

**§ 1.148–1 Definitions and elections.**

\* \* \* \* \*

(b) \* \* \*

*Issue price* means issue price as defined in paragraph (f) of this section.

\* \* \* \* \*

(f) *Definition of issue price*—(1) *In general.* Except as otherwise provided in this paragraph (f), “issue price” is defined in sections 1273 and 1274 and the regulations under those sections.

(2) *Bonds issued for money*—(i) *General rule.* Except as otherwise provided in this paragraph (f)(2), the issue price of bonds issued for money is the first price at which a substantial amount of the bonds is sold to the public. If a bond is issued for money in a private placement to a single buyer that is not an underwriter or a related party (as defined in § 1.150–1(b)) to an underwriter, the issue price of the bond is the price paid by that buyer. Issue price is not reduced by any issuance costs (as defined in § 1.150–1(b)).

(ii) *Special rule for use of initial offering price to the public.* The issuer may treat the initial offering price to the public as of the sale date as the issue price of the bonds if the requirements of paragraphs (f)(2)(ii)(A) and (B) of this section are met.

(A) The underwriters offered the bonds to the public for purchase at a specified initial offering price on or before the sale date, and the lead underwriter in the underwriting syndicate or selling group (or, if applicable, the sole underwriter) provides, on or before the issue date, a certification to that effect to the issuer, together with reasonable supporting documentation for that certification, such as a copy of the pricing wire or equivalent communication.

(B) Each underwriter agrees in writing that it will neither offer nor sell the bonds to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

(1) The close of the fifth (5th) business day after the sale date; or

(2) The date on which the underwriters have sold a substantial amount of the bonds to the public at a price that is no higher than the initial offering price to the public.

(iii) *Special rule for competitive sales.* For bonds issued for money in a competitive sale, an issuer may treat the reasonably expected initial offering price to the public as of the sale date as the issue price of the bonds if the issuer obtains from the winning bidder a certification of the bonds’ reasonably expected initial offering price to the

public as of the sale date upon which the price in the winning bid is based.

(iv) *Choice of rule for determining issue price.* If more than one rule for determining the issue price of the bonds is available under this paragraph (f)(2), at any time on or before the issue date, the issuer may select the rule it will use to determine the issue price of the bonds. On or before the issue date of the bonds, the issuer must identify the rule selected in its books and records maintained for the bonds.

(3) *Definitions.* For purposes of this paragraph (f), the following definitions apply:

(i) *Competitive sale* means a sale of bonds by an issuer to an underwriter that is the winning bidder in a bidding process in which the issuer offers the bonds for sale to underwriters at specified written terms, if that process meets the following requirements:

(A) The issuer disseminates the notice of sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters (for example, through electronic communication that is widely circulated to potential underwriters by a recognized publisher of municipal bond offering documents or by posting on an Internet-based Web site or other electronic medium that is regularly used for such purpose and is widely available to potential underwriters);

(B) All bidders have an equal opportunity to bid (within the meaning of § 1.148–5(d)(6)(iii)(A)(6));

(C) The issuer receives bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and

(D) The issuer awards the sale to the bidder who submits a firm offer to purchase the bonds at the highest price (or lowest interest cost).

(ii) *Public* means any person (as defined in section 7701(a)(1)) other than an underwriter or a related party (as defined in § 1.150–1(b)) to an underwriter.

(iii) *Underwriter* means:

(A) Any person (as defined in section 7701(a)(1)) that agrees pursuant to a written contract with the issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the bonds to the public; and

(B) Any person that agrees pursuant to a written contract directly or indirectly with a person described in paragraph (f)(3)(iii)(A) of this section to participate in the initial sale of the bonds to the public (for example, a retail distribution agreement between a national lead underwriter and a regional firm under

which the regional firm participates in the initial sale of the bonds to the public).

(4) *Other special rules.* For purposes of this paragraph (f), the following special rules apply:

(i) *Separate determinations.* The issue price of bonds in an issue that do not have the same credit and payment terms is determined separately. The issuer need not apply the same rule to determine issue price for all of the bonds in the issue.

(ii) *Substantial amount.* Ten percent is a substantial amount.

(iii) *Bonds issued for property.* If a bond is issued for property, the adjusted applicable Federal rate, as determined under section 1288 and § 1.1288–1, is used in lieu of the applicable Federal rate to determine the bond’s issue price under section 1274.

■ **Par. 4.** Section 1.148–11 is amended by adding paragraph (m) to read as follows:

**§ 1.148–11 Effective/applicability dates.**

\* \* \* \* \*

(m) *Definition of issue price.* The definition of issue price in § 1.148–1(b) and (f) applies to bonds that are sold on or after June 7, 2017.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: November 22, 2016.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury for Tax Policy.*

[FR Doc. 2016–29486 Filed 12–8–16; 8:45 am]

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 301**

[TD 9802]

RIN 1545–BN64

**Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities**

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

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary regulations that authorize the disclosure of certain items of return information to the Bureau of the Census (Bureau) in conformance with section 6103(j)(1) of the Internal Revenue Code (Code). These temporary regulations are

made pursuant to a request from the Secretary of Commerce. These temporary regulations also provide clarifying language for an item of return information and remove duplicative paragraphs contained in the existing regulations. These temporary regulations require no action by taxpayers and have no effect on their tax liabilities. Thus, no taxpayers are likely to be affected by the disclosures authorized by this guidance. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the Proposed Rules section in this issue of the **Federal Register**.

**DATES: Effective Date:** These temporary regulations are effective on December 9, 2016.

**Applicability Date:** For dates of applicability, see § 301.6103(j)(1)–1T(e).

**FOR FURTHER INFORMATION CONTACT:** William Rowe, (202) 317–6834 (not a toll-free number).

#### **SUPPLEMENTARY INFORMATION:**

#### **Background and Explanation of Provisions**

This document contains amendments to 26 CFR part 301. Section 6103(j)(1)(A) of the Internal Revenue Code authorizes the Secretary of the Treasury (Secretary) to furnish, upon written request by the Secretary of Commerce, such returns or return information as the Secretary may prescribe by regulation to officers and employees of the Bureau for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law. Section 301.6103(j)(1)–1 of the existing 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.

By letter dated August 2, 2016, the Secretary of Commerce requested amendments to § 301.6103(j)(1)–1 to allow disclosure of several additional items of return information to the Bureau for purposes of its economic statistics program, structuring the censuses, and related program evaluations. The Secretary of Commerce's letter lists the additional items of return information requested based on the Bureau's specific need for each item of information.

The Secretary of Commerce's letter requested additional expense items from business tax returns in order to improve the expense data that is collected by the Bureau. Specifically, the Secretary of Commerce requested disclosure of the following enumerated components of

total expenses or total deductions from business tax returns (Forms 1065, Forms in the 1120 series, and Form 1040, Schedule C, E or C/EZ): (1) Repairs (and maintenance) expense; (2) rents (or lease) expense; (3) taxes and licenses expense; (4) interest expense, including mortgage or other interest; (5) depreciation expense; (6) depletion expense; (7) advertising expense; (8) pension and profit-sharing plans (retirement plans) expense; (9) employee benefit programs expense; (10) utilities expense; (11) supplies expense; (12) contract labor expense; and (13) management (and investment advisory) fees. The Secretary of Commerce has also requested purchases from Form 1125–A and the following additional items from Form 1040, Schedule C: (1) Materials and supplies; and (2) purchases less cost of items withdrawn for personal use. The Secretary of Commerce determined that these additional items are needed to evaluate the quality of expense data collected from surveys and to improve the Bureau's imputation models as the Bureau faces a trend of rising non-response rates in its surveys.

The Secretary of Commerce's letter also requested additional items of return information from business tax returns for the purpose of directing a high proportion of research and development surveys towards businesses with known research activities. Specifically, the Secretary of Commerce requested the following additional items of return information from Forms 6765 (when filed with corporation income tax returns): (1) Cycle posted; and (2) the research tax credit amount to be carried over to a business return, schedule, or form. The Secretary of Commerce determined that the amount of research tax credit is needed to improve the coverage and reliability of surveys that collect research and development data, and determined that the cycle posted is needed in order to align the research tax credit with the appropriate survey year for sampling purposes.

The Secretary of Commerce's letter also requested additional items of return information for purposes of maintaining a centralized, continuous Business Register that comprehensively lists and characterizes United States business establishments and their domestic parent enterprises. The Business Register provides the central business list necessary to support the Bureau's economic census and survey activities. Specifically, the Secretary of Commerce requested the following additional items of return information from employment tax returns: (1) If a business has closed or stopped paying wages; (2) final date

a business paid wages; and (3) if a business is a seasonal employer and does not have to file a return for every quarter of the year. The Secretary of Commerce has determined that these items of return information are vital to reducing or eliminating costly mailings to businesses that have closed or are seasonal in nature. The Secretary of Commerce also requested the electronic system filing indicator from business tax returns and the cycle from the IRS's Business Master Files. The Secretary of Commerce determined that the electronic system filing indicator is needed to help establish the ideal survey mode for a particular entity (electronic or paper reporting forms).

The Secretary of Commerce's letter also requested additional items of return information for purposes of modeling firm survival for production of statistics on business dynamics. Specifically, the Secretary of Commerce has requested the following additional items of return information from business tax returns: (1) Dividends, including ordinary and qualified; and (2) type of REIT (from Form 1120–REIT). The Secretary of Commerce has determined that these items are needed to estimate models of firm survival and to estimate an owner's percentage of capital.

The Secretary of Commerce's letter also requested additional items of return information for purposes of the Survey of Business Owners. Specifically, the Secretary of Commerce has requested the following additional items of return information from Form 1065, Schedule K–1: (1) Publicly-traded partnership indicator; (2) partner's share of nonrecourse, qualified nonrecourse, and recourse liabilities; and (3) ordinary business income (loss). The Secretary of Commerce has also requested ordinary business income (loss) from Forms 1120S, Schedule K–1. The Secretary of Commerce has determined that the ordinary business income (loss) and partner's share of liabilities items are needed in order to ascertain which owner's demographic information to use for the entity and as a proxy for ownership share of the partner. The publicly-traded partnership indicator is needed to save the cost of mailing surveys to publicly-traded partnerships since it is unlikely that publicly-traded partnerships could accurately provide demographic information about their owners.

Finally, the Secretary of Commerce's letter also requested additional items of return information for purposes of developing and preparing the Quarterly Financial Report. Specifically, the Secretary of Commerce requested the following additional items of return

information from Forms 1120-REIT: (1) Type of Real Estate Investment Trust ("REIT"); and (2) gross rents from real property. The Secretary of Commerce also requested the corporation's method of accounting from Form 1120F and the total amount reported from Form 1096. The Secretary of Commerce determined that gross rents from real property is needed to design and select the annual Quarterly Financial Report sample, and that the type of REIT is needed for editing and imputation purposes in the event that there are characteristic differences between the types of REITs. The Secretary of Commerce determined that the corporation's method of accounting is needed to understand how businesses with different accounting methods might report differently in the Quarterly Financial Report surveys. The Secretary of Commerce has determined that the total amounts reported from Form 1096 are needed to measure labor inputs for productivity since it would provide information on labor costs not covered by administrative records or survey reports of payroll.

The Secretary of Commerce asserted that good cause exists to amend § 301.6103(j)(1)-1 of the regulations to add these additional items to the list of items of return information that may be disclosed to the Bureau. The Treasury Department and the IRS agree that amending existing regulations to permit disclosure of these items to the Bureau is appropriate to meet the needs of the Bureau. These temporary regulations amend the existing regulations to allow disclosure of the items requested by the Secretary of Commerce.

This temporary regulation also amends language in the existing regulations to clarify that the T.D. 9500, which was published in the **Federal Register** (75 FR 52458), authorized disclosure only of categorical information for total qualified research expenses from Forms 6765. In accordance with the preamble to T.D. 9500, the existing regulations do not authorize the disclosure of the exact amount of total research expenses as reported on Form 6765. By letter dated February 6, 2006, the Secretary of Commerce requested disclosure of categorical information on total qualified research expenses in three ranges: Greater than zero, but less than \$1 million; greater than or equal to \$1 million, but less than \$3 million; and, greater than or equal to \$3 million. These temporary regulations amend the existing regulations to more clearly reflect the categorical nature of the disclosure of total research expenses from Form 6765.

Lastly, this temporary regulation also removes duplicate paragraphs contained in the existing regulations. Under the existing regulations, each of the following items of return information from business-related returns was authorized for disclosure by two identical paragraphs: Social Security tip income; total Social Security taxable earnings; and gross distributions from employer-sponsored and individual retirement plans from Form 1099-R. Because there is no need for duplicate paragraphs that authorize disclosure of the same items of return information for the same purpose, the duplicate paragraphs are removed.

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**.

#### Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations do not impose a collection of information on small entities. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been 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 these temporary regulations is William Rowe, Office of the Associate Chief Counsel (Procedure & Administration).

#### List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

#### 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 continues to read in part as follows:

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

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

#### § 301.6103(j)(1)-1T Disclosures of return information reflected on returns to officers and employees of the Department of Commerce, for certain statistical purposes and related activities (Temporary).

(a) through (b)(2)(iii)(H) [Reserved].

For further guidance see § 301.6103(j)(1)-1(a) through (b)(2)(iii)(H).

(I) Total taxable wages paid for purposes of chapter 21; (J) [Reserved].

For further guidance see § 301.6103(j)(1)-1(b)(2)(iii)(J).

(K) If a business has closed or stopped paying wages;

(L) Final date a business paid wages; and

(M) If a business is a seasonal employer and does not have to file a return for every quarter of the year;

(b)(2)(iv) through (b)(3)(iv) [Reserved].

For further guidance see § 301.6103(j)(1)-1(b)(2)(iv) through (b)(3)(iv).

(v) Total expenses or deductions, including totals of the following components thereof:

(A) Repairs (and maintenance) expense;

(B) Rents (or lease) expense;

(C) Taxes and licenses expense;

(D) Interest expense, including mortgage or other interest;

(E) Depreciation expense;

(F) Depletion expense;

(G) Advertising expense;

(H) Pension and profit-sharing plans (retirement plans) expense;

(I) Employee benefit programs expense;

(J) Utilities expense;

(K) Supplies expense;

(L) Contract labor expense; and

(M) Management (and investment advisory) fees.

(b)(3)(vi) through (b)(3)(xxiv)

[Reserved]. For further guidance see

§ 301.6103(j)(1)-1(b)(3)(vi) through (b)(3)(xxiv).

(xxv) From Form 6765 (when filed with corporation income tax returns)—

(A) Indicator that total qualified research expenses is greater than zero, but less than \$1 million; greater than or equal to \$1 million, but less than \$3 million; or, greater than or equal to \$3 million;

(B) Cycle posted; and

(C) Research tax credit amount to be carried over to a business return, schedule, or form.

(xxvi) Total number of documents reported on Form 1096 transmitting Forms 1099-MISC.

(xxvii) Total amount reported on Form 1096 transmitting Forms 1099-MISC.

(xxviii) Type of REIT.  
 (xxix) From Form 1125-A—purchases.  
 (xxx) From Form 1040, Schedule C—  
 (A) Purchases less cost of items withdrawn for personal use; and  
 (B) Materials and supplies.  
 (xxxi) Electronic filing system indicator.  
 (xxxii) Posting cycle date relative to filing.  
 (xxxiii) Dividends, including ordinary or qualified.  
 (xxxiv) From Form 1120S, Schedule K-1—ordinary business income (loss).  
 (xxxv) From Form 1065, Schedule K-1—  
 (A) Publicly-traded partnership indicator;  
 (B) Partner's share of nonrecourse, qualified nonrecourse, and recourse liabilities; and  
 (C) Ordinary business income (loss).  
 (b)(4) through (b)(6)(i)(B) [Reserved].  
 For further guidance see § 301.6103(j)(1)–1(b)(4) through (b)(6)(i)(B).  
 (C) From Form 1120-REIT—  
 (1) Type of REIT; and  
 (2) Gross rents from real property;  
 (D) From Form 1120F—corporation's method of accounting.  
 (E) From Form 1096—total amount reported.  
 (b)(6)(ii) through (d)(3)(ii) [Reserved].  
 For further guidance see § 301.6103(j)(1)–1(b)(6)(ii) through (d)(3)(ii).  
 (e) *Applicability date.* This section applies to disclosures to the Bureau of the Census made on or after December 9, 2016.  
 (f) *Expiration date.* The applicability of this section expires on or before December 9, 2019.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: November 23, 2016.

**Mark J. Mazur,**

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

[FR Doc. 2016-29488 Filed 12-8-16; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG-2016-1023]

**Drawbridge Operation Regulation; Annisquam River and Blynman Canal, Gloucester, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Blynman (SR127) Bridge across the Annisquam River and Blynman Canal at mile 0.0 at Gloucester, MA. The deviation is necessary due to the construction of a new operator's house. This deviation allows the bridge to be opened with a two hour advanced notice during the hours of 8 p.m. through 4 a.m. from December 6, 2016 through April 30, 2017.

**DATES:** This deviation is effective without actual notice from December 9, 2016 through 4 a.m. on April 30, 2017. For the purposes of enforcement, actual notice will be used from December 6, 2016, until December 9, 2016.

**ADDRESSES:** The docket for this deviation, [USCG-2016-1023] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mr. Jeffrey Stieb, First Coast Guard District Bridge Branch, Coast Guard; telephone 617-223-8364, email [Jeffrey.D.Stieb@uscg.mil](mailto:Jeffrey.D.Stieb@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Blynman (SR 127) Bridge across the Annisquam River and Blynman Canal, mile 0.0, at Gloucester, Massachusetts, has a vertical clearance in the closed position of 8.2 feet at mean high water and 16 feet at mean low water. The existing bridge operating regulations are found at 33 CFR 117.586. The owner of the bridge, the Massachusetts Department of Transportation, requested a temporary deviation from the normal operating schedule to open on signal after at least a two-hour advance notice is provided between the hours of 8 p.m. to 4 a.m. for the period of December 6, 2016 through April 30, 2017.

The settling of the operator's house has rendered the structure unsafe for occupancy. As a result, a temporary control system in a temporary booth has been installed. Electricians from a private contractor are required to operate the temporary control system at an extraordinary high cost to the bridge owner. The deviation will have negligible effect on vessel navigation. The waterways are transited primarily by seasonal recreation vessels of various sizes. Bridge records indicate an average of less than three requests for openings per month occurred during the hours

covered by this deviation. The Coast Guard contacted local waterway users regarding the Commonwealth's request for a temporary deviation and received no objections.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will not be able to open immediately for emergencies. However, the northern entrance to the Annisquam River can be used as an alternate route for vessels unable to pass through the bridge in closed position. The Coast Guard will inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 6, 2016.

**C.J. Bisignano,**

*Supervisory Bridge Management Specialist, First Coast Guard District.*

[FR Doc. 2016-29554 Filed 12-8-16; 8:45 am]

**BILLING CODE 9110-04-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2016-0308; FRL-9956-26-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Removal of Stage II Gasoline Vapor Recovery Requirements for Gasoline Dispensing Facilities; Withdrawal of Direct Final Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to the receipt of adverse public comments, the Environmental Protection Agency (EPA) is withdrawing the direct final rule published on October 21, 2016, to approve revisions to the Virginia state implementation plan (SIP). The revision serves to remove requirements for installation and operation of vapor recovery equipment (also referred to as Stage II vapor recovery) from subject gasoline stations in areas of Virginia that were formally subject to a Stage II vapor recovery program under the Clean Air Act.