

Notice of Proposed Rulemaking  
by Cross-Reference to  
Temporary Regulations

HIPAA Newborns' and Mothers'  
Health Protection Act

Reg-109708-97

AGENCY: Internal Revenue Service  
(IRS), Treasury.

ACTION: Notice of proposed rulemak-  
ing by cross-reference to temporary regu-  
lations.

SUMMARY: In T.D. 8788 on page 6, the  
IRS is issuing temporary regulations re-  
lating to minimum hospital length-of-stay  
requirements imposed on group health  
plans with respect to mothers and new-  
borns. The hospital length-of-stay re-  
quirements were added to the Internal  
Revenue Code by section 1531 of the  
Taxpayer Relief Act of 1997. The IRS is  
issuing the temporary regulations at the  
same time that the Pension and Welfare  
Benefits Administration of the U.S. De-  
partment of Labor and the Health Care Fi-  
nancing Administration of the U.S. De-  
partment of Health and Human Services  
are issuing substantially similar interim  
final regulations relating to hospital  
length-of-stay requirements added by the  
Newborns' and Mothers' Health Protec-  
tion Act of 1996 to the Employee Retire-  
ment Income Security Act of 1974 and the  
Public Health Service Act. The tempo-  
rary regulations provide guidance to em-  
ployers and group health plans relating to  
the new hospital length-of-stay require-  
ments. The text of those temporary regu-  
lations also serves as the text of these pro-  
posed regulations.

DATES: Written comments and requests  
for a public hearing must be received by  
January 25, 1999.

ADDRESSES: Send submissions to:  
CC:DOM:CORP:R (REG-109708-97),  
room 5226, Internal Revenue Service,  
POB 7604, Ben Franklin Station, Wash-  
ington, DC 20044. Submissions may be  
hand-delivered to: CC:DOM:CORP:R  
(REG-109708-97), room 5226, Internal

Revenue Service, 1111 Constitution Av-  
enue, NW, Washington, DC.

Alternatively, taxpayers may submit  
comments electronically via the Internet  
by selecting the "Tax Regs" option on the  
IRS Home Page, or by submitting com-  
ments directly to the IRS Internet site at:  
[http://www.irs.ustreas.gov/prod/tax\\_reggs/  
comments.html](http://www.irs.ustreas.gov/prod/tax_reggs/comments.html)

FOR FURTHER INFORMATION CON-  
TACT: Russ Weinheimer, (202) 622-  
4695 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

*Background*

T.D. 8788 adds §54.9811-1T to the  
Miscellaneous Excise Tax Regulations.  
These regulations are being published as  
part of a joint rulemaking with the De-  
partment of Labor and the Department of  
Health and Human Services (the joint  
rulemaking).

The text of those temporary regulations  
also serves as the text of these proposed  
regulations. The preamble to the tempo-  
rary regulations explains the temporary  
regulations.

*Special Analyses*

This regulation is not subject to the Un-  
funded Mandates Reform Act of 1995 be-  
cause the regulation is an interpretive reg-  
ulation. It has also been determined that  
section 553(b) of the Administrative Pro-  
cedure Act (5 U.S.C. chapter 5) does not  
apply to this regulation, and because the  
regulation does not impose a collection of  
information on small entities, the Regula-  
tory Flexibility Act (5 U.S.C. chapter 6)  
does not apply. For further information  
and for analyses relating to the joint rule-  
making, see the preamble to the joint rule-  
making. Pursuant to section 7805(f) of  
the Internal Revenue Code, this notice of  
proposed rulemaking will be submitted to  
the Chief Counsel for Advocacy of the  
Small Business Administration for com-  
ment on its impact on small business.

*Comments and Requests for a Public  
Hearing*

Before these proposed regulations are  
adopted as final regulations, considera-

tion will be given to any written com-  
ments (a signed original and eight (8)  
copies) that are submitted timely to the  
IRS. All comments will be available for  
public inspection and copying. A public  
hearing may be scheduled if requested in  
writing by a person that timely submits  
written comments. If a public hearing is  
scheduled, notice of the date, time, and  
place for the hearing will be published in  
the **Federal Register**.

*Drafting Information*

The principal author of these proposed  
regulations is Russ Weinheimer, Office of  
the Chief Counsel (Employee Benefits  
and Exempt Organizations), IRS. How-  
ever, other personnel from the IRS and  
Treasury Department participated in their  
development. The proposed regulations,  
as well as the temporary regulations, have  
been developed in coordination with per-  
sonnel from the U.S. Department of  
Labor and the U.S. Department of Health  
and Human Services.

\* \* \* \* \*

*Proposed Amendments to the Regulations*

Accordingly, 26 CFR part 54 is pro-  
posed to be amended as follows:

PART 54—PENSION EXCISE TAXES

Paragraph 1. The authority citation for  
part 54 is amended by adding an entry in  
numerical order to read as follows:

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

Section 54.9811-1 also issued under 26  
U.S.C. 9833. \* \* \*

Par. 2. Section 54.9811-1 is added to  
read as follows:

*§54.9811-1 Standards relating to  
benefits for mothers and newborns.*

[The text of this proposed section is the  
same as the text of §54.9811-1T pub-  
lished in T.D. 8788.]

Michael P. Dolan,  
Deputy Commissioner of  
Internal Revenue.

(Filed by the Office of the Federal Register on  
October 26, 1998, 8:45 a.m., and published in the  
issue of the Federal Register for October 27, 1998,  
63 F.R. 57565)