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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9060]

RIN 1545-BB91

Disclosure of Return Information to the Department of Agriculture

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations that incorporate and clarify the phrase “return information reflected on returns” in conformance with the terms of section 6103(j)(5) of the Internal Revenue Code (Code). These temporary regulations also remove certain items of return information that the IRS currently discloses, but the Department of Agriculture no longer needs, for conducting the census of agriculture. The text of the temporary regulations serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: Effective Date. These regulations are effective on June 6, 2003.

FOR FURTHER INFORMATION CONTACT: Christine Irwin at (202) 622-4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

These temporary regulations incorporate the phrase “return information reflected on returns” into §301.6103(j)(5)-1 in conformance with the statutory language that describes the type of return information that the IRS may disclose to the Department of Agriculture under section 6103(j)(5) of the Code. These temporary regulations are consistent with a recent clarification of the same phrase (i.e., return information reflected on returns) in §301.6103(j)(1)-1, involving the disclosure of return information to the Bureau of the Census. See 68 **FR** 2691.

Also, currently §301.6103(j)(5)-1 provides an itemized description of the return information authorized for disclosure in conjunction with the census of agriculture. These temporary regulations remove certain items of return information currently listed in §301.6103(j)(5)-1 that the Department of Agriculture no longer needs in conjunction with the census of agriculture.

Explanation of Provisions

These temporary regulations adopt the phrase “return information reflected on returns” in lieu of the phrase “return information” that currently appears in §301.6103(j)(5)-1. (The phrase “return information reflected on returns” encompasses the phrase “return information reflected thereon” in section 6103(j)(5) of the Code.) These temporary regulations clarify the phrase “return information reflected on returns” by explaining that the phrase includes, but is not limited to, information on returns, information derived from processing such returns, and information derived from other sources for the purposes of establishing and maintaining taxpayer information relating to returns. The phrase includes information derived from returns, monthly corrections of, and additions to, taxpayer information

contained in IRS databases (e.g., taxpayer address and name changes) that are obtained from other sources, and computer codes the IRS derives from returns and/or tax forms and integrates within taxpayer data bases.

On March 4, 2003 and March 17, 2003, the Department of Agriculture's National Agriculture Statistics Service (NASS) notified the IRS that certain items of return information that are currently listed in §301.6103(j)(5)-1 are no longer needed in conjunction with the census of agriculture. Specifically, the Department of Agriculture no longer needs the following items currently extracted from IRS forms: (1) From Form 1040, Schedule F (Profit or Loss from Farming): sales of livestock and produce raised; (2) From Form 1120 series: Parent corporation Employer Identification Number, and related Name and Principal Business Activity (PBA) code for entities with agricultural activity; and (3) From Form 851 (Affiliations Schedule): subsidiary taxpayer identity information, annual accounting period, subsidiary PBA code, parent taxpayer identity information, parent PBA code, Master File Tax Code, Document Locator Number, and cycle posted. As a result, these items of return information currently listed in §301.6103(j)(5)-1 will be removed by this document.

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 no preceding notice of proposed rulemaking is required for this temporary regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not

apply. Pursuant to section 7805(f) of the Code, the IRS will submit this Treasury decision to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Christine Irwin, Office of the Associate Chief Counsel, Procedure & Administration (Disclosure & 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.

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 by removing the entry for "Section 301.6103(j)(5)-1" and adding an entry in numerical order to read in part as follows:

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

Section 301.6103(j)(5)-1T also issued under 26 U.S.C. 6103(j)(5). * * *

§301.6103(j)(5)-1 [Removed]

Par. 2. Section 301.6103(j)(5)-1 is removed.

Par. 3. Section 301.6103(j)(5)-1T is added to read as follows:

§301.6103(j)(5)-1T Disclosures of return information reflected on returns to officers and employees of the Department of Agriculture for conducting the census of agriculture (temporary).

(a) General rule. Pursuant to the provisions of section 6103(j)(5) of the Internal Revenue Code and subject to the requirements of paragraph (c) of this section, officers or employees of the Internal Revenue Service will disclose return information reflected on returns to officers and employees of the Department of Agriculture to the extent, and for such purposes, as may be provided by paragraph (b) of this section. "Return information reflected on returns" includes, but is not limited to, information on returns, information derived from processing such returns, and information derived from other sources for the purposes of establishing and maintaining taxpayer information relating to returns.

(b) Disclosure of return information reflected on returns to officers and employees of the Department of Agriculture. (1) Officers or employees of the Internal Revenue Service will disclose the following return information reflected on returns in this paragraph (b) for individuals, partnerships and corporations with agricultural activity, as determined generally by industry code classification or the filing of returns for such activity, to officers and employees of the Department of Agriculture for purposes of, but only to the extent necessary in, structuring, preparing, and conducting, as authorized by chapter 55 of title 7, United States Code, the census of agriculture.

(2) From Form 1040 (Schedule F)--

(i) Taxpayer identity information (as defined in section 6103(b)(6) of the Internal Revenue Code);

- (ii) Spouse's Social Security Number;
 - (iii) Annual accounting period;
 - (iv) Principal Business Activity (PBA) code;
 - (v) Taxable cooperative distributions;
 - (vi) Income from custom hire and machine work;
 - (vii) Gross income;
 - (viii) Master File Tax (MFT) code;
 - (ix) Document Locator Number (DLN);
 - (x) Cycle posted;
 - (xi) Final return indicator;
 - (xii) Part year return indicator; and
 - (xiii) Taxpayer telephone number.
- (3) From Form 943--
- (i) Taxpayer identity information;
 - (ii) Annual accounting period;
 - (iii) Total wages subject to Medicare taxes;
 - (iv) MFT code;
 - (v) DLN;

- (vi) Cycle posted;
 - (vii) Final return indicator; and
 - (viii) Part year return indicator.
- (4) From Form 1120 series --
- (i) Taxpayer identity information;
 - (ii) Annual accounting period;
 - (iii) Gross receipts less returns and allowances;
 - (iv) PBA code;
 - (v) MFT Code;
 - (vi) DLN;
 - (vii) Cycle posted;
 - (viii) Final return indicator;
 - (ix) Part year return indicator; and
 - (x) Consolidated return indicator.
- (5) From Form 1065 series --
- (i) Taxpayer identity information;
 - (ii) Annual accounting period;
 - (iii) PBA code;

(iv) Gross receipts less returns and allowances;

(v) Net farm profit (loss);

(vi) MFT code;

(vii) DLN;

(viii) Cycle posted;

(ix) Final return indicator; and

(x) Part year return indicator.

(c) Procedures and Restrictions. (1) Disclosure of return information reflected on returns by officers or employees of the Internal Revenue Service as provided by paragraph (b) of this section will be made only upon written request designating, by name and title, the officers and employees of the Department of Agriculture to whom such disclosure is authorized, to the Commissioner of Internal Revenue by the Secretary of Agriculture and describing--

(i) The particular return information reflected on returns for disclosure;

(ii) The taxable period or date to which such return information reflected on returns relates; and

(iii) The particular purpose for the requested return information reflected on returns.

(2) (i) No such officer or employee to whom the Internal Revenue Service discloses return information reflected on returns pursuant to the provisions of paragraph (b) of this section shall disclose such information to any person, other than the taxpayer to whom such return information reflected on returns relates or other officers or employees of the Department of Agriculture whose duties or

responsibilities require such disclosure for a purpose described in paragraph (b) of this section, except in a form that cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(ii) If the Internal Revenue Service determines that the Department of Agriculture, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) of the Internal Revenue Code or regulations or published procedures thereunder, the Internal Revenue Service may take such actions as are deemed necessary to ensure that such requirements are or shall be satisfied, including suspension of disclosures of return information reflected on returns otherwise authorized by section 6103(j)(5) and paragraph (b) of this section, until the Internal Revenue Service determines that such requirements have been or will be satisfied.

(d) Effective date. This section is applicable on June 6, 2003.

Assistant Deputy Commissioner of Internal Revenue.

Assistant Secretary of the Treasury (Tax Policy).