an order instead of proceeding by rulemaking. Given that Congress specifically requires the Attorney General to follow rulemaking procedures for other kinds of scheduling actions,[7] it is noteworthy that, in subsection 811(h), Congress authorized the issuance of temporary scheduling actions by order rather than by rule.

In the alternative, even if this action were subject to 5 U.S.C. 553, the Administrator finds that there is good cause under 5 U.S.C. 553(b)(B) and (d)(3) to forgo the notice-and-comment requirements and the delayed effective date requirements of such section, as any further delays in the process for extending the temporary scheduling order would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety that these substances would present if scheduling expired, for the reasons expressed in the temporary scheduling order.[8]

Further, DEA believes that this order extending the temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2) and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, DEA is not required by the APA at 5 U.S.C. 553 or any other law to publish a general notice of proposed rulemaking. Therefore, in this instance, since DEA believes this temporary scheduling action is not a ''rule,'' it is not subject to the requirements of the RFA when issuing this temporary action.

In addition, in accordance with the principles of Executive Orders (E.O.) 12866 and 13563, this action is not a significant regulatory action. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. E.O. 12866, sec. 3(f), provides the definition of a ''significant regulatory action,'' requiring review by the Office of Management and Budget. Because this is not a rulemaking action, this is not a significant regulatory action as defined in subsection 3(f) of E.O. 12866. DEA scheduling actions are not subject to either E.O. 14192, Unleashing Prosperity Through Deregulation, or E.O. 14294, Fighting Overcriminalization in Federal Regulations.

This action will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132 (Federalism), it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. However, if this were a rule, pursuant to the CRA, ''any rule for which an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the federal agency promulgating the rule determines.''[9] Nonetheless, DEA has submitted a copy of this temporary order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801–808 because, as noted above, this action is an order, not a rule.

It is in the public interest to maintain the temporary placement of 4F-MDMB-BUTICA, ADB-4en-PINACA, 5F-EDMB-PICA, and MMB-FUBICA, including their salts, isomers, and salts of isomers, in schedule I because they pose a public health risk. The temporary scheduling action was taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. Under 21 U.S.C. 811(h), temporary scheduling orders are not subject to notice and comment rulemaking procedures. For the same reasons that underlie 21 U.S.C. 811(h), that is, the need to keep these four substances in schedule I because they pose an imminent hazard to public safety, it would be contrary to the public interest to delay implementation of this extension of the temporary scheduling order. Further, public notice and comment is impracticable in the amount of time remaining before expiration of the temporary scheduling order and considering the manifest urgency to avoid an imminent hazard to the public safety that these substances would present if scheduling expired, for the reasons expressed in the temporary scheduling order. Therefore, in accordance with section 808(2) of the CRA, this order extending the temporary scheduling order for four synthetic cannabinoids, currently covered under the temporary order, shall take effect immediately upon its publication.

[7] *See* 21 U.S.C. 811(a).

[8] *See Schedules of Controlled Substances: Temporary Placement of MDMB-4en-PINACA, 4F-MDMB-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA into Schedule I,* 88 FR 86040 (Dec. 12, 2023).

[9] 5 U.S.C. 808(2).

Signing Authority

This document of the Drug Enforcement Administration was signed on December 10, 2025, by Administrator Terrance C. Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025–22960 Filed 12–12–25; 4:15 pm]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 10039]

RIN 1545–BQ13

Entities Wholly Owned by Indian Tribal Governments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule.

SUMMARY: This document contains final regulations regarding the Federal tax classification of entities wholly owned by Indian Tribal governments (Tribes). The final regulations provide that entities that are wholly owned by Tribes and organized or incorporated under the laws of one or more of the Tribes that own them generally are not recognized as separate entities for Federal tax purposes. The final regulations also provide that such entities, as well as certain Tribal corporations chartered by

the Department of the Interior (DOI), are recognized as separate entities for Federal employment and certain Federal excise tax purposes. In addition, the final regulations provide that, for purposes of making elective payment elections (including determining eligibility for and the consequences of such elections) for energy credits under the Inflation Reduction Act of 2022, each of these types of Tribal entities is treated as an instrumentality of one or more Indian Tribal governments.

DATES:

Effective date: These regulations are effective on January 15, 2026.

Applicability dates: For dates of applicability, *see* §§ 301.7701–1(f) and 1.6417–1(q).

FOR FURTHER INFORMATION CONTACT: Concerning the final regulations, contact Iris Chung of the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates) at (202) 317–5279 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document contains amendments to provisions of 26 CFR part 1 (Income Tax Regulations) under section 6417 of the Internal Revenue Code (Code) and 26 CFR part 301 (Procedure and Administration Regulations) under section 7701 of the Code that address the Federal tax treatment of certain Tribal entities wholly owned by one or more Indian Tribal governments [1] (final regulations).

Section 6417(h) provides an express delegation of authority to the Secretary of the Treasury or the Secretary's delegate (Secretary) relating to elective payment elections under section 6417 (section 6417 elections), stating, ''[t]he Secretary shall issue such regulations or other guidance as may be necessary to carry out the purposes of this section, including guidance to ensure that the amount of the payment or deemed payment made under this section is commensurate with the amount of the credit that would be otherwise allowable (determined without regard to section 38(c)).''

Section 7701(a)(40) provides an express delegation of authority to the Secretary related to identifying Indian Tribal governments for Federal tax purposes, stating, ''[t]he term 'Indian tribal government' means the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.''

Finally, section 7805(a) of the Code provides an express delegation of authority to the Secretary to ''prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.''

Background

I. Overview of Prior Guidance

The Federal government has long recognized the unique aspects of Tribal sovereignty and Tribal sovereign immunity. Tribes themselves are not subject to Federal income tax under the Code.[2] IRS guidance on the issue in the 1960s raised questions about the extent to which Tribal corporations incorporated under section 17 of the Indian Reorganization Act of 1934 (IRA), as amended, 25 U.S.C. 5124 (section 17 corporations) or under section 3 of the Oklahoma Indian Welfare Act, as amended, 25 U.S.C. 5203 (section 3 corporations) should share the Tribe's Federal income tax status. In response, the IRS published further guidance and issued proposed regulations in 1996 on the treatment of section 17 corporations and section 3 corporations for Federal tax purposes. *See* the notice of proposed rulemaking, *Simplification of Entity Classification Rules* (PS–43–95), published in the **Federal Register** (61 FR 21989) on May 13, 1996 (explaining the basis for the proposed rule later adopted in § 301.7701–1(a)(3)).

On December 18, 1996, the Department of the Treasury (Treasury Department) and the IRS published final regulations (TD 8697) in the **Federal Register** (61 FR 66584) under section 7701, known as the entity classification regulations. These regulations (at § 301.7701–1(a)(3)) make clear that entities formed under local laws are not always recognized as separate entities for Federal tax purposes. For example, an organization wholly owned by a State is not recognized as a separate entity for Federal tax purposes if it is an integral part of the State. Similarly, these regulations (until their amendment by this Treasury decision) provided that section 17 corporations and section 3 corporations are not recognized as separate entities for Federal tax purposes. These regulations, however, did not specifically address whether an entity organized or incorporated under Tribal law and wholly owned by a Tribe (that is, a wholly owned Tribal entity) is recognized as a separate entity for Federal tax purposes.

The preamble to TD 8697 stated that the IRS received a number of comments asking for clarification of the tax treatment of wholly owned Tribal entities. 61 FR 66584. The preamble also indicated that the Treasury Department and the IRS continued to study the issue and would issue additional guidance, if necessary. *Id.* at 66585–86.

II. Tribal Consultation

Over the past several decades, Tribes have sought clarity concerning the Federal tax status of wholly owned Tribal entities, in part to provide certainty for Tribal economic development and to support the generation of revenue for Indian Tribal governments. To obtain Tribal input on the issue before publishing the proposed regulations, and in accordance with Executive Order 13175 (November 6, 2000), ''Consultation and Coordination with Indian Tribal Governments,'' and the Treasury Department's Tribal Consultation Policy (80 FR 57434, September 23, 2015), *superseded by* Treasury Order 112–04 (November 22, 2023), the Treasury Department and the IRS held Tribal consultations on the issue on June 21 and June 22, 2023, October 8 and 10, 2019, and a listening session on December 3, 2019.

During Tribal consultations, Tribes have explained that they view incorporating corporations under Tribal law as an exercise of their inherent sovereign authority to generate governmental revenue, self-govern the use of that revenue according to their own laws, and self-determine the use of that revenue for their citizenry. Tribes highlighted that incorporating corporations under Tribal law enables

[1] The term ''Indian Tribal government,'' also referred to as a ''Tribe'' herein, is defined as a federally recognized Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, Public Law 103–454, 108 Stat. 4791 (List Act). Pursuant to the List Act, the Secretary of the Interior is required to publish annually a list of all federally recognized Tribes. This definition is also consistent with Revenue Procedure 2008–55 (2008–39 I.R.B. 768), which provides that the Treasury Department and the IRS utilize current or future lists of federally recognized Tribes published annually under the List Act by the DOI Bureau of Indian Affairs, for identification of Indian Tribal governments for purposes of section 7701(a)(40). *See* 89 FR 944 (January 8, 2024) for the most current list published by the DOI, Bureau of Indian Affairs.

[2] *See* Rev. Rul. 67–284, 1967–2 C.B. 55. However, Tribes generally are subject to Federal employment taxes. Employment taxes refers to Federal Insurance Contributions Act (FICA) (consisting of both social security and Medicare taxes), Federal Unemployment Tax Act (FUTA), and Income Tax Withholding. Section 3306(c)(7) of the Code provides an exception from FUTA taxes under certain circumstances. Further, subject to applicable law, including statutes (such as section 7871 of the Code) and treaties or agreements with the United States, Tribes are subject to Federal excise taxes. *See* Rev. Rul. 94–81, 1994–2 C.B. 412.

Tribes to create entities that meet their emerging revenue opportunities, establish guidelines for the operation of these entities that are culturally appropriate and protect Tribal assets, and dissolve them when they are no longer needed. Tribes also highlighted that clarifying the status of corporations incorporated under Tribal law is consistent with recent Federal policy to promote Tribal sovereignty, self-governance, and self-determination in economic development activities.

In contrast, Tribes highlighted that section 17 and section 3 corporations are not always sufficient to meet their needs. The incorporation process for these entities is a lengthy multi-step Federal process that subjects Tribal authority to Federal oversight and approval and results in increased administrative costs to Tribes. In addition, an act of Congress is required to dissolve the chartered entity.

This issue has taken on increased salience in recent years with the enactment of laws that extend greater access to capital and new economic opportunities to certain governments (including Indian Tribal governments), tax-exempt organizations, and other entities. Tribes have reiterated their requests for guidance through meetings of the Treasury Tribal Advisory Committee and other Tribal consultations.

III. Proposed Regulations

In light of the considerations of Tribal sovereignty and self-determination described previously, on October 9, 2024, the Treasury Department and the IRS published a notice of proposed rulemaking (REG–113628–21) in the **Federal Register** (89 FR 81871), which provided proposed guidance under sections 6417 and 7701 (proposed regulations). See the preamble to the proposed regulations for additional information regarding the developments leading to this rulemaking.

The proposed regulations proposed to amend the existing section 7701 regulations to make clear that entities wholly owned by Tribes and organized, incorporated, or authorized under the laws of the Tribes that own them generally are not recognized as separate entities for Federal tax purposes. As has been the case with Tribes and section 17 corporations or section 3 corporations, the proposed regulations proposed that an entity wholly owned by one or more Indian Tribal governments, within the meaning of section 7701(a)(40), that is organized or incorporated under the laws of the Tribe or Tribes that own the entity, or organized or incorporated under the laws of one or more of the owning Tribes and authorized by all of the other owning Tribes (wholly owned Tribal entity), would not be recognized as a separate entity for Federal tax purposes (and thus not subject to Federal income tax). The use of the term ''organized'' includes the creation of Tribal entities other than corporations. For instance, a single member limited liability company (LLC) organized under the laws of the Tribe that owns the LLC would be a wholly owned Tribal entity covered by the proposed regulations. Accordingly, such wholly owned entities generally would be viewed as one and the same as the Tribes that own them for Federal income tax purposes and therefore are not subject to Federal income tax.

In addition, the proposed regulations proposed to amend the existing section 6417 regulations to provide that wholly owned Tribal entities, section 17 corporations, and section 3 corporations are treated, for purposes of making section 6417 elections (including determining eligibility for and the consequences of such elections), as instrumentalities of the Indian Tribal government(s) that wholly own them. As a result, the wholly owned Tribal entity itself, rather than the Indian Tribal government(s) owning the entity, would be required to make a section 6417 election for an applicable credit determined with respect to any applicable credit property held directly by the wholly owned Tribal entity.

A. Wholly Owned Tribal Entity Requirements Under Proposed Regulations

1. Tribal Law

The proposed regulations recognized that Tribal law is established by each individual Tribe. The notice of proposed rulemaking stated that, where multiple Tribes work together to establish an entity that is owned by more than one Tribe, each Tribe would need to provide for the entity under its own laws.

2. Wholly Owned

The notice of proposed rulemaking noted that, as is the case for determining the ownership of all corporations (including a corporation wholly owned by a State or other government), the determination of whether an outside investor (a person other than a Tribe) holds equity in a Tribal entity, such that it would fail to be wholly owned by one or more Indian Tribal governments for Federal tax purposes, would take into account principles of Federal tax law, such as the substance over form doctrine, debt versus equity analyses, and the economic substance doctrine.

Under the proposed regulations, an entity could satisfy the wholly owned requirement through a multi-Tribe ownership structure, so long as the entity is organized or incorporated under each Tribe's laws. Proposed § 301.7701–1(a)(4)(iii)(D) (*Example 4*) illustrates an example of the organizational structure of such an entity.

The proposed regulations did not address an entity formed under Tribal law that was not also wholly owned by one or more Indian Tribal governments for Federal tax purposes.

IV. Elective Payment Elections

Under 26 CFR 1.6417–1(f) as of April 1, 2025, section 17 corporations and section 3 corporations were treated as ''disregarded entities'' for purposes of section 6417, and the applicable entity owner of a disregarded entity that directly holds applicable credit property was required to make a section 6417 election for applicable credits determined with respect to such property pursuant to § 1.6417–2(a)(1)(ii). Under the proposed regulations, for purposes of making a section 6417 election (including determining eligibility for and the consequences of such election), entities described in proposed § 301.7701–1(a)(4)(i) (that is, section 17 corporations, section 3 corporations, and wholly owned Tribal entities), would be treated as instrumentalities of Indian Tribal governments. This change would mean that an entity described in proposed § 301.7701–1(a)(4)(i) that directly owns applicable credit property, rather than the entity's owner or owners, would make the section 6417 election. Such an entity generally would do so by filing a Form 990–T, *Exempt Organization Business Income Tax Return,* as described in § 1.6417–1(b)(2), using its own name and employer identification number.

Given that proposed § 301.7701–1(a)(4)(i) generally provided that an entity owned by multiple Tribes is not recognized as a separate entity from those Tribes for Federal income tax purposes, treating the entity as a ''disregarded entity'' for section 6417 purposes would have required each of the entity's owners to make a section 6417 election with respect to an applicable credit determined with respect to an applicable credit property owned directly by the entity. That approach would have been administratively burdensome and complex for the Tribes that own the entity as well as for the IRS. Given the need for coordination among these Tribes in making consistent tax filings, that approach could also have resulted in cases in which the amount of the total payments or deemed payments claimed under section 6417 might not be commensurate with the amount of the underlying credit. In addition, even for an entity owned by a single Tribe, the entity directly owning the applicable credit property may be better positioned to fulfill the pre-filing registration and other requirements to make the section 6417 election. Accordingly, the proposed regulations were intended to simplify the filing obligations for Tribes and their wholly owned entities and ensure that the amount of any payment or deemed payment made under section 6417 will be commensurate with the amount of the credit that would be otherwise allowable.

In general, the determination of whether an entity is an agency or instrumentality is analyzed on a facts and circumstances basis. In determining whether an entity is an agency or instrumentality for Federal tax purposes, Federal courts have applied the six-factor test in Rev. Rul. 57–128, 1957–1 C.B. 311, which generally provides guidance on whether an entity is an instrumentality for purposes of the exemptions from employment taxes under sections 3121(b)(7) and 3306(c)(7) of the Code. *See, e.g., Rose* v. *Long Island Railroad Pension Plan,* 828 F.2d 910, 918 (2d Cir. 1987), *cert. denied,* 485 U.S. 936 (1988); *Berini* v. *Federal Reserve Bank of St. Louis, Eighth District,* 37 Employee Benefits Cas. 1072, 420 F. Supp. 2d 1021 (E.D. Mo. 2005).

The special rule in proposed § 1.6417–1(c)(7) is informed in part by administrative considerations and would be issued under the express delegation of authority in section 6417(h) to promulgate rules that carry out the purposes of section 6417 and ensure that the amount of the payment or deemed payment made thereunder is commensurate with the amount of the underlying credit. No inferences should be drawn from the instrumentality treatment in proposed § 1.6417–1(c)(7) as to whether any particular entity is or is not an instrumentality for any other Federal tax purpose.

Summary of Comments and Explanation of Revisions

The Treasury Department and the IRS conducted Tribal consultations on December 16–18, 2024, to obtain additional input on questions involving the proposed regulations. The content of these consultations is published in a Tribal consultation summary available at: *https://home.treasury.gov/system/files/136/Tax-Status-of-Tribally-Chartered-Corporations-Consultation-Summary.pdf.* In addition, the Treasury Department and the IRS received written comments in response to the proposed regulations. A public hearing on the proposed regulations was held on January 17, 2025. Copies of written comments and the list of speakers at the public hearing are available at *https://www.regulations.gov* or upon request.

After full consideration of all comments received on the proposed regulations, including through the Tribal consultations, and the testimony presented at the public hearing, this Treasury decision adopts the proposed regulations as final regulations with clarifying changes and modifications as described in this Summary of Comments and Explanation of Revisions. Overall, commenters largely supported the proposed regulations' recognition of a Tribe's inherent authority to create businesses under Tribal law and that wholly owned Tribal entities should have parity with federally chartered Tribal corporations.

Section I of this Summary of Comments and Explanation of Revisions addresses the comments and revisions applicable to § 301.7701–1. Section II of this Summary of Comments and Explanation of Revisions addresses the comments and revisions applicable to § 1.6417–1.

Unless otherwise indicated in this Summary of Comments and Explanation of Revisions, provisions of the proposed regulations for which no comments were received are adopted without substantive change. Comments that merely summarize the proposed regulations, recommend statutory revisions to section 7701, section 6417, or other statutes, address issues that are outside the scope of this rulemaking (such as proposed changes to other guidance), or recommend changes to IRS forms are beyond the scope of these regulations and are not adopted. In addition, comments that are related to executive orders and prior guidance described in the preamble to the proposed regulations are beyond the scope of these regulations and are not adopted. The final regulations include non-substantive modifications, including modifications that promote consistency across rules and examples, rearrange provisions, and improve the overall clarity of the guidance. Such non-substantive modifications are not addressed in this Summary of Comments and Explanation of Revisions.

I. Wholly Owned Tribal Entities Under the Final Regulations

The final regulations under section 7701 provide that a wholly owned Tribal entity (including a single member LLC organized under the laws of the Tribe that owns it) is not recognized as a separate entity for Federal income tax purposes, but is recognized as separate and treated as a corporation for Federal employment tax purposes and certain Federal excise tax purposes. The final regulations also provide that section 17 corporations and section 3 corporations are recognized as entities separate from the Tribe(s) that own these entities for Federal employment and certain Federal excise tax purposes.

A. Multi-Tribe Ownership

The majority of commenters expressed support for the recognition that Tribes may organize or incorporate an inter-Tribal entity serving multiple Tribes. However, some commenters stated that it is impractical and unworkable to require that an inter-Tribal entity wholly owned by more than one Indian Tribal government (within the meaning of section 7701(a)(40) of the Code) be organized or incorporated under the laws of each of the Indian Tribal governments with an ownership stake in the entity. Commenters stated that the rules should provide that an inter-Tribal entity with a single charter authorized by each Tribe's governing body, or other body or official acting pursuant to authority delegated by the Tribe's governing body, shares the tax status of the Tribe(s) that own it. These commenters recommended that, although authorized under each Tribe's legislative or administrative process, the inter-Tribal entity charter should allow for a choice of law or forum clause that subjects the inter-Tribal entity to the corporate or limited liability company laws of just a single Tribe. To clarify the proposed regulations, the same commenters requested amendments to the language of the regulations to require that the inter-Tribal entity be authorized under each owner Tribe's law and to allow Tribes to adopt their choice of law and forum. Additionally, a commenter requested the regulations be amended to allow Tribes to enter into co-ownership arrangements with respect to existing entities previously organized and incorporated under the laws of one or more Tribes.

Other commenters suggested that entities owned solely by multiple Tribal governments should be disregarded where (a) the entity is formed under the laws of one of the member Tribes, (b) the Tribe's laws permit ownership by the other Tribes, and (c) each owner Tribe agrees to such outcome by resolution or other suitable document.

Based on these comments, the final regulations provide that an inter-Tribal entity is not recognized as a separate entity when organized or incorporated exclusively under the laws of one or more of the Indian Tribal governments that own it. The final regulations also add a sentence that clarifies that whether an entity is organized or incorporated under the laws of one or more Indian Tribal government(s) is determined without regard to any specified choice of law or forum. These changes are intended to minimize the administrative burden on Tribes seeking to form or acquire interests in inter-Tribal entities that would generally not be recognized as separate entities under these final regulations.

The word ''exclusively,'' as used in these regulations, means that the entity must be formed under the laws of one or more of the Indian Tribal governments that own it and not the laws of an Indian Tribal government that does not have an interest in the entity or the laws of a state or foreign government. Therefore, an entity formed solely under the laws of one owning Indian Tribal government that is also owned by several other Indian Tribal governments would be considered as organized or incorporated exclusively under the laws of one or more of the Indian Tribal governments that own it and would generally not be recognized as a separate entity for Federal tax purposes.

B. State-Recognized Tribes

One commenter expressed concern that entities organized or incorporated under the laws of a Tribe that is not federally recognized but recognized by a State (State-recognized Tribe) would not be covered under these proposed regulations and requested clarity as to how the result might change, if at all, in proposed § 301.7701–1(a)(4)(iii)(D) (*Example 4*) if one or more of the four participating Tribes were State-recognized Tribes.

The United States has a government-to-government relationship with and recognizes the sovereignty of federally recognized Tribes. Revenue Procedure 2008–55 (2008–39 I.R.B. 768) treats all federally recognized Tribes as Indian Tribal governments under section 7701(a)(40). Federally recognized Tribes are not subject to Federal income taxes. Section 301.7701–1(a)(3) has long provided that section 17 corporations and section 3 corporations chartered under Federal law and wholly owned by federally recognized Tribes are not recognized as separate entities for Federal tax purposes. These final regulations extend the same treatment to entities organized or incorporated under Tribal law and wholly owned by Tribes. Because section 17 corporations, section 3 corporations, and wholly owned Tribal entities are not recognized as separate entities, they, like the Tribes that own them, are not subject to Federal income tax.

Corporations wholly owned by State-recognized Tribes were not covered by the proposed regulations and are not covered by these final regulations. If one or more of the four participating Tribes in § 301.7701–1(a)(4)(iii)(D) (*Example 4*) were a State-recognized Tribe or an entity created by a State-recognized Tribe, then the jointly owned corporation would not satisfy the requirements of § 301.7701–1(a)(4) and would be respected as a separate legal entity that could be subject to Federal income taxation.

C. State-Chartered Tribally Owned Entities

Some commenters suggested that not only entities wholly owned by Indian Tribal governments and organized or incorporated under the laws of their Indian Tribal government owner, section 3, or section 17, but also Tribally owned entities organized under State law should be treated as not separate from the Tribe for Federal tax purposes. The Treasury Department and the IRS have previously ruled that a corporation organized by an Indian Tribe under State law is subject to Federal income tax on the income earned in the conduct of a commercial business on and off the Tribe's reservation. See Rev. Rul. 94–16, situation 3, 1994–1 C.B. 19 (1994). The commenters proposed that the relevant consideration for Federal income tax purposes is not which government created the corporate entity but, rather, the tax status of the owner. Commenters explained the advantages of State-chartered entities to include that their structure is more familiar to outside investors and offers a broader spectrum of opportunities, particularly for business ventures outside of the Tribe's reservation. These regulations only address the Federal tax treatment of entities chartered by DOI or under Tribal law. Accordingly, the Federal tax treatment of State-chartered entities is outside the scope of these regulations, and, therefore, the final regulations do not adopt this comment.

D. Majority-Owned Entities

Many commenters recommended extending Federal income tax exemption to entities with 51 percent or greater ownership by Tribes so that they are on parity with State and local governments to receive the same tax advantages afforded to State and local government entities in public-private partnerships. Commenters also requested clarifying guidance on the tax treatment of partially owned entities, including distinctions between wholly owned, partially owned, and majority owned entities.

As these matters are outside the scope of the guidance contained in the proposed regulations that these regulations finalize, the final regulations do not adopt these comments. The Treasury Department and the IRS continue to consider possible guidance on the Federal tax treatment of corporations incorporated under Tribal law that are owned in part by persons other than Tribes. The Treasury Department and the IRS would conduct Tribal consultation prior to issuing any guidance in that area.

E. Wholly Owned Tribal Entities as Separate From the Tribe(s)

Some commenters suggested that wholly owned corporations incorporated under Tribal law should be considered exempt from Federal income tax without the fiction that such corporations are not separate from the parent Tribe. These commenters explained that Revenue Ruling 94–16, 1994–1 C.B. 19, does not rely on this concept. The commenters indicated that section 17 corporations share the same tax status as the Tribe without relying on a fiction that the section 17 corporation is not separate from the Tribe. As support, the commenters indicated that Federal law permits a Tribe to organize both section 16 corporations and section 17 corporations, separate classes of entities with differing powers, purpose, and function. Commenters further explained that if a corporation incorporated under Tribal law is not distinct from the Tribal government, this could prohibit Tribes from qualifying a wholly owned Tribal entity for section 501(c)(3) status and, thus, would require Tribes to charter non-profit corporations under State law, contrary to Federal policy.

Under the existing framework of the section 7701 regulations, an entity recognized as separate from the Tribe does not share the same tax status as the Tribe. Thus, in order to be an entity not subject to Federal income tax under those regulations, section 17 corporations and section 3 corporations cannot be recognized as separate and distinct from the Tribe for Federal income tax purposes. These final regulations treat wholly owned Tribal corporations similarly to section 17 corporations and section 3 corporations. The commenter is correct that a wholly owned corporation incorporated under Tribal law that is not separate and distinct from the Tribal government cannot qualify for section 501(c)(3) status. However, there is nothing in these regulations to prevent Tribes from creating non-stock Tribal law entities that are described in section 501(c)(3), nor would doing so be contrary to Federal policy.

F. Limited Liability Companies

Commenters requested the addition of clarifying language to confirm that LLCs that qualify as wholly owned Tribal entities are not recognized as separate entities for Federal income tax purposes and, therefore, would not be subject to Federal income tax. The commenters indicated that confusion arises because an entity can be classified as one type of entity for local law purposes such as an LLC or partnership, and then make an entity classification election by filing Form 8832, *Entity Classification Election,* with the IRS to be taxed differently for Federal tax purposes. A majority of commenters supported the addition to the final regulations of a separate illustrative example of an LLC that qualifies as a wholly owned Tribal entity that is not regarded as a separate entity and, therefore, not subject to Federal income tax. Other commenters suggested that it is unnecessary for the proposed regulations to apply to entities other than corporations that qualify as wholly owned Tribal entities. Those commenters explained that since the section 7701 regulations treat a domestic eligible entity with a single owner as disregarded unless the owner otherwise elects, many Tribes have created LLCs that qualify as wholly owned Tribal entities with the understanding that the rules under the existing regulations apply. Commenters expressed concern that adopting a rule that automatically disregards the separateness of all wholly owned Tribal entities for Federal tax purposes disrupts that understanding.

The treatment of limited liability companies for Federal tax purposes is determined under the general classification rules of § 301.7701–3(a). However, the term ''organized'' used in § 301.7701–1(a)(4)(i) is meant to apply to LLCs organized under Tribal law that are wholly owned by one or more Tribe(s) (Tribally organized LLC), which is consistent with both the preamble to the proposed regulations and proposed § 301.7701–1(a)(4)(iii)(C).

Comments indicate that taxpayers understand that the proposed regulations would treat a Tribally organized LLC with a single member as not separate from the Tribe for Federal tax purposes, and therefore not subject to Federal income tax under these final regulations. Therefore, the final regulations do not adopt these comments.

However, the Treasury Department and the IRS understand the need for certainty in this area. Therefore, the final regulations adopt the general comments that the examples provided in the regulation should explicitly state that the rules apply equally to Tribally organized LLCs.

G. Multi-Tier Entity Structures

Many commenters requested clarification in the final regulations that the treatment of wholly owned Tribal entities as not separate entities from their Tribal owners applies equally to subsidiary entities. Similarly, many commenters also suggested revising proposed § 301.7701–1(a)(4)(iii)(B) (*Example 2*) to indicate that it involves a holding company and a subsidiary. A few commenters also suggested adding an example of a multi-tier partnership entity similar to proposed § 301.7701–1(a)(4)(iii)(B) (*Example 2*).

Proposed § 301.7701–1(a)(4) did not expressly state that entities that are owned through a chain of entities that themselves are not recognized for Federal tax purposes are not recognized as separate entities for Federal tax purposes. In order to ensure clarity on this point, the final regulations add language in § 301.7701–1(a)(4) to clarify that the wholly owned requirement can be met through ownership by other entities not recognized as separate under § 301.7701–1(a)(4).

The final regulations, in § 301.7701–1(a)(4)(iii)(B) (*Example 2*), illustrate that in a tiered structure where Corporation Z is wholly owned by Corporation X and Corporation X is wholly owned by Tribe B, where both Corporation Z and Corporation X are organized or incorporated exclusively under the laws of Tribe B, both entities are not recognized as separate from Tribe B for Federal tax purposes and are not subject to Federal income tax. This example was intended to be a general illustration of the proposed rule that subsidiaries in a tiered entity structure of wholly owned Tribal entities are not recognized as separate entities for Federal tax purposes and are, therefore, exempt from Federal income tax. Revising the example as suggested by the commenters to specify that proposed § 301.7701–1(a)(4)(iii)(B) (*Example 2*) involves a holding company and a subsidiary would unnecessarily narrow the scope and relevancy of this example, which was intended to be a general illustration. Therefore, the final regulations do not adopt this comment.

H. Partnerships With Non-Tribally Owned Entities

One commenter requested adding an example to confirm that a Tribally organized LLC would retain its status as not regarded when it enters into a partnership with a third-party for-profit corporation formed under State law. Though the final regulations do not add such an example, the Treasury Department and the IRS confirm that the Federal tax status of a Tribally organized LLC would not be affected by holding an interest in a partnership regardless of who the other partners in the partnership were.

I. Section 17 Corporation

A commenter recommended clarifying that a section 17 corporation is a federally chartered corporation created through a lengthy incorporation process for a corporation with the DOI and the eventual approval of such corporation's charter.

These final regulations do not adopt the recommendation in this comment concerning detailing the processes by which a section 17 corporation is created because the regulations do not modify or otherwise affect the incorporation process of section 17 corporations and section 3 corporations. They do provide certainty that wholly owned Tribal entities are accorded the same tax treatment as section 17 corporations and section 3 corporations. The final regulations do, however, adopt the recommendation to change the description of section 17 corporations and section 3 corporations to reflect that they are federally chartered corporations.

J. Tribal Entity Formation

Several commenters also requested clarification that entities formed under resolutions or interim measures, rather than formal ordinances, are also afforded Federal income tax exemption if established under Tribal law. The proposed regulations did not address the specific mechanisms or administrative processes by which Tribes organize or incorporate a wholly owned entity under their sovereign laws. While the final regulations do not specifically adopt these comments by providing the requested clarification, the Treasury Department and the IRS confirm that any acts to organize or incorporate a wholly owned Tribal entity under the laws of the Tribes would satisfy the requirements of being ''organized under Tribal law'' for such entity to not be recognized as a separate entity from the Tribe under § 301.7701–1(a)(4)(i).

K. Not Subject to Federal Income Tax

A commenter recommended expressly stating in the text of proposed § 301.7701–1(a)(4)(i) that section 17 corporations, section 3 corporations, and wholly owned Tribal entities are not subject to Federal income tax on income earned by them in the conduct of commercial business, investment, and/or other activities on or off the organizing Tribe's reservation or Tribes' reservations (as applicable). The commenter suggested that, although proposed § 301.7701–1(a)(4)(iii)(A) through (C) (*Examples 1* through *3*) illustrated that entities wholly owned by one or more Tribes and organized or incorporated exclusively under the laws of such Tribe or Tribes are both not recognized as separate entities for Federal tax purposes and not subject to Federal income tax, additional language explicitly stating that such entities are not subject to Federal income tax is necessary in proposed § 301.7701–1(a)(4)(i) for consistency and to avoid any ambiguity on this issue.

This commenter also indicated that the use of the phrase ''in the conduct of commercial business'' in connection with the statement of exemption from Federal income tax in the preamble to the proposed regulations creates uncertainty as to the scope of the exemption from Federal income tax of section 17 corporations and section 3 corporations, creating the possibility of disputes regarding whether income from investments or other activities or sources is excluded from the exemption from Federal income tax. Thus, the commenter requests clarification in the final regulations on the scope of the exemption from Federal income tax for section 17 corporations and section 3 corporations.

The Treasury Department and the IRS adopt the recommendation and added language to § 301.7701–1(a)(4)(i) to clarify that such entities are not subject to Federal income tax. As such, the source of their income is not relevant because their Federal tax status is not based on the source or type of income earned. Accordingly, the final regulations do not comment on the nature or source of income excluded from Federal income tax derived by section 17 corporations, section 3 corporations, or wholly owned Tribal entities.

L. Federal Income Tax Refunds

Some commenters requested that the IRS defer to Tribes' sole discretion to determine whether wholly owned Tribal entities that have been in existence for decades have consistently applied § 301.7701–1(a)(4) and relied on that provision for tax years prior to the final regulations' publication date. By providing such deference, these commenters suggest, the IRS would respect Tribal sovereignty and self-governance, and reduce administrative burdens. To that effect, some commenters suggested developing a specific streamlined refund process for wholly owned Tribal entities that may have paid Federal income taxes for a period before the final regulations' publication date.

While the final regulations do not adopt the foregoing comments, the Treasury Department and the IRS confirm that Federal income tax refund requests may be processed under the general principles of tax administration. In particular, wholly owned Tribal entities that choose to apply the final regulations retroactively may seek income tax refunds by filing Form 1120–X, *Amended U.S. Corporation Income Tax Return,* for tax years for which the applicable period of limitations is open and obtain the assistance of the Indian Tribal Governments office of the Tax Exempt and Government Entities Division of the IRS to process their refund requests.

M. Federal Excise Tax

1. Entity Classification

The majority of commenters recommended that the final regulations treat section 17 corporations, section 3 corporations, and wholly owned Tribal entities as entities that are separate from the Tribe(s) that own these entities for Federal excise tax purposes because Tribes create these entities to limit the risk of liability to the Tribes themselves. The commenters' suggestion would be consistent with the treatment of disregarded entities as separate from their owners for purposes of certain Federal excise taxes under the special rule in § 301.7701–2(c)(2)(v). Additionally, the Background section of the preamble to the proposed regulations notes at footnote 2 that while Tribes are not subject to Federal income tax, they generally are subject to Federal excise taxes absent a rule (such as section 7871 of the Code) providing otherwise. Other commenters requested that the final regulations allow Tribes to elect to treat a wholly owned entity as either regarded or disregarded for Federal excise tax purposes. These commenters asserted that Tribes have a sovereign right to elect specific Federal tax treatment.

In addition, several commenters expressed concern that the rules applying to ''business entities'' in § 301.7701–2(c)(2)(i) and (v) may not include section 17 corporations, section 3 corporations, or wholly owned Tribal entities. Section 301.7701–2(a) defines a ''business entity'' as an entity recognized for Federal tax purposes, and § 301.7701–1(a)(3), as of April 1, 2025, provided that section 17 corporations and section 3 corporations were not ''recognized'' for Federal tax purposes. Similarly, proposed § 301.7701–1(a)(4)(i) generally would not have recognized section 17 corporations, section 3 corporations, or wholly owned Tribal entities as separate entities for Federal tax purposes. These commenters requested that the final regulations explicitly treat these three types of Tribal entities as separate entities for Federal excise tax purposes. Specifically, commenters suggested modifying § 301.7701–2(c)(2)(v) to apply both to business entities described in § 301.7701–2(c)(2)(i) and to Tribal entities described in proposed § 301.7701–1(a)(4)(i). In conjunction with this change, commenters also suggested modifying proposed § 301.7701–1(a)(4)(i) to provide an exception for cases where the (newly modified) special rule relating to Federal excise taxes at § 301.7701–2(c)(2)(v) applies to Tribal entities.

The Treasury Department and the IRS agree with the recommendation of the majority of commenters to treat section 17 corporations, section 3 corporations, and wholly owned Tribal entities as entities separate from the Tribe(s) that own them for Federal excise tax purposes. The final regulations do not adopt these commenters' specific recommendation to amend § 301.7701–2(c)(2)(v) because the rules of § 301.7701–2 apply solely to ''business entities.'' Instead, the final regulations provide for this separate entity treatment in § 301.7701–1. Specifically, while the final regulations in § 301.7701–1(a)(4)(i) provide the general rule that section 17 corporations, section 3 corporations, and wholly owned Tribal entities are not recognized as separate entities for Federal tax purposes, the final regulations in § 301.7701–1(a)(4)(iii) provide an exception under which such entities are treated as separate entities for certain Federal excise tax purposes under rules identical to those of § 301.7701–2(c)(2)(v). This aligns the rules applicable to section 17 corporations, section 3 corporations, and wholly owned Tribal entities with the existing rules under § 301.7701–2(c)(2)(v) that treat disregarded entities as separate from their owners for certain Federal excise tax purposes.

The Treasury Department and the IRS decline to adopt the suggestion of some commenters that Tribes be allowed to elect the treatment of wholly owned Tribal entities for Federal excise tax purposes. Instead, as explained in the previous paragraph, the final regulations provide that wholly owned Tribal entities (as well as section 17 corporations and section 3 corporations) will, in all cases, be regarded as separate entities for the Federal excise tax purposes identified in § 301.7701–2(c)(2)(v). This approach is consistent with most commenters' requests and aligns with the existing Federal excise tax regime under § 301.7701–2(c)(2)(v).

This approach also avoids a number of administrative difficulties that taxpayers and the IRS have experienced with respect to disregarded entities generally, due to the interaction of the disregarded entity rules and certain Federal excise tax provisions. Many Federal excise tax provisions rely on State law, rather than Federal law, to determine when tax attaches or whether to allow an excise tax credit or refund. Federal excise taxes are generally transaction-based, and State law often governs one or more aspects of a transaction, such as when title to an article passes. As such, difficulties arose prior to the 2007 regulations, TD 9356 (72 FR 45891, August 16, 2007), when an entity that was regarded under State law, but disregarded under Federal tax law, engaged in transactions subject to a Federal excise tax. To address these problems, in 2007, the Treasury Department and the IRS promulgated § 301.7701–2(c)(2)(v) to treat wholly owned business entities otherwise disregarded for Federal tax purposes as separate from their owners for certain Federal excise tax purposes. *See* TD 9356 (72 FR 45891, August 16, 2007) (adopting final regulations and stating no comments were received regarding the excise tax provisions of the proposed regulations); REG–114371–05 (70 FR 60475–60476, October 18, 2005) (preamble to proposed § 301.7701–2(c)(2)(v), explaining reasons for the change).

To prevent similar problems with respect to Tribal entities, the final regulations adopt separate Federal excise tax treatment, identical to that of § 301.7701–2(c)(2)(v), for section 17 corporations, section 3 corporations, and wholly owned Tribal entities. Having all wholly owned Tribal entities on a uniform system for Federal excise tax purposes that conforms with the existing § 301.7701–2(c)(2)(v) rules avoids inconsistency and promotes sound tax administration.

Finally, other commenters requested that wholly owned Tribal entities be not recognized as separate entities for excise tax exemption purposes but recognized as separate entities for excise tax liability purposes. These commenters requested that the final regulations allow Tribes to extend their sovereign privileges, such as a tax exemption, to their wholly owned entities while also permitting Tribes to shield their assets from potential liabilities by forming business entities. The Treasury Department and the IRS decline to adopt this suggestion because excise tax exemptions, such as those provided in section 7871, are outside the scope of this rulemaking.

2. Section 7871

In expressing their views on the classification of Tribal entities as separate from the Tribe for Federal excise tax purposes, some commenters expressed concern about the potential impact of such treatment on the section 7871 exemption from certain Federal excise taxes. Those commenters stated that section 17 corporations, section 3 corporations, and wholly owned Tribal entities should be explicitly permitted to claim Federal excise tax exemptions to the same extent as Tribes under section 7871. Some of those commenters suggested that language be added to proposed § 301.7701–1(a)(4) to provide that section 17 corporations, section 3 corporations, and wholly owned Tribal entities are treated as an ''Indian Tribal government'' for purposes of section 7871 and obsolete § 305.7871–1. Other commenters requested that such entities be deemed a ''subdivision'' for purposes of section 7871.

The final regulations do not adopt these commenters' suggestions, as section 7871 and any regulations thereunder are outside the scope of this rulemaking. The proposed regulations did not address section 7871 or obsolete § 305.7871–1. Accordingly, the final regulations do not address the existing law under section 7871 or the availability of the section 7871(a)(2) exemption from certain Federal excise taxes for Tribes, section 17 corporations, section 3 corporations, or wholly owned Tribal entities.

N. Employment Tax

Prior to the publication of this Treasury decision, § 301.7701–1(a)(3) provided that section 17 corporations and section 3 corporations are not recognized as separate entities for Federal tax purposes. However, the regulations did not specifically address whether a wholly owned Tribal entity is recognized as a separate entity for Federal employment tax purposes.

In general, employment tax responsibilities rest with an employer. Employers are required to deduct and withhold Federal income taxes and Federal Insurance Contributions Act (FICA) taxes from their employees' wages under sections 3402(a) and 3102(a) of the Code, and are separately liable for their share of FICA taxes as well as for Federal Unemployment Tax Act (FUTA) taxes under sections 3111 and 3301 of the Code. These Federal income tax withholding, FICA, and FUTA taxes are collectively referred to herein as ''Federal employment taxes.'' Sections 3403, 3102(b), 3111, and 3301 provide that the employer is the person liable for the withholding and payment of Federal employment taxes. In addition, the employer is required to make timely tax deposits, file Federal employment tax returns, and issue wage statements (Forms W–2) to employees, which are collectively referred to herein as ''other Federal employment tax obligations.''

An employer is generally defined as the person for whom an individual performs services as an employee. *See* sections 3401(d), 3121(d), and 3306(a) of the Code. If an entity were not recognized as separate from its owner for Federal employment tax purposes, the owner of the entity would be treated as the employer for purposes of Federal employment tax liabilities and all other Federal employment tax obligations related to wages paid to employees performing services for the disregarded entity. In the context of wholly owned Tribal entities, the IRS has not previously issued guidance regarding their employment tax treatment.

Outside the context of wholly owned Tribal entities, § 301.7701–2(c)(2)(iv)(A) and (B) treat business entities that are disregarded for Federal tax purposes as separate corporations for purposes of Federal employment taxes and related reporting requirements. Specifically, certain other single-owner eligible entities (under §§ 301.7701–1 through 301.7701–3) that are disregarded as entities separate from their owners for other Federal tax purposes are treated as entities separate from their owners for Federal employment tax purposes. See § 301.7701–2(c)(2)(iv)(A) and (B).

Several commenters requested a provision treating wholly owned Tribal entities separately for employment tax purposes to ensure that such entities can assume direct responsibility without burdening the Tribes that own them. The final regulations adopt these comments and treat wholly owned tribal entities as separate from their Tribal owners for Federal employment tax purposes. As discussed above, this approach is consistent with the treatment of disregarded entities in § 301.7701–2(c)(2)(iv)(A) and (B), which generally are disregarded as separate from their owners for Federal tax purposes, but regarded as separate for Federal employment tax purposes. Further, this approach would generally not subject Tribes to liability for Federal employment taxes owed with respect to employees performing services for their wholly owned Tribal entities, a result that many commenters support. This approach also minimizes administrative burdens, particularly for inter-Tribal entities.

Other commenters expressly requested that FICA and FUTA tax benefits applicable to Tribes be applied to wholly owned Tribal entities. Another commenter suggested that the final regulations should confirm that wholly owned Tribal entities share their owner's Federal tax exemption benefits from certain Federal employment taxes and provide a wide range of hypothetical examples.

There are some Federal employment tax provisions that specifically apply to services performed in the employ of a Tribe. For example, an exception from FUTA taxes exists for service performed in the employ of a Tribe, or any instrumentality that is wholly owned by a Tribe. *See* section 3306(c)(7). Section 3306(u) provides that, for FUTA purposes, the term ''Indian tribe'' has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (codified at 25 U.S.C. 5304(e)), and includes any subdivision, subsidiary, or business enterprise wholly owned by such an Indian tribe. 25 U.S.C. 5304(e) provides that ''Indian Tribe'' means, inter alia, any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Accordingly, even though wholly owned Tribal entities are treated as separate from the Tribes for employment tax purposes, they remain eligible for the FUTA tax exception in section 3306(c)(7) because section 3306(u) makes it clear that for purposes of FUTA tax, the term ''Indian Tribe'' has the meaning given to such term by 25 U.S.C. 5304(e) and includes ''any subdivision, subsidiary, or business enterprise wholly owned by such an Indian tribe.''

As an example, if a Tribe establishes a wholly owned Tribal entity, under the final regulations, it will generally be treated as a separate corporation for Federal employment tax purposes, but it will be treated as an Indian Tribe for purposes of the FUTA tax exception provided by section 3306(c)(7) because it is a subdivision, subsidiary, or business enterprise wholly owned by the Tribe as defined in section 3306(u).

II. Elective Payment Elections

The final regulations provide that wholly owned Tribal entities, section 17 corporations, and section 3 corporations are treated, for purposes of making section 6417 elections (including determining eligibility for and the consequences of such elections), as instrumentalities of the Indian Tribal government(s) that wholly own them. This is the same rule contained in proposed § 1.6417–1, which stated that an entity described in § 301.7701–1(a)(4)(i) is treated as an instrumentality of the Indian Tribal government(s) or subdivision(s) thereof that own(s) it.

Commenters generally supported the proposed rule treating wholly owned Tribal entities as instrumentalities of the Tribes that own them for purposes of the section 6417 elective payment election. Some commenters requested clarification on the application of the elective payment election rules when an applicable credit is generated by a wholly owned Tribal entity jointly owned by multiple Tribes. As a clarification, a wholly owned Tribal entity that is jointly owned by multiple Tribes would be treated as an instrumentality for purposes of section 6417. The wholly owned Tribal entity will determine any applicable credit generated by the Tribal entity's activities and make the elective payment election for any applicable credit so determined. This avoids each Tribe having to separately determine a credit and separately make an elective payment election. By following the procedural rules in the section 6417 final regulations, TD 9988 (89 FR 17584, March 11, 2024), the wholly owned Tribal entity generally will make the elective payment election by completing pre-filing registration and then filing a return including a completed Form 990–T, *Exempt Organization Business Income Tax Return,* as described in § 1.6417–1(b)(2), using its own name and employer identification number, any relevant source credit form(s), Form 3800, *General Business Credit* (or its successor), and any additional information, including supporting calculations, required in instructions to the relevant forms. Any refund resulting from the elective payment election would be paid to the wholly owned Tribal entity. This treatment should reduce overall complexity for Tribes and the IRS as it reduces the number of necessary credit calculations and elective payment elections and also helps ensure any elective payment amount is commensurate with the amount of the otherwise allowable credit.

Another commenter suggested that the proposed regulations be revised to allow Tribes the choice of having the Tribe or the wholly owned Tribal entity make the elective payment election because in some cases it may be impractical for the wholly owned Tribal entity to do so. The final regulations do not adopt this suggestion, consistent with the view of most commenters who supported the rule providing that the wholly owned Tribal entity that is treated as an instrumentality must make the election. There also are additional administrative benefits gained for both Tribes and the IRS by having certainty on how to file elective payment elections. For example, it will be clear that the wholly owned Tribal entity makes the elective payment election when an entity is wholly owned by multiple tribes. Thus, the final regulations provide that a wholly owned Tribal entity is treated as an instrumentality of an Indian Tribal government and such instrumentality (and not the Indian Tribal government) would make the elective payment election.

A commenter suggested that, rather than being treated as a payment of tax, the elective payment amount should be treated as a grant and paid prior to the time a project is placed in service. The statutory text of section 6417(a) expressly requires the entity making an elective payment election with respect to an applicable credit to be treated as making a payment of tax equal to the amount of such credit. Furthermore, the statutory text of section 6417(d)(4) controls the timing of an elective payment and provides that the payment is treated as being made by the applicable entity on the later of the due date for the return or the date the return is actually filed. As this comment could only be adopted if statutory revisions were made, these final regulations do not adopt the commenter's suggestions.

Several commenters recommended that Tribes be given the option to monetize credits through transferability under section 6418 of the Code, rather than only being able to make elective payment elections under section 6417.

The commenters also suggested additional changes to the section 6418 rules if Tribes were allowed to make transfers. Tribal governments (and their instrumentalities, pursuant to § 1.6417–1(c)(7)) are listed as applicable entities under section 6417(d)(1)(A)(iv) and section 6418(f)(2) expressly provides that an eligible taxpayer for section 6418 is any taxpayer not listed in section 6417(d)(1)(A). Thus, Tribal governments (and their instrumentalities) are only allowed to make elective payment elections under section 6417. As the comment requesting the option to use section 6418 and the other comments suggesting additional section 6418 changes would require statutory revisions, these final regulations do not adopt the commenters' suggestions.

Applicability Dates

The final regulations apply to taxable periods, or taxable years for purposes of section 6417, beginning on or after January 1, 2026. The final regulations provide that section 17 corporations, section 3 corporations, and wholly owned Tribal entities are treated as instrumentalities for purposes of making a section 6417 election, and as entities separate from their owners for the Federal employment and excise tax purposes identified in § 301.7701–2(c)(2)(iv) and (v). Accordingly, each such entity must have its own employer identification number (EIN) for these purposes. Each such entity must separately calculate, report, and pay all employment tax obligations identified in § 301.7701–2(c)(2)(iv) with respect to its employees under its own name and EIN for wages paid on or after January 1, 2026. With respect to taxable periods beginning on or after January 1, 2026, each such entity must separately report, calculate, and pay taxes for any purpose identified in § 301.7701–2(c)(2)(v) under its own name and EIN. To ensure that taxpayers have sufficient time to make any necessary changes to their systems in response to these final regulations, the final regulations apply only to taxable periods beginning on or after January 1, 2026.

For Federal income tax purposes only, an entity may choose to apply § 301.7701–1(a)(4) to taxable periods beginning before January 1, 2026, for which the applicable period of limitations is open.

For section 6417 purposes, an entity described in § 301.7701–1(a)(4)(i) may choose to apply § 1.6417–1(c)(7) and (f) to taxable years beginning before January 1, 2026, but only if the Indian Tribal government(s) that own the entity also apply § 1.6417–1(c)(7) and (f) consistently with such entity for all such taxable years.

Special Analyses

I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments) prohibits an agency from publishing any rule that has Tribal implications if the rule either imposes substantial, direct compliance costs on Indian Tribal governments and is not required by statute, or preempts Tribal law, unless the agency meets the consultation and funding requirements of section 5 of the Executive order. This final rule would neither impose substantial, direct compliance costs on Indian Tribal governments nor preempt Tribal law within the meaning of the Executive order.

II. Regulatory Planning and Review

The Office of Management and Budget's Office of Information and Regulatory Analysis has determined that this regulation is not significant and is not subject to review under section 6(b) of Executive Order 12866. Therefore, a regulatory impact assessment is not required.

The Executive Order 14192 designation for this final rule is anticipated to be deregulatory.

III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. 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.

The collection of information in these regulations contain reporting and recordkeeping requirements. The recordkeeping requirements mentioned within these final regulations are considered general tax records under § 1.6001–1(e). These records are required for the IRS to validate that taxpayers have met the regulatory requirements and are entitled to make an elective payment election and to verify the Federal tax classification of entities described in these final regulations. For PRA purposes, general tax records are already approved by OMB under 1545–0047 for tax-exempt organizations and government entities.

These regulations also mention reporting requirements related to making elections under section 6417. These elections will be made by taxpayers on Forms 990–T, and credit calculations will be made on Form 3800 and supporting forms. These forms are approved under 1545–0047 for tax-exempt organizations and government entities.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), the Secretary of the Treasury hereby certifies that the final regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act. These final regulations would affect entities that are wholly owned by Tribes. Additionally, no added burden is created through these final regulations; rather, these final regulations would expand the definition of an eligible entity for section 6417 of the Code but does not expand the requirements for entities to make the elective payment election. Although data is not readily available about the number of small entities that are potentially affected by this rule, it is possible that a substantial number of small entities may be affected.

To the extent the entities described in these regulations make elections under section 6417, the Treasury Department and the IRS certify the final regulatory flexibility analysis undertaken in TD 9988 (89 FR 17584, March 11, 2024).

For the reasons stated, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this Treasury decision was submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandate Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Indian Tribal government, in the aggregate, or by the private sector, of $100 million (updated annually for inflation). These final regulations do not include any Federal mandate that may result in expenditures by State, local, or Indian Tribal governments or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These final regulations do not have federalism implications and do not impose substantial, direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Statement of Availability of IRS Documents

The Revenue Rulings and Revenue Procedure cited in this preamble are published in the Internal Revenue Bulletin and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *https://www.irs.gov.*

Drafting Information

The principal author of these final regulations is the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

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

Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

* * * * *

■ **Par. 2.** Section 1.6417–1 is amended by:

■ 1. Revising paragraph (c) introductory text;

■ 2. Removing the semicolons from the end of paragraphs (c)(1)(ii) and (c)(2) through (5) and adding periods in their places;

■ 3. Removing the language ''; and'' from the end of paragraph (c)(6) and adding a period in its place; and

■ 4. Revising paragraphs (c)(7), (f), and (q).

The revisions read as follows:

§ 1.6417–1 Elective payment election of applicable credits.

* * * * *

(c) *Applicable entity.* The term *applicable entity* means any entity described in paragraphs (c)(1) through (7) of this section.

* * * * *

(7) An agency or instrumentality of any applicable entity described in paragraph (c)(1)(ii) or (c)(2) or (3) of this section. For purposes of making an elective payment election under section 6417 (including determining eligibility for and the consequences of such election), an entity described in § 301.7701–1(a)(4)(i) of this chapter is treated as an instrumentality of the Indian Tribal government(s) or subdivision(s) thereof that own(s) it.

* * * * *

(f) *Disregarded entity.* The term *disregarded entity* means an entity that is disregarded as, or not recognized as, an entity separate from its owner for Federal income tax purposes under § 301.7701–1(a)(3) or §§ 301.7701–2 and 301.7701–3 of this chapter. *See* paragraph (c)(7) of this section regarding entities described in § 301.7701–1(a)(4)(i) of this chapter.

* * * * *

(q) *Applicability dates*—(1) *In general.* Except as provided in paragraph (q)(2) of this section, this section applies to taxable years ending on or after March 11, 2024. For taxable years ending before March 11, 2024, taxpayers may choose to apply the rules of this section and §§ 1.6417–2 through 1.6417–4 and 1.6417–6, provided the taxpayers apply the rules in their entirety and in a consistent manner.

(2) *Paragraphs (c)(7) and (f) of this section.* Paragraphs (c)(7) and (f) of this section apply to taxable years beginning on or after January 1, 2026. For taxable years beginning before January 1, 2026, an entity described in § 301.7701–1(a)(4)(i) of this chapter may choose to apply paragraphs (c)(7) and (f) of this section, but only if the Indian Tribal government(s) that own the entity also apply paragraphs (c)(7) and (f) of this section consistently with such entity for all such taxable years. For the rules that apply to entities that do not choose to apply paragraphs (c)(7) and (f) of this section in accordance with the preceding sentence for taxable years beginning before January 1, 2026, see § 1.6417–1 as contained in 26 CFR part 1, revised April 1, 2025.

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 3.** The authority citation for part 301 is amended by adding an entry for § 301.7701–1(a)(4) in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 301.7701–1(a)(4) also issued under 26 U.S.C. 7701(a)(40).

* * * * *

■ **Par. 4.** Section 301.7701–1 is amended by:

■ 1. Revising paragraph (a)(3);

■ 2. Redesignating paragraph (a)(4) as paragraph (a)(5);

■ 3. Adding a new paragraph (a)(4); and

■ 4. Revising paragraph (f).

The revisions and addition read as follows:

§ 301.7701–1 Classification of organizations for federal tax purposes.

(a) * * *

(3) *Certain State and local law entities not recognized.* An entity formed under State or local law is not always recognized as a separate entity for Federal tax purposes. For example, an organization wholly owned by a State is not recognized as a separate entity for Federal tax purposes if it is an integral part of the State.

(4) *Certain Tribal entities*—(i) *In general*—(A) *Rule.* Except as provided in paragraphs (a)(4)(ii) and (iii) of this section, section 17 corporations, section 3 corporations, and wholly owned Tribal entities (as defined, respectively, in paragraphs (a)(4)(i)(B) through (D) of this section) are not recognized as separate entities for Federal tax purposes and, therefore, are not subject to Federal income tax.

(B) *Definition of section 17 corporation.* The term *section 17 corporation* means a federally chartered corporation incorporated under section 17 of the Indian Reorganization Act of 1934, as amended (25 U.S.C. 5124), by the Bureau of Indian Affairs, as the authorized delegate of the Secretary of the Interior.

(C) *Definition of section 3 corporation.* The term *section 3 corporation* means a federally chartered corporation incorporated under section 3 of the Oklahoma Indian Welfare Act, as amended (25 U.S.C. 5203), by the Bureau of Indian Affairs, as the authorized delegate of the Secretary of the Interior.

(D) *Definition of wholly owned Tribal entity.* The term *wholly owned Tribal entity* means an entity wholly owned by one or more Indian Tribal governments (within the meaning of section 7701(a)(40) of the Code), directly or through other entities that are not recognized as separate entities for Federal income tax purposes, that is organized or incorporated exclusively under the laws of one or more of the owning Indian Tribal governments. Whether an entity is organized or incorporated under the laws of one or more Indian Tribal government(s) is determined without regard to any specified choice of law or forum.

(ii) *Elections under section 6417. See* § 1.6417–1(c)(7) of this chapter for the treatment of section 17 corporations, section 3 corporations, and wholly owned Tribal entities described in paragraph (a)(4)(i) of this section for the purposes of making an elective payment election under section 6417 of the Code (section 6417 election), including determining eligibility for and the consequences of such election.

(iii) *Federal employment taxes and excise taxes.* Section 17 corporations, section 3 corporations, and wholly owned Tribal entities are treated as separate entities for Federal employment and certain Federal excise tax purposes in a manner identical to the treatment described in § 301.7701–2(c)(2)(iv) and (v).

(iv) *Examples.* The following examples illustrate the application of paragraphs (a)(4)(i) through (iii) of this section. For purposes of these examples, all references to a Tribe are references to an Indian Tribal government within the meaning of section 7701(a)(40).

(A) *Example 1.* Tribe B incorporates Corporation X pursuant to Tribe B's Corporations Ordinance, which governs the purpose, formation, and operation of commercial entities. Tribe B owns all the shares of Corporation X. Corporation X is therefore wholly owned by Tribe B and organized or incorporated under the laws of Tribe B. As a result, Corporation X is not recognized as a separate entity from Tribe B for Federal tax purposes, except for the purposes described in § 1.6417–1(c)(7) of this chapter and paragraph (a)(4)(iii) of this section. Accordingly, Corporation X is not subject to Federal income tax. Under § 1.6417–1(c)(7) of this chapter, Corporation X is treated as an instrumentality of Tribe B for purposes of making a section 6417 election (including determining eligibility for and the consequences of such election). Thus, Corporation X, rather than Tribe B, would be the applicable entity for purposes of making a section 6417 election for any applicable credit (as defined in section 6417(b)) relating to property held or activities conducted by Corporation X. Corporation X is treated as a corporation separate from its owner for Federal employment tax purposes governed under subtitle C of the Internal Revenue Code, and as separate from its owner for the Federal excise tax purposes identified in § 301.7701–2(c)(2)(v)(A). The analysis would be the same if Tribe B had organized its business as a single member limited liability company (LLC) pursuant to the Tribe's business code instead of incorporating Corporation X.

(B) *Example 2.* The facts are the same as in paragraph (a)(4)(iv)(A) of this section (*Example 1*), except that the board of Corporation X, pursuant to Tribe B's Corporations Ordinance, organizes a subsidiary, Corporation Z, to pursue a limited line of new business. Corporation X owns all the shares of Corporation Z. Corporation Z is therefore wholly owned by Tribe B and organized or incorporated under the laws of Tribe B. As a result, neither Corporation X nor Corporation Z is recognized as an entity separate from Tribe B for Federal tax purposes, except for the purposes described in § 1.6417–1(c)(7) of this chapter and paragraph (a)(4)(iii) of this section. Accordingly, Corporation Z is not subject to Federal income tax. Under § 1.6417–1(c)(7) of this chapter, Corporation X and Corporation Z are each treated as an instrumentality of Tribe B for the purposes of making a section 6417 election (including determining eligibility for and the consequences of such election). Thus, Corporation Z, rather than Corporation X or Tribe B, is the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by Corporation Z. As in paragraph (a)(4)(iv)(A) of this section (*Example 1*), Corporation X would continue to be the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by Corporation X. Both Corporation X and Corporation Z are treated as corporations separate from their owner for Federal employment tax purposes governed under subtitle C of the Internal Revenue Code, and as separate from their owner for the Federal excise tax purposes identified in § 301.7701–2(c)(2)(v)(A). The analysis would be the same if Tribe B had organized its businesses as single member LLCs pursuant to the Tribe's business code instead of incorporating Corporations X and Z.

(C) *Example 3.* Tribe B incorporates a section 17 corporation. The section 17 corporation subsequently incorporates Corporation J pursuant to Tribe B's Corporations Ordinance, which governs the purpose, formation, and operation of commercial entities. The section 17 corporation owns all the shares of Corporation J. Corporation J is therefore treated as wholly owned by Tribe B and organized or incorporated under the laws of Tribe B. As a result, Corporation J is not recognized as a separate entity from Tribe B for Federal tax purposes, except for the purposes described in § 1.6417–1(c)(7) of this chapter and paragraph (a)(4)(iii) of this section. Accordingly, neither the section 17 corporation nor Corporation J is subject to Federal income tax. Under § 1.6417–1(c)(7) of this chapter, the section 17 corporation and Corporation J are each treated as an instrumentality of Tribe B for the purposes of making a section 6417 election (including determining eligibility for and the consequences of such election). Thus, the section 17 corporation, rather than Tribe B, would be the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by the section 17 corporation. In addition, Corporation J, rather than Tribe B or the section 17 corporation, would be the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by Corporation J. Both the section 17 corporation and Corporation J are treated as corporations separate from their owner for Federal employment tax purposes governed under subtitle C of the Internal Revenue Code, and as separate from their owner for the Federal excise tax purposes identified in § 301.7701–2(c)(2)(v)(A). The analysis would be the same if the section 17 corporation had organized its business as a single member LLC pursuant to the Tribe's business code instead of incorporating Corporation J.

(D) *Example 4.* Tribe A, Tribe B, Tribe C, and Tribe D through resolutions approved by their respective Indian Tribal governments incorporate Corporation K which is chartered under the Corporations Ordinance of Tribe A. Each Tribe owns 25% of the shares of Corporation K. Corporation K is incorporated under the laws of one of its owners, Tribe A. As a result, Corporation K is a wholly owned Tribal entity and is not recognized as a separate entity from the Tribes for Federal tax purposes, except for the purposes described in § 1.6417–1(c)(7) of this chapter and paragraph (a)(4)(iii) of this section. Accordingly, Corporation K is not subject to Federal income tax. Under § 1.6417–1(c)(7) of this chapter, Corporation K is treated as an instrumentality of Tribe A, Tribe B, Tribe C, and Tribe D for the purposes of making a section 6417 election (including determining eligibility for and the consequences of such election). Thus, Corporation K, rather than Tribe A, Tribe B, Tribe C, or Tribe D, would be the applicable entity for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by Corporation K. Corporation K is treated as a corporation separate from its owners for Federal employment tax purposes governed under subtitle C of the Internal Revenue Code, and as separate from its owners for the Federal excise tax purposes identified in § 301.7701–2(c)(2)(v)(A). The analysis would be the same if Tribe A, Tribe B, Tribe C, and Tribe D had organized their business as an LLC pursuant to Tribe A's business code instead of incorporating Corporation K.

(E) *Example 5.* Tribe A incorporates Corporation L pursuant to Tribe A's Corporations Ordinance, which governs the purpose, formation, and operation of commercial entities. Corporation L subsequently incorporates Corporation M pursuant to Tribe A's Corporations Ordinance. Tribe A owns all the shares of Corporation L, and Corporation L owns all the shares of Corporation M. Corporations L and M are therefore wholly owned by Tribe A and organized or incorporated under the laws of Tribe A. In a later year, Tribe B, in agreement with Tribe A, acquires some, but not all, shares of Corporation M. Corporations L and M continue to be considered as wholly owned by Indian Tribal governments and were incorporated under the laws of an Indian Tribal government that owns them. As a result, neither Corporation L nor Corporation M is recognized as a separate entity from the Tribes that own them for Federal tax purposes, except for the purposes described in § 1.6417–1(c)(7) of this chapter and paragraph (a)(4)(iii) of this section. Accordingly, Corporations L and M are not subject to Federal income tax. Under § 1.6417–1(c)(7) of this chapter, Corporation L is treated as an instrumentality of Tribe A, and Corporation M is treated as an instrumentality of Tribe A and Tribe B, for the purposes of making a section 6417 election (including determining eligibility for and the consequences of such election). Thus, Corporations L and M, rather than Tribe A or Tribe B, would be the applicable entities for purposes of making a section 6417 election for any applicable credit relating to property held or activities conducted by Corporations L and M, respectively. Both Corporation L and Corporation M are treated as corporations separate from their owners for Federal employment tax purposes governed under subtitle C of the Internal Revenue Code, and as separate from their owners for the Federal excise tax purposes identified in § 301.7701–2(c)(2)(v)(A). The analysis would be the same if Tribe A had organized its businesses as LLCs pursuant to Tribe A's business code instead of incorporating Corporations L and M, and had Tribe B acquired a membership interest instead of stock.

* * * * *

(f) *Applicability dates*—(1) *In general.* Except as provided in paragraph (f)(2) of this section, the rules of this section are applicable as of January 1, 1997.

(2) *Exceptions*—(i) *Paragraph (a)(4) of this section.* The rules of paragraph (a)(4) of this section apply to taxable periods beginning on or after January 1, 2026. An entity may choose to apply paragraph (a)(4) of this section to taxable periods beginning before January 1, 2026, for which the applicable period of limitations is open.

(ii) *Paragraph (c) of this section.* The rules of paragraph (c) of this section are applicable on January 5, 2009.

Frank J. Bisignano,

Chief Executive Officer.

Approved: November 12, 2025.

Kenneth J. Kies,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2025–22874 Filed 12–15–25; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2025–1097]

Special Local Regulations; San Diego Parade of Lights, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the San Diego Parade of Lights special local regulations on the waters of San Diego Bay, California on December 14, 2025, and December 21, 2025. These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port Sector San Diego or a designated representative.

DATES: The regulations in 33 CFR 100.1101 will be enforced from 5:30 p.m. through 9:30 p.m. on December 14, 2025, and from 5:30 p.m. through 9:30 p.m. on December 21, 2025, for Item 5 in Table 1 of Section 100.1101.

FOR FURTHER INFORMATION CONTACT: If you have questions about this publication of enforcement, call or email Lieutenant Shelley Delgado, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 for the San Diego Parade of Lights in San Diego Bay, CA in 33 CFR 100.1101, Table 1, Item 5 of that section from 5:30 p.m. until 9:30 p.m. on December 14, 2025, and from 5:30 p.m. until 9:30 p.m. on December 21, 2025. This enforcement action is being taken to provide for the safety of life on navigable waterways during the event. The Coast Guard's regulation for recurring marine events in the San Diego Captain of the Port Zone identifies the regulated entities and area for this event. During the enforcement periods, as reflected in § 100.1101, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area, unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, marine information broadcasts, and local advertising by the event sponsor.

R.C. Tucker,

Captain, U.S. Coast Guard, Captain of the Port Sector San Diego.

[FR Doc. 2025–22966 Filed 12–15–25; 8:45 am]

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