

[4830-01-u]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8908]

RIN 1545-AV84

Disclosure of Return Information to the Bureau of the Census

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to additions to, and deletions from, the list of items of information disclosed to the Bureau of the Census for use in certain statistical programs. These regulations reflect agreement between the IRS and the Bureau of the Census as to items of business tax information needed to more effectively meet the Bureau of the Census' program objectives with respect to existing economic programs.

DATES: Effective Date: These regulations are effective on November 30, 2000.

Applicability Date: For the date of applicability, see §301.6103(j)(1)-1(e).

FOR FURTHER INFORMATION CONTACT: Stuart Murray, (202) 622-4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

### **Background**

On January 25, 1999, a temporary regulation (TD 8811) relating to

disclosure of return information to the Bureau of the Census was published in the **Federal Register** (64 FR 3631). A notice of proposed rulemaking (REG-121806-97) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (64 FR 3669). No public hearing was requested or held. No written or electronic comments responding to the notice of proposed rulemaking were received. Accordingly, the proposed regulations are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed.

The regulations proposed by REG-121806-97 are adopted by this Treasury decision without revision and are discussed below.

### **Explanation of Provisions**

Under section 6103(j)(1) of the Internal Revenue Code, upon written request from the Secretary of Commerce, the Secretary is to furnish to the Bureau of the Census (Bureau) tax return information that is prescribed by Treasury regulations for the purpose of but only to the extent necessary in structuring censuses and national economic accounts and conducting related statistical activities authorized by law. Section 301.6103(j)(1)-1 of the regulations provides an itemized description of the return information authorized to be disclosed for this purpose. Periodically, the disclosure regulations are amended to reflect the changing needs of the Bureau for data for its statutorily authorized statistical activities.

The amendments adopted by this Treasury decision authorize IRS personnel

to disclose additional items of return information that have been requested by the Secretary of Commerce, and to delete certain items of return information that are enumerated in the regulations but that the Secretary of Commerce has indicated are no longer needed.

### **Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### **Drafting Information**

The principal author of these regulations is Jamie Bernstein of the Office of Associate Chief Counsel, Procedure & Administration (Disclosure & Privacy Law Division). However, other personnel from the IRS and Treasury Department participated in their development.

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

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes,

Penalties, Reporting and recordkeeping requirements.

### **Adoption of Amendments to the Regulations**

Accordingly, 26 CFR Part 301 is amended as follows:

#### **PART 301--PROCEDURE AND ADMINISTRATION**

Paragraph 1. The authority citation for part 301 is amended in part by removing the entry for Section 301.6103(j)(1) - 1T and adding an entry in numerical order to read as follows:

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

Section 301.6103(j)(1)-1 also issued under 26 U.S.C. 6103(j)(1);\* \* \*

Par. 2. Section 301.6103(j)(1)-1 is amended by:

1. Revising paragraphs (b)(3) and (b)(6)(i)(A).
2. Adding paragraphs (b)(6)(iii) and (e).

The revisions and addition read as follows:

§301.6103(j)(1)-1 Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

\* \* \* \* \*

(b) \* \* \*

(3) Officers or employees of the Internal Revenue Service will disclose the following business related return information reflected on the return of a taxpayer to officers and employees of the Bureau of the Census for purposes of, but only

to the extent necessary in, conducting and preparing, as authorized by chapter 5 of title 13, United States Code, demographic and economic statistics programs, censuses, and surveys. The “return of a taxpayer” includes, but is not limited to, Form 941; Form 990 series; Form 1040 series and Schedules C and SE; Form 1065 and all attending schedules and Form 8825; Form 1120 series and all attending schedules and Form 8825; Form 851; Form 1096; and other business returns, schedules and forms that the Internal Revenue Service may issue--

- (i) Taxpayer identity information (as defined in section 6103(b)(6)) including parent corporation, shareholder, partner, and employer identity information;
- (ii) Gross income, profits, or receipts;
- (iii) Returns and allowances;
- (iv) Cost of labor, salaries, and wages;
- (v) Total expenses or deductions;
- (vi) Total assets;
- (vii) Beginning- and end-of-year inventory;
- (viii) Royalty income;
- (ix) Interest income, including portfolio interest;
- (x) Rental income, including gross rents;
- (xi) Tax-exempt interest income;
- (xii) Net gain from sales of business property;
- (xiii) Other income;
- (xiv) Total income;

- (xv) Percentage of stock owned by each shareholder;
- (xvi) Percentage of capital ownership of each partner;
- (xvii) End-of-year code;
- (xviii) Months actively operated;
- (xix) Principal industrial activity code, including the business description;
- (xx) Total number of documents and the total amount reported on the Form 1096 transmitting Forms 1099-MISC;
- (xxi) Form 941 indicator and business address on Schedule C; and
- (xxii) Consolidated return indicator.

\* \* \* \* \*

(6)(i) \* \* \*

(A) From the business master files of the Internal Revenue Service--

- (1) Taxpayer identity information (as defined in section 6103(b)(6)), including parent corporation identity information;
- (2) Document code;
- (3) District office code;
- (4) Consolidated return and final return indicators;
- (5) Principal industrial activity code;
- (6) Partial year indicator;
- (7) Annual accounting period;
- (8) Gross receipts less returns and allowances; and
- (9) Total assets.

\* \* \* \* \*

(iii) Information from an employment tax return disclosed pursuant to paragraphs (b)(2)(iii)(A), (B), (D), (I) and (J) of this section may be used by officers and employees of the Bureau of the Census for the purpose described in and subject to the limitations of this paragraph (b)(6).

\* \* \* \* \*

(e) Effective date. This section is applicable to the Bureau of the Census on November 30, 2000.

**§301.6103(j)(1) - 1T [Removed]**

Par. 3. Section 301.6103(j)(1)-1T is removed.

Deputy Commissioner of the Internal Revenue

Robert E. Wenzel

Approved:

November 21, 2000    Acting Assistant Secretary of the Treasury

Jonathan Talisman