

Notice of Proposed Rulemaking

Disclosure of Returns and Return Information to Designee of Taxpayer

REG -103320-00

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In T.D. 8935 on page 702 of this Bulletin, the IRS is issuing a temporary regulation relating to the disclosure of returns and return information to the designee of a taxpayer. The text of that temporary regulation also serves as the text of this regulation.

DATES: Written and electronic comments and requests for a public hearing must be received by April 11, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG-103320-00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, D.C. 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG-103320-00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site: http://www.irs.gov/prod/tax_regs/comments/html.

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

SUPPLEMENTARY INFORMATION:

Background

Section 6103(c), as amended by section 1207 of the Taxpayer Bill of Rights II, Public Law 104-168 (110 Stat. 1452), authorizes the IRS to disclose returns and return information to such person or persons as the taxpayer may designate in a request for or consent to disclosure or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. Disclosure is permitted subject to such requirements and conditions as may be prescribed by regulations. With the amendment in 1996, Congress eliminated the longstanding requirement that disclosures to designees of the taxpayer must be pursuant to the written request or consent of the taxpayer. The purpose of this amendment to section 6103(c) was to assist the IRS in developing a paperless tax administration system that relies on, among other things, electronic communication. H.R. Rep. No. 104-506, at 49 (1996), reprinted in 1996 U.S.C.A.N. 1143, 1172.

On October 3, 1980, a final regulation (T.D. 7723, 1980-2 C.B. 346) relating to the disclosure of tax returns and return information to a person designated by the taxpayer in a written request or consent was published in the **Federal Register** (45 F.R. 65564). Since the publication of this final regulation, the IRS has determined that further guidance on written consent requirements is necessary.

This document contains a proposed regulation that authorizes the disclosure of tax returns and return information to a designee of the taxpayer pursuant to nonwritten requests or consents authorizing the disclosures. Such proposed regulation also amends the existing regulation to clarify the rules applicable to written requests or consents to disclosure.

The text of the temporary regulation (T.D. 8935) on page 702 of this Bulletin serves as the text of this proposed regulation. The preamble to the temporary regulation explains the regulation.

Special Analysis

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 is hereby certified that this proposed regulation will not impose a significant economic impact on a substantial number of small entities. The regulation is intended to reduce the burden on taxpayers and to facilitate the development of a paperless tax administration system. The prior regulation required that a taxpayer provide a written request or consent before the IRS could disclose the taxpayer's return information to a designee of the taxpayer; this regulation permits such a disclosure, under certain specified circumstances, pursuant to the taxpayer's nonwritten request or consent. The regulation also provides parameters for the development of consents for the electronic filing program, and it reduces the burden on taxpayers in combined Federal-State return filing programs by facilitating the electronic filing of a Federal-State return by means of a single electronic transmission.

Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel of Small Business Administration for comment on its impact on small businesses.

Comments and Requests for a Public Hearing

Before the proposed regulation is adopted as a final regulation, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on consents or notices authorizing disclosures in an electronic environment. Additionally, the IRS and Treasury Department specifically request comments on the clarity of the proposed regulation and how it can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of this regulation is Jamie Bernstein, Office of the Associate Chief Counsel, Procedure and Administration (Disclosure & Privacy Law Division). 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 adding an entry in numerical order to read in part as follows:

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

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

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

§301.6103(c)–1 Disclosure of returns and return information to designee of taxpayer.

[The text of this proposed section is the same as the text of §301.6103(c)–1T published in T.D. 8935.]

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

(Filed by the Office of the Federal Register on January 10, 2001, 8:45 a.m., and published in the issue of the Federal Register for January 11, 2001, F.R. 2373)