

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[TD 9941]

RIN 1545–BO68 and 1545–BO78

Taxable Year of Income Inclusion Under an Accrual Method of Accounting and Advance Payments for Goods, Services, and Other Items*Correction*

In rule document C1–2020–28563 appearing on page 1256 in the issue of Friday, January 8, 2021, make the following corrections:

On page 1256, in the first column, in the seventeenth line, “December 31, 2021” should read “December 30, 2021”.

On page 1256, in the first column, in the eighteenth line, “December 31, 2020” should read “December 30, 2020”.

[FR Doc. C2–2020–28653 Filed 1–13–21; 8:45 am]

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**29 CFR Parts 1601 and 1626**

RIN 3046–AB19

Update of Commission’s Conciliation Procedures

AGENCY: Equal Employment Opportunity Commission

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is amending its procedural rules governing the conciliation process to bring greater transparency and consistency to the conciliation process and help ensure that the Commission meets its statutory obligations regarding conciliation.

DATES: This rule will become effective February 16, 2021. However, this Rule shall only apply to conciliations for charges for which a Letter of Determination invitation to engage in conciliation has been sent to respondent on or after the effective date.

FOR FURTHER INFORMATION CONTACT: Andrew Maunz, Legal Counsel, Office of Legal Counsel at andrew.maunz@eeoc.gov. Requests for this document in an alternative format should be made to the EEOC’s Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY).

SUPPLEMENTARY INFORMATION:**Introduction**

On October 9, 2020, the Commission published a Notice of Proposed Rulemaking (NPRM) outlining proposed revisions designed to update the Commission’s conciliation procedures for charges alleging violations of Title VII of the Civil Rights Act of 1964 (Title VII), the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), and/or the Age Discrimination in Employment Act (ADEA). 85 FR 64079. The NPRM described the Commission’s obligations to engage in conciliation to resolve these charges, as articulated in Title VII and other statutes and explained by the Supreme Court in *Mach Mining, LLC v. EEOC*, 575 U.S. 480 (2015).

Conciliation is an essential component of Title VII’s statutory framework that Congress designed to prohibit, identify, and eradicate discriminatory employment practices. See *Alexander v. Gardner-Denver, Co.*, 415 U.S. 36, 44 (1974); *Ford Motor Co. v. EEOC*, 458 U.S. 219, 228 (1982) (“[t]he ‘primary objective’ of Title VII is to bring employment discrimination to an end.”); *Griggs v. Duke Power Co.*, 401 U.S. 424, 429–30 (1971) (the objective of Title VII was to break down discriminatory employment practices that “favor an identifiable group . . . over other employees”). Rather than simply afford victims a cause of action for damages as in other statutory regimes, Congress settled on a framework that “preferred” cooperation and voluntary compliance, over litigation. *Mach Mining*, 575 U.S. at 486 (citation omitted). The Supreme Court explained that Title VII was designed to encourage “. . . ‘voluntary compliance’ and ending discrimination far more quickly than could litigation proceeding at its often ponderous pace.” *Ford Motor*, 458 U.S. at 228. “Delays in litigation unfortunately are now commonplace, forcing the victims of discrimination to suffer years of underemployment or unemployment before they can obtain a court order awarding them the jobs unlawfully denied them.” *Id.* Conciliation was designed—and remains—a critical component of the Commission’s mission to eliminate discriminatory employment practices, if possible, without litigation.

The Commission issued conciliation regulatory procedures in 1977 and has not changed them significantly since that time. See 85 FR at 64079. The NPRM described various challenges confronting the Commission’s conciliation program. Notably, approximately one-third of respondents

who receive a reasonable cause finding refuse to participate in conciliation. Overall, more than half of the cases in which the Commission finds reasonable cause that discrimination occurred are not resolved through conciliation. *Id.* at 64080.¹ In order to increase the effectiveness of the EEOC’s conciliation program and more frequently achieve the agency’s statutory mission, the NPRM proposed certain targeted and straightforward revisions to the Commission’s conciliation procedures. See 85 FR at 64083–84. The primary objective of these revisions is to make conciliation a more powerful mechanism to halt and remedy unlawful discriminatory employment practices in a greater percentage of charges without litigation—either by the Commission or by employees. The Commission aims to accomplish this with these revisions by implementing requirements regarding the information that it must provide in preparation for and during conciliation, particularly with respect to its findings and demands. At their core, they ensure the Commission will provide certain information—the essential facts and the law supporting the claim, findings, and demands. Compliance with these requirements should put beyond reasonable dispute in most, if not all, cases the Commission’s compliance with *Mach Mining*. More important, it will facilitate as a matter of course in all cases respondents’ identification of the specific discriminatory practices at issue. This will directly facilitate voluntary prospective remedial action regarding the policy or practice, notwithstanding respondents’ position during conciliation or subsequent litigation. And by eliminating such discriminatory practices without litigation, the Commission accomplishes its primary statutory objective in conciliation to purge unlawful discrimination in employment. Moreover, by providing information regarding the basis for the Commission’s

¹ The Commission’s failure to conciliate cases may have significant ramifications. Each year, failed conciliations leave many victims of discrimination to fend for themselves. As explained below, too often many of these individuals do not commence an action in court because they cannot obtain an attorney and the prospect of litigating is too daunting. Many of those who litigate do so without counsel, potentially placing victims at a disadvantage. Even those represented by counsel may not prevail—and those who do obtain relief sought may not receive it until several years after the discrimination at issue. By conciliating more cases, the Commission will be getting more victims relief, preventing more future discrimination, and ensuring that relief is more timely obtained.