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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8943]

RIN 1545-AY51

Disclosure of Return Information to the Bureau of the Census

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to additions to the list of items of information disclosed to the Bureau of the Census for use in the Longitudinal Employer-Household Dynamics (LEHD) project and the Survey of Income and Program Participation (SIPP) project. These regulations provide guidance to IRS and Social Security Administration (SSA) personnel responsible for disclosing the information. The text of the temporary regulations also 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 January 13, 2001.

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

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

Background

Under section 6103(j)(1), upon written request from the Secretary of Commerce, the Secretary is to furnish to the Bureau of the Census (Bureau) tax 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. Section 301.6103(j)(1)-1(b)(5) of the regulations provides a list of information provided to the Social Security Administration (SSA) pursuant to Internal Revenue Code section 6103(l)(1)(A) or (5) that officers or employees of SSA may disclose to the Bureau. Periodically, the disclosure regulations are amended to reflect the changing needs of the Bureau for data for its statutorily authorized statistical activities.

This document adopts temporary regulations that authorize IRS and SSA personnel to disclose the additional items of return information that have been requested by the Secretary of Commerce for specified purposes related to the LEHD and SIPP projects.

Except for §301.6103(j)(1)-1T(b)(2)(v) and (vi); (b)(3)(xxiii), (xxiv), (xxv), (xxvi),

(xxvii) and (xxviii); and (b)(5)(iii) , (iv), and (v); the text of the temporary regulations is the same as 26 CFR 301.6103(j)(1)-1. The changes made by §301.6103(j)(1)-1T(b)(2)(v) and (vi); (b)(3)(xxiii), (xxiv), (xxv), (xxvi), (xxvii) and (xxviii); and (b)(5)(iii), (iv), and (v); are discussed below.

Explanation of Provisions

By letter dated March 27, 2000, the Secretary of Commerce requested that additional items of return information be disclosed to the Bureau for purposes related to the Longitudinal Employer-Household Dynamics (LEHD) project. The request indicates that the Bureau is ready to begin a joint project with SSA to develop data files that contain linked information, matching selected worker and employer records for statistical research, in order to improve programs at the Bureau and SSA. The linked information will come from the Bureau's demographic and economic censuses and surveys, the Bureau's Standard Statistical Establishment List (SSEL), which includes business tax information, and SSA's administrative records. The Bureau's component of this project, the LEHD project, will enable the Bureau to conduct studies that are intended to improve the quality of the Bureau's core demographic and economic censuses and surveys, which are Bureau activities authorized under 13 U.S.C. Chapter 5.

The Bureau has specifically requested information from SSA's Master Earnings File (MEF), which contains information from IRS Form W-2 and Form 1040SE. The IRS information contained in SSA's MEF will permit the Bureau to link employee data

with employer data. The Bureau has requested Social Security Numbers (SSNs) and Employer Identification Numbers (EINs) to link the employee and employer data.

The Bureau has also requested the disclosure of wages, tips, and other compensation and deferred wages from the Form W-2. The Bureau indicated that it wants this detailed earnings record information because it is provided separately for each employer of the employee; it covers all persons with wages, including nonfilers and other non-covered employees; and it provides specific information on deferred compensation, such as retirement contributions.

By letter dated August 2, 2000, the Secretary of Commerce requested additional items of information for purposes related to the Bureau's Survey of Income and Program Participation (SIPP) demographic survey. This request indicates that the Bureau and SSA want to ensure that the regulations authorize the continuation of a joint project to develop data files that contain linked information from the SIPP with information from SSA's Master Earnings File. The linkage of Census survey information on family relationships with SSA's earnings histories allows for the study and assessment of welfare and social security/retirement proposals. Specifically, the Bureau intends to improve the quality of the SIPP by adding a series of projected Primary Insurance Amounts (PIAs) to the public-use version of each available SIPP.

In order to adjust for misreported data related to earnings, employment, and pensions from the Bureau's SIPP, the Bureau also requested data from Forms W-2 and 1099R or data derived from these forms. Some of the information requested for LEHD

is also requested for SIPP, such as the social security number; employer identification number; wages, tips and other compensation; and deferred wages.

As provided in the Commissioner of Internal Revenue's responses to the LEHD and SIPP requests dated September 25, 2000, and October 27, 2000, respectively, information will be furnished under these temporary regulations only for the purposes of conducting the LEHD project and/or the SIPP/SSA project as specified in the request letters and with the understanding that the information will be used strictly in accordance with the provisions of the Internal Revenue Code pertaining to confidentiality.

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 notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue 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 regulations is Jamie G. Bernstein, Office of the Associate Chief Counsel, Procedure & Administration (Disclosure & Privacy Law

Division) Internal Revenue Service. However, other personnel from the IRS and Treasury Department participated in their 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)(1)-1T also issued under 26 U.S.C. 6103(j)(1);* * *

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

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

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

(b)(2)(v) Total Social Security Taxable Earnings;

(vi) Quarters of Social Security coverage.

(b)(3)(i) through (xxii) [Reserved]. For further guidance, see

§301.6103(j)(1)-1(b)(3)(i) through (xxii).

(xxiii) Wages, tips, and other compensation;

(xxiv) Social Security Wages;

(xxv) Deferred wages;

(xxvi) Social Security Tip Income;

(xxvii) Total Social Security Taxable Earnings;

(xxviii) Gross Distributions from Form 1099R.

(b)(4) through (b)(5)(ii) [Reserved]. For further guidance, see §301.6103(j)(1)-1(b)(4) through (b)(5)(ii).

(b)(5)(iii) From Form W-2, and related forms and schedules--

(A) Social Security Number;

(B) Employer Identification Number;

(C) Wages, tips, and other compensation;

(D) Social Security Wages;

(E) Deferred wages.

(b)(5)(iv) Total Social Security Taxable Earnings.

(v) Quarters of Social Security Coverage.

* * * * *

(b)(6) through (d) [Reserved]. For further guidance, see §301.6103(j)(1)-1(b)(6) through (d).

(e) Effective date. This section is applicable to the Bureau of the Census on January 13, 2001 through January 12, 2004.

Robert E. Wenzel

Deputy Commissioner of Internal Revenue

Approved: January 16, 2001

Jonathan Talisman

Assistant Secretary of the Treasury