

Part III -- Administrative, Procedural, and Miscellaneous

Transitional Relief for Determining Timeliness of Federal Tax Deposits

Notice 2010-87

PURPOSE

This notice provides transitional relief for determining the timeliness of Federal tax deposits (FTDs) under section 6302 of the Internal Revenue Code ("Code"). The notice provides that the Internal Revenue Service ("Service") will not assert penalties under Code section 6656 for FTDs due in calendar year 2011 that are untimely solely because the depositor treated a statewide legal holiday as if it were a legal holiday in the District of Columbia.

BACKGROUND

Effective January 1, 2011, the Financial Management Service, a Bureau of the Treasury Department, is eliminating the system that allows FTDs to be made using paper coupons at government depository banks. On August 23, 2010, the Treasury Department and the Service published a notice of proposed rulemaking (REG-153340-09), 2010-42 I.R.B. 469 (74 FR 51707), to require electronic funds transfer for all FTDs and to eliminate the rules regarding FTD coupons. Since a taxpayer will no longer be able to make FTDs at a government depository bank,

the proposed regulations removed references to “banking days” and instead determined the timeliness of deposits by reference to “business days,” meaning every calendar day that is not a Saturday, Sunday, or legal holiday under section 7503. These changes were adopted in the final regulations published on December 7, 2010. TD 9507.

Additionally, because the Electronic Federal Tax Payment System is available 24 hours a day, seven days a week, the final regulations provide that, consistent with section 7503, the term “legal holiday” for FTD purposes includes only those legal holidays in the District of Columbia. Thus, a statewide legal holiday will no longer be considered a legal holiday unless the holiday coincides with a legal holiday in the District of Columbia. See Treas. Reg. §§ 31.6302-1(c)(2)(iii) and (d) Example 5.

TRANSITIONAL RELIEF FOR FEDERAL TAX DEPOSITS DUE IN 2011

Code section 6656 imposes a penalty if a taxpayer does not deposit tax in the correct amount, within the prescribed time period, and/or in the required manner. In order to provide transitional relief, the Service will not assert penalties under section 6656 for FTDs due during calendar year 2011 that are untimely solely because the depositor treated a statewide legal holiday as if it were a legal holiday in the District of Columbia.

DRAFTING INFORMATION

The principal author of this notice is Michael Hara of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this notice, please contact Michael Hara at (202) 622-4910 (not a toll-free call).