

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 53 continues to read in part as follows:

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

§ 53.4963–1 [Amended]

■ **Par. 2.** Section 53.4963–1 is amended by:

■ 1. In paragraph (a), removing the language “4958, 4971” and adding “4958, 4966, 4967, 4971” in its place.

■ 2. In paragraph (c), removing the language “4958, 4971” and adding “4958, 4966, 4967, 4971” in its place.

■ **Par. 3.** Section 53.6011–1(b) is amended by:

■ 1. Revising the first sentence.

■ 2. Removing from the third sentence the language “4958(a), or 4965(a),” and adding “4958(a), 4960(a), 4965(a), 4966(a), or 4967(a),” in its place.

The revision reads as follows:

§ 53.6011–1 General requirement of return, statement or list.

* * * * *

(b) Every person (including a governmental entity) liable for tax imposed by sections 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4955(a), 4958(a), 4959, 4960(a), 4965(a), 4966(a), 4967(a), or 4968(a), and every private foundation and every trust described in section 4947(a)(2) which has engaged in an act of self-dealing (as defined in section 4941(d)) (other than an act giving rise to no tax under section 4941(a)) shall file an annual return on Form 4720, “Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code,” and shall include therein the information required by such form and the instructions issued with respect thereto. * * *

* * * * *

§ 53.6071–1 [Amended]

■ **Par. 4.** Section 53.6071–1 is amended by:

■ 1. Redesignating paragraph (i) as paragraph (j).

■ 2. Adding new paragraphs (i) and (j)(3).

The additions read as follows:

§ 53.6071–1 Time for filing returns.

* * * * *

(i) *Taxes under section 4960, 4966, 4967, or 4968.* A person (including a governmental entity) required by § 53.6011–1(b) to file a return for a tax imposed by section 4960(a), 4966(a), 4967(a), or 4968(a) in a taxable year must file the Form 4720 on or before the 15th day of the fifth month after the end of the person’s taxable year (or, if the

person has not established a taxable year for Federal income tax purposes, the person’s annual accounting period).

(j) * * *

(3) Paragraph (i) of this section applies on and after April 9, 2019.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: March 25, 2019.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

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

[TD 9856]

RIN 1545–BN63

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: Final regulation and removal of temporary regulation.

SUMMARY: This document contains a final regulation that authorizes the disclosure of specified items of return information to the Bureau of the Census (Census Bureau). This regulation finalizes a proposed regulation cross-referencing a temporary regulation that was made pursuant to a request from the Secretary of Commerce. This final regulation requires no action by taxpayers and has no effect on their tax liabilities. No taxpayers are likely to be affected by the disclosures authorized by this guidance.

DATES:

Effective date: This regulation is effective on April 9, 2019.

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

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

SUPPLEMENTARY INFORMATION:**Background**

This document contains amendments to 26 CFR part 301 (Procedure and Administration Regulations). 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 Census 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 Census 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 Census Bureau’s specific need for each item of information. The Secretary of Commerce asserted that good cause exists to amend § 301.6103(j)(1)–1 to add these additional items to the list of items of return information that may be disclosed to the Census Bureau. The Department of the Treasury (Treasury Department) and the IRS agree that amending existing regulations to permit disclosure of these items to the Census Bureau is appropriate to meet the needs of the Census Bureau.

On December 9, 2016, a temporary regulation (TD 9802) was published in the **Federal Register** (81 FR 89004). The text of the temporary regulation also serves as the text of the proposed regulation set forth in a notice of proposed rulemaking (REG–133353–16) published in the **Federal Register** on the same day (81 FR 89022). The preamble to the temporary regulation describes the categories of information requested by the Secretary of Commerce. No public hearing was requested or held. No comments were received in response to the notice of proposed rulemaking.

Accordingly, the proposed regulation, the contents of which are described in the following Explanation of Provisions, is adopted by this Treasury decision without change, and the corresponding temporary regulation is removed, applicable to disclosures on or after December 9, 2016.

Explanation of Provisions

The proposed regulation authorized disclosure of additional expense items

from business tax returns in order to improve the expense data that is collected by the Census Bureau. Specifically, the proposed regulation authorized 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 proposed regulation also authorized disclosure of 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 proposed regulation also authorized disclosure of 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 proposed regulation authorized disclosure of 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 proposed regulation also authorized disclosure of 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. Specifically, the proposed regulation authorized disclosure of 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 proposed regulation also authorized disclosure of the electronic system filing indicator from business tax returns and the cycle from the IRS's Business Master Files.

The proposed regulation also authorized disclosure of additional items of return information for purposes

of modeling firm survival for production of statistics on business dynamics. Specifically, the proposed regulation authorized disclosure of 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 proposed regulation also authorized disclosure of additional items of return information for purposes of the Survey of Business Owners. Specifically, the proposed regulation authorized disclosure of 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 proposed regulation also authorized disclosure of ordinary business income (loss) from Forms 1120S, Schedule K-1.

Finally, the proposed regulation authorized disclosure of additional items of return information for purposes of developing and preparing the Quarterly Financial Report. Specifically, the proposed regulation authorized disclosure of 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 proposed regulation also authorized disclosure of the corporation's method of accounting from Form 1120F and the total amount reported from Form 1096.

The proposed regulation also amended language in the existing regulations to clarify that the TD 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 TD 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. The proposed regulation amended the existing regulations to more clearly reflect the categorical nature of the disclosure of total research expenses from Form 6765.

Lastly, the proposed regulation also removed 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 proposed regulation removed the duplicate paragraphs.

Special Analyses

These regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. 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, these regulations have 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 regulations is William Rowe, Office of the Associate Chief Counsel (Procedure & Administration). However, other personnel from the Treasury Department and the IRS 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.

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)–1 is amended by:
- 1. Revising paragraph (b)(2)(iii)(I) and adding paragraphs (b)(2)(iii)(K) through (M);
- 2. Revising paragraphs (b)(3)(v) and (b)(3)(xxv) through (xxx);
- 3. Adding paragraphs (b)(3)(xxxi) through (xxxv) and (b)(6)(i)(C) through (E); and
- 4. Revising paragraph (e).
- The revisions and additions read as follows:

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

* * * * *

- (b) * * *
(2) * * *
(iii) * * *

(I) Total taxable wages paid for purposes of chapter 21;

* * * * *

(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;

* * * * *

(3) * * *

(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.

* * * * *

(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).

* * * * *

(6) * * *

(i) * * *

(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.

* * * * *

(e) *Applicability date.* Paragraphs (b)(2)(iii)(I), (b)(2)(iii)(K) through (b)(2)(iii)(M), (b)(3)(v), (b)(3)(xxv) through (b)(3)(xxxv), and (b)(6)(i)(C) through (b)(6)(i)(E) of this section apply to disclosure to the Bureau of the Census made on or after December 9, 2016. For rules that apply to disclosure to the Bureau of the Census before December 9, 2016, see 26 CFR 301.6103(j)(1)–1 (revised as of April 1, 2016).

§ 301.6103(j)(1)–1T [Removed]

■ **Par. 3.** Section 301.6103(j)(1)–1T is removed.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: March 19, 2019.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

28 CFR Part 61

RIN 1110–AA32

Federal Bureau of Investigation's National Environmental Policy Act Regulations

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is promulgating regulations establishing the Federal Bureau of Investigation's (FBI's) National Environmental Policy Act (NEPA) procedures. These regulations establish a process for implementing NEPA, Executive Order 11514, Executive Order 12114, and Council on Environmental Quality (CEQ) and Department of Justice (DOJ) regulations for implementing the procedural provisions of NEPA.

DATES: *Effective date:* May 9, 2019.

FOR FURTHER INFORMATION CONTACT: Catherine Shaw, FBI Occupational Safety and Environmental Programs (OSEP) Unit Chief; 935 Pennsylvania Avenue NW, Room WB–460, Washington, DC 20535; (202) 436–7500.

SUPPLEMENTARY INFORMATION: On May 24, 2016, the FBI published a Notice of Proposed Rulemaking (NPRM) setting forth the NEPA procedures that are the subject of this final rule. See 81 FR 32688 (2016). The NPRM provided for a comment period ending July 25, 2016. No comments were received.

CEQ's NEPA implementing regulations contained in 40 CFR parts 1500–1508 require each Federal agency to adopt procedures (40 CFR 1507.3) to ensure that decisions are made in accordance with the policies and purposes of NEPA (40 CFR 1505.1). DOJ has established such policies and procedures at 28 CFR part 61. The FBI NEPA regulations supplement DOJ's procedures to ensure that environmental considerations are fully integrated into the FBI's mission and activities.

The FBI regulations are intended to promote reduction of paperwork by providing guidelines for development of streamlined and focused NEPA documents and to reduce delay by integrating the NEPA process in the early stages of planning. They are also intended to promote transparency by ensuring that NEPA documents are written in plain language and follow a clear format so that they are easily comprehensible by the public and all parties involved in implementation of the proposed action.