

for 2012 is the lesser of: \$23.25 (\$31 of OID that accrues on the new debt instrument in 2012 less \$7.75 of this OID that is allowed as a deduction to A in 2012) or \$9.75 (the excess of \$75 (ABC partnership's deferred COD income of \$150 less A's share of ABC partnership's deferred COD income that is included in A's income for 2012 of \$75) over \$65.25 (the aggregate amount of OID that accrued in previous taxable years of \$87 less the aggregate amount of such OID that has been allowed as a deduction by A in 2012 of \$21.75)). Thus, of the \$31 of OID that accrues in 2012, \$9.75 is deferred under section 108(i).

\* \* \* \* \*

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 2013-19680 Filed 8-13-13; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1 and 602**

[TD 9623]

RIN 1545-BI99

**Application of Section 108(i) to Partnerships and S Corporations; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations; correction.

**SUMMARY:** This document contains corrections to final regulations and removal of temporary regulations (TD 9623) that were published in the **Federal Register** on Wednesday, July 3, 2013 (78 FR 39973). The final regulations are relating to the application of section 108(i) of the Internal Revenue Code to partnerships and S corporations and provides rules regarding the deferral of discharge of indebtedness income and original issue discount deductions by a partnership or an S corporation with respect to reacquisitions of applicable debt instruments after December 31, 2008, and before January 1, 2011.

**DATES:** This correction is effective on August 14, 2013 and applicable on or after July 2, 2013.

**FOR FURTHER INFORMATION CONTACT:** Joseph R. Worst, at (202) 622-3070 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations and removal of temporary regulations (TD 9623) that are

the subject of this correction is under section 108(i) of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations and removal of temporary regulations (TD 9623) contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the final regulations and removal of temporary regulations (TD 9623), that are the subject of FR Doc. 2013-15585, are corrected as follows:

On page 39974, column 3, in the preamble, under the paragraph heading "1. Bankruptcy Issues", in the first full paragraph, the language "Title 11" is corrected to read "title 11" wherever it appears.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2013-19682 Filed 8-13-13; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 301**

[TD 9628]

RIN 1545-BK87

**Regulations Pertaining to the Disclosure of Return Information To Carry Out Eligibility Requirements for Health Insurance Affordability Programs**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the disclosure of return information under section 6103(l)(21) of the Internal Revenue Code, as enacted by the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010. The regulations define certain terms and prescribe certain items of return information in addition to those items prescribed by statute that will be disclosed, upon written request, under section 6103(l)(21).

**DATES:** *Effective date:* These regulations are effective on August 14, 2013.

*Applicability date:* For date of applicability, see § 301.6103(l)(21)-1(d).

**FOR FURTHER INFORMATION CONTACT:** Steven Karon, (202) 622-4570; (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 6103(l)(21) of the Internal Revenue Code (the Code) permits the disclosure of return information to assist Exchanges in performing certain functions set forth in the Patient Protection and Affordable Care Act, Public Law 111-148 (124 Stat. 119 (2010)) (the Affordable Care Act) for which income verification is required (including determinations of eligibility for the insurance affordability programs described in the Affordable Care Act), as well as to assist State agencies administering a State Medicaid program under title XIX of the Social Security Act, a State's children's health insurance program under title XXI of the Social Security Act (CHIP), or a basic health program (BHP) under section 1331 of the Affordable Care Act (if applicable). Section 6103(l)(21) identifies specific items of return information that will be disclosed. For taxpayers whose income is relevant in determining eligibility for an insurance affordability program, Medicaid, CHIP, or BHP, section 6103(l)(21) explicitly authorizes the disclosure of the following items of return information: Taxpayer identity information, filing status, the number of individuals for whom a deduction is allowed under section 151 of the Code, the taxpayer's modified adjusted gross income as defined under section 36B of the Code (MAGI), and the taxable year to which any such information relates or, alternatively, that such information is not available. Section 6103(l)(21) also authorizes the disclosure of such other information prescribed by regulation that might indicate whether an individual is eligible for the premium tax credit under section 36B of the Code, or cost-sharing reductions under section 1402 of the Affordable Care Act, and the amount thereof.

The Treasury Department and the IRS published a notice of proposed rulemaking (REG-119632-11) in the **Federal Register**, 77 FR 25378, on April 30, 2012, proposing additional items to be disclosed pursuant to section 6103(l)(21). A public hearing was scheduled for August 31, 2012. The IRS did not receive any requests to testify at the public hearing, and the public hearing was cancelled. Five written comments responding to the proposed regulations were received. All comments were considered and are available for public inspection at

<http://www.regulations.gov> or upon request. Additionally, the IRS received information from the Department of Health and Human Services (HHS) that pertains to the disclosure of items pursuant to section 6103(l)(21). After consideration of the written comments and the information provided to the IRS by HHS, the proposed regulations under section 6103(l)(21) are adopted as revised by this final regulation. The public comments, the information HHS provided to the IRS, and the revisions are discussed in the following section.

### Summary of Comments and Explanation of Provisions

The IRS received five written comments in response to the proposed regulations. Two commentators expressed support for the proposed regulations and had no suggested changes. A third commentator provided a comment, discussed in this section, concerning the items disclosed under section 6103(l)(21) and the proposed regulations. The remaining commentators made comments, also discussed in this section, pertaining to section 6103 generally, but did not make comments specific to the proposed regulations under section 6103(l)(21) and the additional items to be disclosed under that section.

A commentator stated that the premium tax credit under section 36B applies to low income filers. The commentator stated that, when a filer's income exceeds the maximum income allowable for the credit, the IRS should only disclose that the individual's income is above the maximum allowable amount, and not provide the return information as described by section 6103(l)(21) or the proposed regulations. As noted in the preamble to the proposed regulations, the Affordable Care Act and HHS's final regulations (77 FR at 18456–18458) require that Exchanges use alternative means to verify income where information is not available from, or verified by, the IRS. Providing the specific delineated items described by section 6103(l)(21) and these regulations, as opposed to simply stating that an applicant's income is above the threshold for a premium tax credit, will inform an Exchange of the degree to which alternative verification may be needed. Therefore, disclosing these items to an Exchange will assist the Exchange in determining an individual's eligibility for, and the amount of, any advance payment of the premium tax credit or cost-sharing reductions. Accordingly, after careful consideration of the comment, the regulations remain unchanged.

The commentator additionally noted that taxpayers should be able to request that the IRS tell them if anyone requested information about their return using this regulation. No changes were made to these regulations as a result of this comment. Section 6103(l)(21) and these regulations concern the disclosure of items of return information to HHS, Exchanges, and certain State agencies, and not the disclosure of whether anyone requested a taxpayer's return information under section 6103 in general. Section 6103(p)(3) describes certain requirements with respect to the maintenance of a system of records or accountings of all requests for inspection or disclosure of return or return information under section 6103 generally.

The commentator also stated that the regulation should contain a penalty for individuals that fraudulently request information. The commentator further suggested that the regulation should contain a penalty for HHS, Exchanges, and any other organizations that do not comply with the data protection requirements. No changes were made in response to these comments. Section 6103(l)(21) does not permit the Treasury Department or the IRS to establish penalties under these regulations. The Treasury Department and the IRS note, however, that section 1411(h)(1)(B) of the Affordable Care Act states that any person who knowingly and willfully provides false or fraudulent information shall be subject to a penalty of not more than \$250,000 in addition to any other penalties prescribed by law. Additionally, penalties may be imposed under sections 7213, 7213A, and 7431 of the Code for unauthorized disclosures of return information obtained under section 6103(l)(21).

One commentator expressed concerns about taxpayer privacy and wanted assurances that HHS and other agencies receiving return information are required to adopt the safeguarding requirements of section 6103. By operation of law, the safeguards established by section 6103(p)(4) apply to those entities described in section 6103(l)(21), namely HHS, the Exchanges established under the Affordable Care Act, and the State agencies administering a State program described under section 6103(l)(21), as well as their contractors. No regulatory changes are needed to have section 6103(p)(4) apply to those entities. The commentator also noted that section 1411(g)(2)(b) of the Affordable Care Act imposes penalties on HHS employees and contractors who improperly use or disclose tax return information, and suggested that the regulations should

clarify that this penalty may be imposed in addition to the penalty imposed under section 7213 of the Code when there are certain unauthorized disclosures of return information. The commentator is correct that both statutory provisions provide for civil or criminal penalties for the improper use or disclosure of tax return information. Because those provisions govern the imposition of those penalties, no changes are needed with respect to these regulations.

Finally, another commentator remarked about the timing and characteristics of particular communications made from Exchanges to an applicant, stating that notices should be sent throughout the application process. The commentator stated the notices should be in language appropriate for all populations, suggesting that existing guidance from the Department of Justice (DOJ) and HHS on providing appropriate documents to limited English proficiency populations may be helpful. These comments regarding the timing and characteristics of such communications are outside the scope of section 6103(l)(21) and these regulations.

After the Treasury Department and the IRS published the proposed regulations, HHS informed the IRS that it may be receiving certain items of information from the Social Security Administration (SSA). One of the items that HHS expects to receive from SSA is the total amount of the social security benefits for each individual whose income is relevant to the determination of eligibility for health insurance affordability programs described in the Affordable Care Act. If the IRS also provides HHS with the amount of social security benefits included in gross income under section 86, an Exchange or State agency will be generally able to determine the amount of social security benefits not included in gross income under section 86. This amount is one of the components of an individual's MAGI. Eligibility for the premium tax credit, and advance payments of the credit, is based on the household income of the applicant, which is the sum of the MAGI of those individuals who comprise the household. As a result, providing the amount of social security benefits included in gross income under section 86, along with other items contained in these regulations, will help an Exchange determine whether a taxpayer is eligible for the premium tax credit under section 36B or cost-sharing reductions under section 1402 of the Affordable Care Act, and the amount of the credit or

reductions. Section 301.6103(l)(21)–1(a) of these final regulations, therefore, includes the amount of social security benefits included in gross income under section 86 as an item that will be disclosed to HHS pursuant to section 6103(l)(21).

In the proposed regulations, a relevant taxpayer, for whom return information would be disclosed under section 6103(l)(21), was defined as any individual listed by name and social security number or adoption taxpayer identification number (ATIN) on an application submitted pursuant to Title I, Subtitle E, of the Affordable Care Act whose income may bear upon a determination of eligibility for a health insurance affordability program. Subsequent to the publication of the proposed regulations, the IRS recognized that requests relating to ATINs would not be received because individuals' identification numbers will first be verified against SSA records. Under section 1411(c) of the Affordable Care Act, HHS is to provide the name, date of birth, and social security number of each individual on the application to the SSA for a determination that the information provided is consistent with the information in SSA records. HHS will only request return information for those individuals whose numbers are verified. Since the SSA has no records of ATINs, these numbers will not be verified and HHS will not request return information for individuals using adoption taxpayer identification numbers. While the income of an individual with an ATIN may be relevant for determining household income and, therefore, eligibility for a health insurance affordability program, an Exchange or State agency will use alternate verification procedures as provided under regulations prescribed by HHS, including procedures under part 155.320 of chapter 45 of the Code of Federal Regulations, instead of getting return information under section 6103(l)(21). Accordingly, § 301.6103(l)(21)–1(b) of these final regulations removes the reference to ATINs.

### Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that, because the regulations proposed do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received from that office.

### Drafting Information

The principal author of the regulations is Steven L. Karon of the Office of the Associate Chief Counsel, Procedure and Administration.

### 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 the entry for § 301.6103(l)(21) to read in part as follows:

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

Section 301.6103(l)(21)–1 also issued under 26 U.S.C. 6103(l)(21) and 6103(q). \* \* \*

■ **Par. 2.** Add § 301.6103(l)(21)–1 to read as follows:

#### § 301.6103(l)(21)–1 Disclosure of return information to the Department of Health and Human Services to carry out eligibility requirements for health insurance affordability programs.

(a) *General rule.* Pursuant to the provisions of section 6103(l)(21)(A) of the Internal Revenue Code, officers and employees of the Internal Revenue Service will disclose, upon written request, for each relevant taxpayer on a single application those items of return information that are described under section 6103(l)(21)(A) and paragraphs (a)(1) through (7) of this section, for the reference tax year, as applicable, to officers, employees, and contractors of the Department of Health and Human Services. Such information shall be provided solely for purposes of, and to the extent necessary in, establishing an individual's eligibility for participation in an Exchange established under the Patient Protection and Affordable Care Act, verifying the appropriate amount of any premium tax credit under section 36B or cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act, or determining

eligibility for the State programs described in section 6103(l)(21)(A).

(1) With respect to each relevant taxpayer for the reference tax year where the amount of social security benefits not included in gross income under section 86 of the Internal Revenue Code of that relevant taxpayer is unavailable:

(i) The aggregate amount of the following items of return information—

(A) Adjusted gross income, as defined by section 62 of the Internal Revenue Code;

(B) Any amount excluded from gross income under section 911 of the Internal Revenue Code; and

(C) Any amount of interest received or accrued by the taxpayer during the taxable year that is exempt from tax.

(ii) Information indicating that the amount of social security benefits not included in gross income under section 86 of the Internal Revenue Code is unavailable.

(2) Adjusted gross income, as defined by section 62 of the Internal Revenue Code, of a relevant taxpayer for the reference tax year, in circumstances where the modified adjusted gross income (MAGI), as defined by section 36B(d)(2)(B) of the Internal Revenue Code, of that relevant taxpayer is unavailable, as well as information indicating that the components of MAGI other than adjusted gross income must be taken into account to determine MAGI;

(3) The amount of social security benefits of the relevant taxpayer that is included in gross income under section 86 of the Internal Revenue Code for the reference tax year;

(4) Information indicating that certain return information of a relevant taxpayer is unavailable for the reference tax year because the relevant taxpayer jointly filed a U.S. Individual Income Tax Return for that year with a spouse who is not a relevant taxpayer listed on the same application;

(5) Information indicating that, although a return for an individual identified on the application as a relevant taxpayer for the reference tax year is available, return information is not being provided because of possible authentication issues with respect to the identity of the relevant taxpayer;

(6) Information indicating that a relevant taxpayer who is identified as a dependent for the tax year in which the premium tax credit under section 36B of the Internal Revenue Code would be claimed, did not have a filing requirement for the reference tax year based upon the U.S. Individual Income Tax Return the relevant taxpayer filed for the reference tax year; and

(7) Information indicating that a relevant taxpayer who received advance payments of the premium tax credit in the reference tax year did not file a tax return for the reference tax year reconciling the advance payments of the premium tax credit with any premium tax credit under section 36B of the Internal Revenue Code available for that year.

(b) *Relevant taxpayer defined.* For purposes of paragraph (a) of this section, a relevant taxpayer is defined to be any individual listed, by name and social security number, on an application submitted pursuant to Title I, Subtitle E, of the Patient Protection and Affordable Care Act, whose income may bear upon a determination of any advance payment of any premium tax credit under section 36B of the Internal Revenue Code, cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act, or eligibility for any program described in section 6103(l)(21)(A) of the Internal Revenue Code.

(c) *Reference tax year defined.* For purposes of section 6103(l)(21)(A) of the Internal Revenue Code and this section, the reference tax year is the first calendar year or, where no return information is available in that year, the second calendar year, prior to the submission of an application pursuant to Title I, Subtitle E, of the Patient Protection and Affordable Care Act.

(d) *Effective/applicability date.* This section applies to disclosures to the Department of Health and Human Services on or after August 14, 2013.

**Beth Tucker,**

*Acting Deputy Commissioner for Services and Enforcement.*

Approved: July 10, 2013.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2013-19728 Filed 8-13-13; 8:45 am]

**BILLING CODE 4830-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[DA 13-1615]

### Inflation Adjustment of Maximum Forfeiture Penalties

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document increases the maximum civil monetary forfeiture penalties available to the Commission

under its rules governing monetary forfeiture proceedings to account for inflation. The inflation adjustment is necessary to implement the Debt Collection Improvement Act of 1996 (DCIA), which requires federal agencies to adjust “civil monetary penalties provided by law” at least once every four years.

**DATES:** Effective September 13, 2013.

**FOR FURTHER INFORMATION CONTACT:** Kimbarly Taylor, Enforcement Bureau, Telecommunication Consumers Division, 202-418-1188.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Order by the Commission, DA 13-1615, adopted on August 1, 2013, and released on August 1, 2013. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street SW., Washington, DC and also may be purchased from the Commission’s copy contractor, Best Copy and Printing, Inc., at (202) 488-5300, Room CY-B402, Portals II at 445 12th Street SW., Washington, DC.

This Order amends § 1.80(b) of the Commission’s rules, 47 CFR 1.80(b), to increase the maximum civil penalties established in that section to account for inflation since the last adjustment to these penalties. The adjustment procedure is set forth in detail in § 1.80(b)(9) of the Commission’s rules. That section implements the Debt Collection Improvement Act of 1996, 28 U.S.C. 2461 note, which requires federal agencies to adjust maximum statutory civil monetary penalties at least once every four years.

This Order adjusts the maximum penalties to account for the cost-of-living increase in the Consumer Price Index (CPI) between June of the year the forfeiture amount was last set or adjusted,<sup>1</sup> and June 2012. Once the cost-

<sup>1</sup> Under the rounding rules set forth in § 1.80(b)(9)(ii), 47 CFR 1.80(b)(9)(ii), the inflationary adjustment for a statutory forfeiture amount must reach a specific threshold before the Commission may increase the maximum forfeiture amount. That adjustment is based on the difference between the CPI of “June of the preceding year” (here, June 2012) and that of June of the year a particular forfeiture was “last set or adjusted.” 47 CFR 1.80(b)(9)(i). Thus, different CPIs may be used to calculate the inflation factors for different statutory forfeitures, depending on when a particular forfeiture was last increased. Specifically, we calculate the difference between the CPI for June 2012 and: June 2011 (to adjust the penalties for 227(e) of the Communications Act of 1934, as amended (Communications Act or Act)), June 2010 (to adjust the penalties for Section 503(b)(2)(F)), June 2008 (to adjust the penalties for Sections 202(c), 203(e), 220(d), 223(b), 364(a), 386(a), 503(b)(2)(A), 503(b)(2)(B), 503(b)(2)(D), 506(a), and 634), June 2007 (to adjust the penalties for Section

of-living adjustment is calculated for the relevant period, each existing maximum penalty is multiplied by the cost-of-living adjustment percentage. *See* 28 U.S.C. 2461 note 5(a). Each result is then rounded using the statutorily defined rules, which are set forth in the Commission’s rules at 47 CFR 1.80(b)(9)(ii).<sup>2</sup> Finally, the rounded result is added to the existing penalty amount to adjust each maximum monetary forfeiture penalty accordingly.<sup>3</sup>

Because Congress has mandated these periodic rule changes and the Commission is required to make them, we find that, for good cause, compliance with the notice and comment provisions of the Administrative Procedure Act is unnecessary. *See* 5 U.S.C. 553(b)(B).

Likewise, because a notice of proposed rulemaking is not required for these rule changes, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

Further, the Commission has analyzed the actions taken here with respect to the Paperwork Reduction Act of 1995

503(b)(2)(C)), June 2004 (to adjust the penalties for Sections 205(b), 214(d), and 219(b)), and June 1997 (to adjust the penalties for Sections 364(b), 386(b), and 506(b)).

<sup>2</sup> Based on our application of the rounding rules, there are a number of penalties currently set forth in § 1.80(b) of the Commission’s rules that do not require adjustments for inflation at this time, including the penalties imposed pursuant to Sections 202(c), 203(e), 214(d), 219(b), 220(d), 227(e) (the amounts for a single violation or single day of a violation), 364(a) & (b), 386(a) & (b), 503(b)(2)(A) (the amount for a single violation or single day of a violation), 503(b)(2)(D) (the amount for a single violation or single day of a violation), 506(a) & (b), and 634 of the Act. We also do not alter the penalties imposed pursuant to Sections 6507(b)(4) and 6507(b)(5) of the Middle Class Tax Relief and Job Creation Act of 2012 because the Commission only implemented the Tax Relief Act in 2012. *See* Implementation of the Middle Class Tax Relief and Job Creation Act of 2012, 72 FR 71131, 71134 (November 29, 2012). Accordingly, the only penalties adjusted in this order are those set forth in Sections 205(b), 223(b), 227(e) (for continuing violations), 503(b)(2)(A) (for continuing violations), 503(b)(2)(B), 503(b)(2)(C), 503(b)(2)(D) (for continuing violations), and 503(b)(2)(F).

<sup>3</sup> Pursuant to the DCIA, § 1.80(b)(9) includes a note that specifies one further consideration: “[T]he first inflation adjustment [of a given penalty] cannot exceed 10 percent of the [existing] statutory maximum amount.” 47 CFR 1.80(b)(9) note. The § 1.80(b)(9) note was inadvertently omitted from § 1.80(b) of the Commission’s rules when the penalties in that section were previously adjusted. This order corrects that omission by reinserting the § 1.80(b)(9) note in the § 1.80 rules. Relevant to the § 1.80(b)(9) note requirement, there are three sets of penalties addressed in this order that the Commission has not previously adjusted for inflation: the penalties set forth in Section 227(e) of the Act (continuing violations), those set forth in Section 503(b)(2)(C) of the Act, and those set forth in Section 503(b)(2)(F) of the Act. With respect to Section 227(e), Section 503(b)(2)(C), and Section 503(b)(2)(F) of the Act, our adjustments do not exceed 10 percent of the existing statutory maximum forfeiture amounts.