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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

TD 9188

RIN 1545-BE01

Disclosure of Return Information to the Bureau of the Census

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTIONS: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to additions to the list of items of return information disclosed to the Bureau of the Census (Bureau). The regulation adds two items of return information for use in producing demographic statistics programs, including the Bureau's Small Area Income and Poverty Estimates (SAIPE). The temporary regulations also remove four items that the Bureau has indicated are no longer necessary. The text of these 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 March 10, 2005.

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

FOR FURTHER INFORMATION CONTACT: James O'Leary, (202) 622-4580 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 6103(j)(1), upon written request from the Secretary of Commerce, the Secretary of the Treasury is to furnish to the Bureau 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 further defines such purposes by reference to 13 U.S.C. chapter 5 and provides an itemized description of the return information authorized to be disclosed for such purposes.

This document adopts temporary regulations that authorize the IRS to disclose the additional items of return information that have been requested by the Secretary of Commerce to the extent necessary in developing and preparing demographic statistics, including statutorily mandated Small Area Income and Poverty Estimates (SAIPE). The temporary regulations also remove certain items of return information that are enumerated in the existing regulations but that the Secretary of Commerce has indicated are no longer needed.

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 Internal Revenue Code (Code) section 6103(j)(1). The temporary regulations contain rules relating to the disclosure of return information reflected on returns to officers and employees of the Department of Commerce for structuring censuses and national economic accounts and conducting related statistical activities authorized by law.

Explanation of Provisions

By letter dated May 11, 2004, the Department of Commerce requested that additional items of return information be disclosed to the Bureau for purposes related to conducting the SAIPE program and used to estimate the number of school-aged children in poverty for each of the over 14,000 districts in the United States. Specifically, the Department of Commerce requested Earned Income and the number of Earned Income Tax Credit-eligible qualifying children. The request indicates that under the Improving America's Schools Act of 1994 (Public Law 103-382, 108 Stat. 3518 (October 20, 1994)), these estimates were mandated biennially, and under the No Child Left Behind Act of 2002 (Public Law 107-110, 115 Stat. 1425 (January 8, 2002)), they are required annually.

The regulations also remove four items of return information that the Bureau indicated it no longer requires. These items are: end-of-year code; months actively operated; total number of documents and the total amount reported on the Form 1096 (Annual Summary and Transmittal of U.S. Information Returns) transmitting Forms 1099-MISC (Miscellaneous Income); and Form 941 (Employer's Quarterly Federal Tax Return) indicator and business address on Schedule C (Profit or Loss From Business) of Form 1040. Accordingly, the temporary regulations have removed these items from the enumeration of return information to be disclosed to the Bureau.

Special Analyses

It has been determined that these temporary regulations are 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.

For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the Federal Register. Pursuant to section 7805(f) of the Code, these temporary regulations will be 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 temporary regulations is James C. O’Leary, 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.

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 adding an entry in numerical order to read in part, as follows:

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

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

Par. 2. Section 301.6103(j)(1)-1 is amended by revising paragraphs (b)(1) introductory text and (b)(3) introductory text to 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.

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(b)(1) [Reserved]. For further guidance, see §301.6103(j)(1)-1T(b)(1)

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(b)(3) [Reserved]. For further guidance, see §301.6103(j)(1)-1T(b)(3).

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

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

(a) [Reserved]. For further guidance, see §301.6103(j)(1)-1(a).

(b) Disclosure of return information reflected on returns to officers and employees of the Bureau of the Census.

(1) Officers or employees of the Internal Revenue Service will disclose the following return information reflected on returns of individual taxpayers 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, intercensal estimates of population and income for all geographic areas included in the population estimates program and demographic statistics programs, cens uses, and related program evaluation:

(i) Taxpayer identity information (as defined in section 6103(b)(6) of the Internal Revenue Code), validity code with respect to the taxpayer identifying number (as described in section 6109), and taxpayer identity information of spouse and dependents, if reported.

- (ii) Location codes (including area/district office and campus/service center codes).
- (iii) Marital status.
- (iv) Number and classification of reported exemptions.
- (v) Wage and salary income.
- (vi) Dividend income.
- (vii) Interest income.
- (viii) Gross rent and royalty income.
- (ix) Total of--
 - (A) Wages, salaries, tips, etc.;
 - (B) Interest income;
 - (C) Dividend income;
 - (D) Alimony received;
 - (E) Business income;
 - (F) Pensions and annuities;
 - (G) Income from rents, royalties, partnerships, estates, trusts, etc.;
 - (H) Farm income;
 - (I) Unemployment compensation; and
 - (J) Total Social Security benefits.
- (x) Adjusted gross income.
- (xi) Type of tax return filed.
- (xii) Entity code.
- (xiii) Code indicators for Form 1040, Form 1040 (Schedules A, C, D, E, F, and

SE), and Form 8814.

(xiv) Posting cycle date relative to filing.

(xv) Social Security benefits.

(xvi) Earned Income (as defined in section 32(c)(2)).

(xvii) Number of Earned Income Tax Credit-eligible qualifying children.

(b)(2) [Reserved]. For further guidance, see §301.6103(j)(1)-1(b)(2).

(b)(3) Officers or employees of the Internal Revenue Service will disclose the following business related return information reflected on returns of taxpayers 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 "returns of taxpayers" include, but are 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) Principal industrial activity code, including the business description.
- (xviii) Consolidated return indicator.
- (xix) Wages, tips, and other compensation.
- (xx) Social Security wages.
- (xxi) Deferred wages.
- (xxii) Social Security tip income.
- (xxiii) Total Social Security taxable earnings.
- (xxiv) Gross distributions from employer-sponsored and individual retirement plans from Form 1099-R.
- (b)(4) through (b)(6) [Reserved]. For further guidance, see §301.6103(j)(1)-1(b)(4) through (b)(6).
- (c) through (d) [Reserved]. For further guidance, see §301.6103(j)(1)-1(c) and (d).

(e) Effective date. This section is applicable to disclosures to the Bureau of the Census on or after March 10, 2005.

Mark E. Matthews

Deputy Commissioner for Services and Enforcement.

Approved: February 26, 2005

Eric Solomon

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).