

Part III

Administrative, Procedural, and Miscellaneous

26 U.S.C. 6108(b): Special Statistical Studies

Rev. Proc. 2022-29

SECTION 1. PURPOSE

This revenue procedure modifies and supersedes Rev. Proc. 2006-36, 2006-38 I.R.B. 498 (September 18, 2006) to update the procedures for other Government agencies or members of the public to request the Internal Revenue Service (IRS) to create special statistical studies and compilations involving return information pursuant to § 6108(b) of the Internal Revenue Code (Code), and to set forth the criteria for determining reasonable fees for costs associated with the creation of the special statistical studies and compilations.

SECTION 2. NATURE OF CHANGES

.01 Section 2.01 of Rev. Proc. 2006-36 is updated as follows:

(1) To describe the IRS's authority to prescribe reasonable fees for the cost of work or services performed to create special statistical studies and compilations.

(2) To clarify that fees are charged only for a special statistical study or compilation that does not primarily benefit the public.

.02 Section 2.02(c)(ii) of Rev. Proc. 2006-36 is revised to update the list of electronic medium that are currently used by the offices processing requests to create special statistical studies and compilations.

.03 Section 3.02 of Rev. Proc. 2006-36 is revised:

(1) To reflect that requests to create special statistical studies and compilations may be submitted by mail or email and must be addressed to the Director, Statistics of Income Division (SOI).

(2) To reflect a new address, phone number, and fax number for SOI.

(3) To remove the last sentence providing that a determination to grant or deny requests to create special statistical studies and compilations will be made in consultation with the Director, Office of Tax Analysis, Department of the Treasury (Treasury Department), if a significant amount of SOI resources are needed to accommodate a request. The Office of Tax Analysis, Treasury Department is not involved in determining whether to grant or deny requests to create special statistical studies and compilations because SOI is recognized by the Director of the Office of Management and Budget (OMB) as a principal Federal statistical agency and therefore is required to develop its own policies regarding statistical releases. See Title III of the

Foundations For Evidence-Based Policymaking Act of 2018, Public Law 115–435, 132 Stat. 5529, 5544- 5555 (44. U.S.C. §§ 3561-3583).

.04 Section 5.01 of Rev. Proc. 2006-36 is updated to reflect that fees are charged to create special statistical studies and compilations only for a special statistical study or compilation that does not primarily benefit the public.

SECTION 3. BACKGROUND

.01 *In general.* Under § 6108(b), the IRS may, upon written request, create and produce special statistical studies and compilations involving return information (as defined by § 6103(b)(2) of the Code). In processing requests for special statistical studies and compilations, the IRS, pursuant to § 6108(c), will not disclose information that could, directly or indirectly, be associated with or identify a particular taxpayer. Pursuant to its authority under § 6108(b), the IRS may charge a reasonable fee for the cost of work or services associated with making special statistical studies and compilations. Consistent with § 6(a)(1) of OMB Circular A-25,¹ fees will be charged only for a special statistical study or compilation that does not primarily benefit the public. A special statistical study or compilation that primarily benefits the public provides statistical information about the Federal tax system that is deemed pertinent and valuable to the public and can be published in conjunction with the IRS’s publication of statistics pursuant to § 6108(a). The IRS will determine the amount of the fee as discussed in section 6 of this revenue procedure.

¹ As relevant to charging user fees, OMB Circular A-25 cites as its authority Title V of the Independent Offices Appropriations Act, 1952 (Public Law 37, 65 Stat. 268, 290 (1951)), codified at 31 U.S.C. 9701 by “A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, ‘Money and Finance’,” Public Law 97-258, 96 Stat. 877, 1051-1052 (1982).

.02 *Definitions.*

(1) A “special statistical study” is an *ad hoc* statistical examination or analysis of return information that generally requires new programming and analysis according to specifications provided in the request. A special statistical study might comprise tabulations as well as accompanying reports on methodology and analytical details.

(2) A statistical “compilation” is an *ad hoc* accumulation of existing (or readily available) data into a data set or data file, which generally requires new programming according to specifications provided in the request. Both special statistical studies and compilations will be reviewed for accuracy by IRS staff before they are considered completed. The IRS staff, including technical, administrative, and computer programming personnel, will ensure, as reasonably practicable, that the completed special statistical study or compilation reflects the specifications of the original request.

(3) A special statistical study or compilation is *not* (i) statistical data contained in reports or releases already made available to the public, or (ii) statistical data that is readily reproducible. “Readily reproducible” means, with respect to electronic format, a record or records that can be downloaded or transferred intact to a universal serial bus (USB) flash drive, digital versatile disc (DVD), compact disk (CD), or other electronic medium using equipment currently in use by the office or offices processing the request. Records that require manipulation of data within a database or several databases, reprogramming one or more databases, or analysis of the data to produce the records, are not readily reproducible.

SECTION 4. PROCEDURES FOR REQUESTING SPECIAL STATISTICAL STUDIES AND COMPILATIONS PURSUANT TO § 6108(b)

.01 *In general.* Requests for special statistical studies or compilations (involving either new projects or changes in recurring projects) must be submitted in writing with specifications as complete and definite as practical. Specifications that are concise and mutually understood by the requester and the IRS are essential for a project's successful completion. Specifications should include the source and availability of data and content, manner of presentation (for example, particular medium or application) and timing of results (for example, scheduling).

.02 *Submitting requests.* All requests for special statistical studies or compilations must be addressed to the Director, SOI and emailed to *SIS@IRS.GOV* or mailed to the following address:

Director, Statistics of Income Division
Internal Revenue Service
1111 Constitution Avenue, NW Room K-4100
Washington, DC 20224
Attention: RAAS, Statistics of Income

The Director, SOI, will review all requests for special statistical studies or compilations and make a determination whether to grant or deny the request for such special statistical studies or compilations based on the considerations stated in section 5.01 of this revenue procedure. If a significant amount of resources are needed to accommodate a request, such determination will be made in consultation with the responsible IRS offices.

.03 *Consultation with SOI.* If assistance is needed, SOI's Statistical Information Services Office is available to help the requester in detailing the specifications of the

request for a special study or compilation. Consultations at initial stages, that is, while planning by the requester is underway, may facilitate the undertaking of a special study or compilation. In some instances, initial consultation may reveal that an existing IRS product contains all the data necessary to fulfill the request. SOI's Statistical Information Services Office may be reached by email at SIS@IRS.GOV, by phone at (202) 803-9285 (not a toll-free number), by fax at (202) 803-9393, or by mail at the address provided in section 4.02 of this revenue procedure. In addition, there is information available on the IRS website at irs.gov/statistics.

SECTION 5. AVAILABILITY OF SPECIAL STATISTICAL STUDIES AND COMPILATIONS

.01 The fulfillment of requests for special statistical studies or compilations submitted pursuant to this revenue procedure will be subject to several factors, including staff availability and workload, the complexity and/or magnitude of the request, the impact on tax administration, software capabilities, database configurations and equipment functionalities, and disclosure considerations. A request will be declined if the IRS determines at the time of the initial request that the special statistical study or compilation could reveal return information or other taxpayer identifying information, the disclosure of which is not authorized by law, and no reconfiguration of the request can avoid disclosure of return information or other non-disclosable data.

.02 If the configuration of an ongoing special statistical study or compilation may result in the disclosure of return information, or if the identity of individual taxpayers can reasonably be inferred by either direct or indirect means, the IRS will inform the requester and offer to discuss with the requester, to the extent practicable, possible

reconfigurations of data to avoid the prohibited disclosure. If the special statistical study or compilation cannot be adequately reconfigured, the requester will be so informed, and the special statistical study or compilation will not be completed; nor will any information that has already been compiled be released.

.03 In general, the IRS will consider whether to grant or deny requests for special statistical studies and compilations in the order of receipt.

SECTION 6. DETERMINATION OF FEES

.01 Fees will be charged for a special statistical study or compilation that does not primarily benefit the public. The IRS will determine whether a statistical study or compilation primarily benefits the public. Fees will be determined in accordance with prevailing Government standards, but in no case will work be done before a cost estimate is provided to the requester and, if accepted, a reimbursable agreement is entered into between IRS and the requester.

.02 Consistent with § 6(a)(1) and (d)(1) of OMB Circular A-25, fees are based on the actual, full cost of providing the product or service. "Full cost" includes all direct and indirect costs to any part of the government of providing the special statistical study or compilation. These costs include but are not limited to:

(1) direct costs such as computer costs, salaries, management and supervisory costs;

(2) indirect personnel costs such as fringe benefits, for example, medical insurance and retirement (generally assessed at a percentage of direct salary costs); and

(3) physical overhead, consulting, and other indirect costs such as material and supply costs and utilities.

.03 The IRS may charge fees for any costs incurred during the processing of an accepted request for special statistical studies and compilations.

SECTION 7. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 2006-36, 2006-38 I.R.B. 498, is superseded.

SECTION 8. EFFECTIVE DATE

This revenue procedure is effective on August 1, 2022.

SECTION 9. DRAFTING INFORMATION

The principal author of this revenue procedure is Robert Bley of the Office of the Associate Chief Counsel (Procedure & Administration). However, other personnel from the IRS and the Treasury Department participated in the development of the revenue procedure. For further information regarding this revenue procedure contact Robert Bley at (202) 317-6834 (not a toll free call).