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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301, TD 9252

REG-157271-05

RIN 1545-BF21

Procedures for administrative review of a determination that an authorized recipient has failed to safeguard tax returns or return information.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations regarding administrative review procedures for certain government agencies and other authorized recipients of tax returns or return information (authorized recipients) whose receipt of returns and return information may be suspended or terminated because they do not maintain proper safeguards. The temporary regulations provide guidance to responsible IRS personnel and authorized recipients as to these administrative procedures. The text of the temporary regulations published in the Rules and Regulation section of this issue of the **Federal Register** serves as the text of the proposed regulations.

DATES: Written and electronic comments and requests for a public hearing must be received by May 25, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-157271-05), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to

CC:PA:LPD:PR (REG-157271-05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs), or via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS and REG-157271-05).

FOR FURTHER INFORMATION CONTACT: Concerning submission of comments, Treena Garrett, (202) 622-7180; concerning the temporary regulations, Melinda K. Fisher, (202) 622-4580 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

### **Background**

Under section 6103 of the Internal Revenue Code (Code), tax returns and return information are protected from disclosure except in specifically enumerated circumstances. Where disclosure is permitted, section 6103 generally imposes strict safeguarding requirements and requires the IRS to monitor and enforce compliance with those requirements. Section 6103(p)(7) requires the Secretary of the Treasury to prescribe procedures providing for administrative review of any determination under section 6103(p)(4) that an agency, body, or commission receiving returns or return information pursuant to section 6103(d) has failed to meet the safeguarding requirements. Withdrawn §301.6103(p)(7)-1 set forth the procedures for terminating future disclosures to these authorized recipients. These proposed regulations provide the intermediate review and termination procedures for all authorized recipients identified in section 6103(p)(4).

With an increasing volume of authorized disclosures of returns and return information, it is critical that authorized recipients of returns and return information

adhere to the strict safeguard requirements of the Code and that the IRS take all necessary steps to ensure that those requirements are met. If unauthorized disclosures do occur, it is similarly important that the IRS take steps to address them and ensure that they are not repeated. Such steps include, as appropriate, suspension or termination of further disclosures to an authorized recipient. Nevertheless, because the authority to receive returns and return information is provided by law, authorized disclosures should not be suspended or terminated for failure to maintain adequate safeguards without appropriate administrative review procedures. The temporary regulations set forth procedures to ensure that authorized recipients provide the proper security and protection to returns and return information.

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Procedure and Administration Regulations (26 CFR Part 301) relating to section 6103(p)(4) and (p)(7). The temporary regulations provide the intermediate review and termination procedures for all authorized recipients.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed regulations.

### **Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small businesses. These regulations do not impose

burdens or obligations on any person, but instead provide certain rights of administrative review. Accordingly, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### **Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person who timely submits 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 regulations is Melinda K. Fisher, Office of the Associate Chief Counsel (Procedure & Administration), Disclosure and Privacy Law Division.

### **List of Subjects in 26 CFR Part 301**

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

### **Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301--PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended, in part, by adding an entry in numerical order to read as follows:

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

Sections 301.6103(p)(4)-1 and 301.6103(p)(7)-1 also issued under 26 U.S.C. 6103(p)(4) and (7) and (q); \* \* \*

Par. 2. Section 301.6103(p)(4)-1 is added to read as follows:

§ 301.6103(p)(4)-1T Procedures relating to safeguards for returns or return information.

[The text of proposed § 301.6103(p)(4)-1 is the same as the text of § 301.6103(p)(4)-1T published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 301.6103(p)(7)-1 is added to read as follows:

§301.6103(p)(7)-1 Procedures for administrative review of a determination that an authorized recipient has failed to safeguard tax returns or return information.

[The text of proposed §301.6103(p)(7)-1 is the same as the text of §301.6103(p)(7)-1T published elsewhere in this issue of the **Federal Register**].

Deputy Commissioner for Services and Enforcement.