

Section 7623—Expenses of Detection of Underpayments and Fraud, Etc.

26 CFR 301.7623-1: Rewards for information relating to violations of internal revenue laws.

T.D. 8780

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 301 and 602

Rewards for Information Relating to Violations of Internal Revenue Laws

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations relating to rewards for information that relates to violations of the internal revenue laws. The regulations reflect changes to the law made by the Taxpayer Bill of Rights 2 and affect persons that are eligible to receive an informant reward.

DATES: *Effective date:* These regulations are effective August 21, 1998.

Applicability date: For dates of applicability, see §301.7623-1(g).

FOR FURTHER INFORMATION CONTACT: Judith A. Lintz (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1534. Responses to these collections of information are voluntary with respect to the provision of information relating to violations of the internal revenue laws, but are required to obtain a benefit with respect to filing a claim for reward.

An agency may not conduct or sponsor, and a person is not required to respond to,

a collection of information unless it displays a valid control number.

The estimated annual burden per respondent varies from 2 to 4 hours, depending on individual circumstances, with an estimated average of 3 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under section 7623 relating to rewards for information that relates to violations of the internal revenue laws. This section was amended by section 1209 of the Taxpayer Bill of Rights 2 (TBOR 2) (Public Law 104-168, 110 Stat. 1452 (1996)).

On October 14, 1997, final and temporary regulations (TD 8737) relating to informant rewards under section 7623 were published in the **Federal Register** (62 F.R. 53230). A notice of proposed rulemaking (REG-252936-96) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (62 F.R. 53274).

No written comments responding to the notice were received. No public hearing was requested or held. The proposed regulations under section 7623 are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed. The revisions are discussed below.

Explanation of Provisions

The amendments made by TBOR 2 to section 7623 provide that the Secretary may pay rewards for information that leads to the detection and bringing to trial

and punishment persons guilty of violating the internal revenue laws or conniving at the same, and for information that leads to the detection of underpayments of tax. In addition, the amendments to section 7623 provide that rewards will be paid from the proceeds of amounts (other than interest) collected by reason of the information provided.

Following the publication of the proposed regulations, it was determined that the regulations should clarify that rewards may also be paid in situations where information leads to the denial of a claim for refund. Therefore, the final regulations provide that proceeds of amounts (other than interest) collected by reason of the information provided include both additional amounts collected because of the information provided and amounts collected prior to receipt of the information if the information leads to the denial of a claim for refund that otherwise would have been paid.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that the regulations in this document will not have a significant economic impact on a substantial number of small entities. This certification is based on a determination that in the past approximately 10,000 persons have filed claims for reward on an annual basis. Of these persons, almost all have been individuals. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these regulations is Judith A. Lintz, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel

from the IRS and Treasury Department participated in their development.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 301 and 602 are amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read as follows:

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

Par. 2. Section 301.7623-1 is revised to read as follows:

§301.7623-1 Rewards for information relating to violations of internal revenue laws.

(a) *In general.* In cases where rewards are not otherwise provided for by law, a district or service center director may approve a reward, in a suitable amount, for information that leads to the detection of underpayments of tax, or the detection and bringing to trial and punishment of persons guilty of violating the internal revenue laws or conniving at the same. The rewards provided for by section 7623 and this section will be paid from the proceeds of amounts (other than interest) collected by reason of the information provided. For purposes of section 7623 and this section, proceeds of amounts (other than interest) collected by reason of the information provided include both additional amounts collected because of the information provided and amounts collected prior to receipt of the information if the information leads to the denial of a claim for refund that otherwise would have been paid.

(b) *Eligibility to file claim for reward—*
(1) *In general.* Any person, other than certain present or former federal employees described in paragraph (b)(2) of this section, that submits, in the manner described in paragraph (d) of this section, information relating to the violation of an internal revenue law is eligible to file a claim for reward under section 7623 and this section.

(2) *Federal employees.* No person who was an officer or employee of the Department of the Treasury at the time the indi-

vidual came into possession of information relating to violations of the internal revenue laws, or at the time the individual divulged such information, is eligible for a reward under section 7623 and this section. Any other current or former federal employee is eligible to file a claim for reward if the information provided came to the individual's knowledge other than in the course of the individual's official duties.

(3) *Deceased informants.* A claim for reward may be filed by an executor, administrator, or other legal representative on behalf of a deceased informant if, prior to the informant's death, the informant was eligible to file a claim for such reward under section 7623 and this section. Certified copies of the letters testamentary, letters of administration, or other similar evidence must be attached to the claim for reward on behalf of a deceased informant in order to show the authority of the legal representative to file the claim.

(c) *Amount and payment of reward.* All relevant factors, including the value of the information furnished in relation to the facts developed by the investigation of the violation, will be taken into account by a district or service center director in determining whether a reward will be paid, and, if so, the amount of the reward. The amount of a reward will represent what the district or service center director deems to be adequate compensation in the particular case, generally not to exceed fifteen percent of the amounts (other than interest) collected by reason of the information. Payment of a reward will be made as promptly as the circumstances of the case permit, but not until the taxes, penalties, or fines involved have been collected. However, if the informant waives any claim for reward with respect to an uncollected portion of the taxes, penalties, or fines involved, the claim may be immediately processed. Partial reward payments, without waiver of the uncollected portion of the taxes, penalties, or fines involved, may be made when a criminal fine has been collected prior to completion of the civil aspects of a case, and also when there are multiple tax years involved and the deficiency for one or more of the years has been paid in full. No person is authorized under this section to make any offer, or promise, or otherwise

to bind a district or service center director with respect to the payment of any reward or the amount of the reward.

(d) *Submission of information.* A person that desires to claim a reward under section 7623 and this section may submit information relating to violations of the internal revenue laws, in person, to the office of a district director, preferably to a representative of the Criminal Investigation Division. Such information may also be submitted in writing to the Commissioner of Internal Revenue, Attention: Assistant Commissioner (Criminal Investigation), 1111 Constitution Avenue, NW., Washington, DC 20224, to any district director, Attention: Chief, Criminal Investigation Division, or to any service center director. If the information is submitted in person, either orally or in writing, the name and official title of the person to whom it is submitted and the date on which it is submitted must be included in the formal claim for reward.

(e) *Identification of informant.* No unauthorized person will be advised of the identity of an informant.

(f) *Filing claim for reward.* An informant that intends to claim a reward under section 7623 and this section should notify the person to whom the information is submitted of such intention, and must file a formal claim on Form 211, Application for Reward for Original Information, signed by the informant in the informant's true name, as soon as practicable after the submission of the information. If other than the informant's true name was used in furnishing the information, satisfactory proof of identity as that of the informant must be included with the claim for reward.

(g) *Effective date.* This section is applicable with respect to rewards paid after January 29, 1997.

§301.7623-1T [Removed]

Par. 3. Section 301.7623-1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In §602.101, paragraph (c) is amended by removing the entry for

301.7623-1T from the table and by revising the entry for 301.7623-1 to read as follows:

§602.101 OMB Control numbers.

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(c) * * *

CFR part or section where identified and described	Current OMB control No.
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301.7623-1	1545-0409
	1545-1534

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Michael P. Dolan,
*Deputy Commissioner of
Internal Revenue.*

Approved July 20, 1998.

Donald C. Lubick,
*Assistant Secretary of
the Treasury.*

(Filed by the Office of the Federal Register on August 20, 1998, 8:45 a.m., and published in the issue of the Federal Register for August 21, 1998, 63 F.R. 44777)