

Section 6103.—Confidentiality and Disclosure of Returns and Return Information

26 CFR 301.6103(j)(5)–1: Disclosures of return information to officers and employees of the Department of Agriculture for certain statistical purposes and related activities.

T.D. 8958

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 301

Disclosures of Return Information to Officers and Employees of the Department of Agriculture for Certain Statistical Purposes and Related Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document provides a final regulation relating to the disclosure of return information to officers and employees of the Department of Agriculture for certain statistical purposes and related activities. This regulation permits the IRS to disclose return information to the Department of Agriculture to structure, prepare, and conduct the Census of Agriculture.

DATES: *Effective Date:* This regulation is effective July 31, 2001.

Applicability Date: For dates of applicability of this regulation, see §301.6103(j)(5)–1(d).

FOR FURTHER INFORMATION CONTACT: Stuart Murray, (202) 622-4580 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2000, a temporary regulation (T.D. 8854, 2000–3 I.R.B. 306) relating to disclosure of return information to the Department of Agriculture was published in the **Federal Register** (65 FR 215). A notice of proposed rulemaking (REG–116704–99, 2000–3 I.R.B. 325) cross-referencing the temporary regulation was published in the **Federal Register** for the same day (65 FR 215). No public hearing was requested or held. No written or electronic comments responding to the notice of proposed rulemaking were received. Accordingly, the regulation proposed by REG–116704–99 is adopted by this Treasury decision without revision, and the corresponding temporary regulation is removed.

Explanation of Provisions

This regulation allows the IRS to disclose return information to the Department of Agriculture for purposes of the Census of Agriculture.

The disclosure of the specific items of return information identified in this regulation is necessary in order for the Department of Agriculture to accurately identify, locate, and classify, as well as properly process, information from agricultural businesses to be surveyed for the statutorily mandated Census of Agriculture.

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 has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation.

It is hereby certified that this regulation will not have a significant impact on a substantial number of small entities. This certification is based upon the fact that this regulation concerns the disclosure of return information by the IRS to the Department of Agriculture for purposes of the Census of Agriculture and does not require any action by or otherwise affect small entities. Therefore, 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 Code, the temporary regulation and the notice of proposed rulemaking preceding this regulation were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of this regulation is Jennifer S. McGinty, formerly of the Office of the Associate Chief Counsel (Procedure & Administration), Disclosure & Privacy Law Division, IRS. However, other personnel from the IRS and Treasury Department participated in its development.

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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 301.6103(j)(5)–1T and adding an entry in numerical order to read in part as follows:

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

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

Par. 2. Section 301.6103(j)(5)–1 is added to read as follows:

§301.6103(j)(5)–1 Disclosures of return information to officers and employees of the Department of Agriculture for certain statistical purposes and related activities.

(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 (IRS) will disclose return information 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.

(b) *Disclosure of return information to officers and employees of the Department of Agriculture.* (1) Officers or employees of the IRS will disclose the following return information 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 SSN;
- (iii) Annual Accounting Period;
- (iv) Principal Business Activity (PBA) Code;
- (v) Sales of livestock and produce raised;
- (vi) Taxable cooperative distributions;
- (vii) Income from custom hire and machine work;
- (viii) Gross income;
- (ix) Master File Tax (MFT) Code;
- (x) Document Locator Number (DLN);
- (xi) Cycle Posted;
- (xii) Final return indicator; and
- (xiii) Part year return indicator.

(3) From Form 943—

- (i) Taxpayer Identity Information;
- (ii) Annual Accounting Period;
- (iii) Total wages subject to Medicare taxes;
- (iv) Master File Tax (MFT) Code;
- (v) Document Locator Number (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) Parent corporation Employer Identification Number, and related Name and PBA Code for entities with agricultural activity;
- (vi) Master File Tax (MFT) Code;
- (vii) Document Locator Number (DLN);
- (viii) Cycle posted;
- (ix) Final return indicator;
- (x) Part year return indicator; and
- (xi) Consolidated return indicator.

(5) From Form 851—

- (i) Subsidiary Taxpayer Identity Information;
- (ii) Annual Accounting Period;
- (iii) Subsidiary PBA Code;
- (iv) Parent Taxpayer Identity Information;
- (v) Parent PBA Code;
- (vi) Master File Tax (MFT) Code;
- (vii) Document Locator Number (DLN); and
- (viii) Cycle Posted.

(6) 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) Master File Tax (MFT) Code;
- (vii) Document Locator Number (DLN);
- (viii) Cycle Posted;
- (ix) Final return indicator; and
- (x) Part year return indicator.

(c) *Procedures and restrictions.* (1) Disclosure of return information by officers or employees of the IRS as provided by paragraph (b) of this section shall be made only upon written request desig-

nating, 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 the Department of Agriculture and describing—

- (i) The particular return information to be disclosed;
- (ii) The taxable period or date to which such return information relates; and
- (iii) The particular purpose for which the return information is to be used.

(2) No such officer or employee to whom return information is disclosed pursuant to the provisions of paragraph (b) of this section shall disclose such return information to any person, other than the taxpayer to whom such return information 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. If the IRS 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 IRS 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 otherwise authorized by section 6103(j)(5) and paragraph (b) of this section, until the IRS determines that such requirements have been or will be satisfied.

(d) *Effective date.* This section is applicable on July 31, 2001.

§301.6103(j)(5)–1T [Removed]

Par. 3. Section 301.6103(j)(5)–1T is removed.

Robert E. Wenzel,
*Deputy Commissioner
of Internal Revenue.*

Approved July 20, 2001.

Mark Weinberger,
*Assistant Secretary
of the Treasury (Tax Policy).*

(Filed by the Office of the Federal Register on July 30, 2001, 8:45 a.m., and published in the issue of the Federal Register for July 31, 2001, 66 F.R. 39437)
