[4830-01-u]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8854]

RIN 1545-AX70

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: Temporary regulation.

SUMMARY: This document provides a temporary regulation relating to the disclosure of return information to officers and employees of the Department of Agriculture for certain statistical purposes and related activities. The temporary regulation would permit the IRS to disclose return information to the Department of Agriculture to structure, prepare, and conduct the Census of Agriculture. The text of this temporary regulation also serves as the text of the proposed regulation set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: This regulation is effective January 4, 2000.

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

FOR FURTHER INFORMATION CONTACT: Jennifer S. McGinty, (202) 622-4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 6103(j) of the Internal Revenue Code (Code) provides for the disclosure of tax information for statistical purposes. Prior to the Census of Agriculture Act of 1997 (Public Law 105-113), the Bureau of Census had responsibility for preparing the Census of Agriculture. Section 6103(j)(1) authorized the Bureau of Census to receive tax information as prescribed in the regulations in structuring censuses. Treasury regulations implemented such authority with respect to the Census of Agriculture. The Census of Agriculture Act transferred responsibility for that Census from the Bureau of Census to the Department of Agriculture. In 1998, the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277) added section 6103(j)(5) to provide disclosure authority for the Department of Agriculture to receive tax information to structure, prepare, and conduct the Census of Agriculture. By letter dated May 21, 1999, the Secretary of Agriculture requested that the regulations be amended so that the Department of Agriculture can begin to receive return information for purposes of the Census of Agriculture. This document contains a temporary regulation which authorizes the IRS to disclose return information to the Department of Agriculture for purposes of the Census of Agriculture.

Explanation of Provisions

This temporary regulation will allow 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 these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the (**Federal Register**). Pursuant to section 7805(f) of the Code, this temporary regulation will be 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, Office of the Assistant Chief Counsel (Disclosure Litigation), IRS. However, other personnel from the IRS and Treasury Department participated in its 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 by adding an entry in numerical order to read as follows:

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

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

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

<u>§301.6103(j)(5)-1T Disclosures of return information to officers and employees of the Department of Agriculture for certain statistical purposes and related activities (temporary).</u>

(a) <u>General rule.</u> Pursuant to the provisions of section 6103(j)(5) of the Internal Revenue Code (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) <u>Disclosure of return information to officers and employees of the Department of Agriculture</u> (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 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) <u>Procedures and Restrictions.</u> (1) Disclosure of return information by officers or employees of the IRS 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 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 Code or regulations or published procedures thereunder, the IRS may take such actions as are deemed necessary to ensure that such requirements are or will 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 from January 4, 2000 through January 3, 2003.

Robert E. Wenzel
Deputy Commissioner of Internal Revenue

Approved: December 13, 1999

Jonathan Talisman
Acting Assistant Secretary of the Treasury (Tax Policy)