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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9001]

RIN 1545-BA56

Disclosure 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 contains a final regulation relating to return information to be disclosed to the Department of Agriculture (Department) for use in conducting the Census of Agriculture. The regulation provides for the disclosure of an additional item of return information to the Department. The regulation provides guidance to IRS personnel responsible for disclosing the return information.

DATES: Effective Date: This final regulation is effective June 19, 2002.

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

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

SUPPLEMENTARY INFORMATION:

Background

Under section 6103(j)(5) of the Internal Revenue Code (Code), upon written request from the Secretary of Agriculture, the Secretary of the Treasury shall furnish

such returns or return information as prescribed by Treasury regulation to officers and employees of the Department whose official duties require access to such returns or return information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the Census of Agriculture pursuant to the Census of Agriculture Act of 1997. Currently, §301.6103(j)(5)-1 provides an itemized description of the return information authorized to be disclosed for this purpose. By letter dated May 8, 2001, the Secretary of Agriculture requested that the Treasury Regulations be amended to authorize the disclosure of an additional item of return information, the taxpayer's telephone number contained on Form 1040/Schedule F.

This document adopts a final regulation that authorizes IRS personnel to disclose the additional item of return information that has been requested by the Secretary of Agriculture.

Explanation of Provisions

This final regulation will permit the IRS to disclose to the Department, for its use in structuring, preparing, and conducting the Census of Agriculture, an additional item of return information, the taxpayer's telephone number provided on the Form 1040/Schedule F. According to the Department, the disclosure of this additional item of return information will improve the efficiency of the Department's list-building operations by reducing the potential for duplication in the Census of Agriculture. After receiving information from the IRS, the Department attempts to link such information to other records held by or available to the Department, doing so where possible on the basis of names, social security numbers or employer identification numbers, and addresses. The Department intends to use taxpayer telephone numbers to match records that

cannot be matched otherwise or to determine that questionable links between records, such as those based merely on name and address information, constitute or do not constitute definite matches. By means of the matching process, the Department avoids duplicate contacts and furthers its classification of farms for Census of Agriculture purposes. The IRS will provide taxpayer telephone numbers to the Department under this final regulation with the understanding that the Department will only use them for such purpose, and that it will not use the information to telephone taxpayers.

Special Analyses

Section 553 of the Administrative Procedure Act (5 U.S.C. chapter 5) requires that a notice of proposed rulemaking be published in the Federal Register and, after such notice, that the Federal agency that issued the notice give interested persons an opportunity to participate in the rulemaking through submission of written comments, with or without opportunity for oral presentation. These requirements are subject to certain exceptions, including when the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. Because the final regulation merely amends a preexisting regulation (§301.6103(j)(5)-1) to add a single item of information to a list of such items, it is determined that the notice and public-comment procedure required by 5 U.S.C. 553 is unnecessary in this case pursuant to the exception in 5 U.S.C. 553(b)(3)(B). For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3)

It has also 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. Because no notice of proposed rulemaking is required, the

provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

Pursuant to section 7805(f) of the Code, this regulation was submitted to the Chief Counsel of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of this temporary regulation is Joseph Conley, Office of 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.

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 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 amended by adding paragraph (b)(2)(xiv) 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.

* * * * *

(b) * * *

(2) * * *

(xiv) Taxpayer telephone number.

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(d) Effective dates. This section is applicable on July 31, 2001, except paragraph (b)(2)(xiv) which is applicable on June 19, 2002.

Robert E. Wenzel

Deputy Commissioner of Internal Revenue.

Approved: June 10, 2002

Pamela F. Olson

Acting Assistant Secretary of the Treasury.