1.6081-2 . . . . .	1545-0148 1545-1054 1545-1036

CFR part or section where identified and described	Current OMB control No.
1.6081-4 . . . . .	1545-0188 1545-1479
1.6081-6 . . . . .	1545-0148 1545-1054
1.6081-7 . . . . .	1545-0148 1545-1054

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

Approved December 17, 1996.

Donald C. Lubick,  
*Acting Assistant Secretary  
of the Treasury.*

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