

CFR part or section where identified and described

Current OMB control No.

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1.1041-2 ..... 1545-1751

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David A. Mader,  
Assistant Deputy Commissioner of  
Internal Revenue.

tions, and for the same purposes, as if the recipient had received the information from the IRS directly.

as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Approved December 30, 2002.

DATES: This regulation is effective January 21, 2003.

**Background**

This document contains amendments to 26 CFR parts 301 and 602. On December 13, 2001, a notice of proposed rulemaking (REG-105344-01, 2002-2 I.R.B. 302 [66 FR 64386]) was published in the **Federal Register**. No comments were received from the public in response to the notice of proposed rulemaking. No public hearing was requested or held. The proposed regulations are adopted by this Treasury decision.

Pamela F. Olson,  
Assistant Secretary of the Treasury.

FOR FURTHER INFORMATION CONTACT: Julie C. Schwartz, 202-622-4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

**Paperwork Reduction Act**

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 4507(d)) under control number 1545-1757. The collection of information in this regulation is in §301.6103(p)(2)(B)-1. This information is required for the Commissioner to authorize the disclosure of returns and return information from agencies with access to returns and return information under section 6103 to other authorized recipients of returns and return information in accordance with section 6103.

**Explanation of Provisions**

The final regulation expands the number of agencies that may redisclose returns and return information if authorized by the Commissioner to any federal, state, or local agency that receives such information under section 6103. Similarly, it expands the universe of authorized recipients of returns and return information pursuant to this redisclosure authority to any recipient authorized to receive returns and return information in accordance with section 6103. All redisclosures by agencies pursuant to this regulation will be made subject to the same conditions, restrictions, safeguards, recordkeeping requirements, and civil and criminal penalties that would apply if the disclosure were made by the IRS. Federal, state and local agencies making disclosures of return information under the final regulation will continue to provide to the IRS certain information regarding disclosures made pursuant to this authority, in order for the IRS to fulfill its reporting requirements under section 6103(p).

(Filed by the Office of the Federal Register on January 10, 2003, 8:45 a.m., and published in the issue of the Federal Register for January 13, 2003, 68 F.R. 1534)

**Section 6103.—Confidentiality and Disclosure of Returns and Return Information**

26 CFR 301.6103(p)(2)(B)-1: Disclosure of returns and return information by other agencies.

**T.D. 9036**

**DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
26 CFR Parts 301 and 602**

**Disclosure of Returns and Return Information by Other Agencies**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains a final regulation relating to the disclosure of returns and return information by federal, state, and local agencies other than the IRS. The final regulation permits the IRS to authorize agencies with access to returns and return information under section 6103 of the Internal Revenue Code (Code) to redisclose returns and return information, with the approval of the Commissioner of Internal Revenue (Commissioner), to any authorized recipient set forth in section 6103, subject to the same conditions and restric-

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The estimated annual burden per respondent varies from one half-hour to two hours, depending on individual circumstances, with an estimated average of one hour.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224, and to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long

**Special Analyses**

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 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. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. The disclosure authorized by the rule is voluntary on the part of small governmental jurisdictions and, as discussed earlier in this preamble, the burden associated with requesting authorization from the Commissioner to disclose returns and return information, and to maintain the necessary records concerning the disclosure of return information, is minimal. Accordingly, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel of the Small Business Administration for comment on their impact on small businesses.

**Drafting Information**

The principal author of these regulations is Julie C. Schwartz, Office of the Associate Chief Counsel (Procedure and Administration), Disclosure and Privacy Law Division.

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**Amendments to the Regulations**

Accordingly, 26 CFR parts 301 and 602 are 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 as follows:

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

Section 301.6103(p)(2)(B)–1 also issued under 26 U.S.C. 6103(p)(2);\*\*\*

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

*§301.6103(p)(2)(B)–1 Disclosure of Returns and Return Information by Other Agencies.*

(a) *General rule.* Subject to the requirements of paragraphs (b), (c), and (d) of this section, returns or return information that have been obtained by a federal, state, or local agency, or its agents or contractors, in accordance with section 6103 (the first recipient) may be disclosed by the first recipient to another recipient authorized to receive such returns or return information under section 6103 (the second recipient).

(b) *Approval by Commissioner.* A disclosure described in paragraph (a) of this section may be made if the Commissioner of Internal Revenue (the Commissioner) determines, after receiving a written request under this section, that such returns or return information are more readily available from the first recipient than from the Internal Revenue Service (IRS). The disclosure authorization by the Commissioner shall be directed to the head of the first recipient and may contain such conditions or restrictions as the Commissioner may prescribe. The disclosure authorization may be revoked by the Commissioner at any time.

(c) *Requirements and restrictions.* The second recipient may receive only returns or return information as authorized by the provision of section 6103 applicable to such second recipient. Any returns or return information disclosed may be used by the second recipient only for a purpose authorized by and subject to any conditions imposed by section 6103 and the regulations thereunder, including, if applicable, safeguards imposed by section 6103(p)(4).

(d) *Records and reports of disclosure.* The first recipient shall maintain to the sat-

isfaction of the IRS a permanent system of standardized records regarding such disclosure authorization described in paragraph (a) of this section and any disclosure of returns and return information made pursuant to such authorization, and shall provide such information as prescribed by the Commissioner in order to enable the IRS to comply with its obligations under section 6103(p)(3) to keep accountings for disclosures and to make annual reports of disclosures to the Joint Committee on Taxation. The information required for reports to the Joint Committee on Taxation must be provided within 30 days after the close of each calendar year. The requirements of this paragraph do not apply to the disclosure of returns and return information as provided by paragraph (a) of this section which, had such disclosures been made directly by the IRS, would not have been subject to the recordkeeping requirements imposed by section 6103(p)(3)(A).

(e) *Effective date.* This section is applicable on January 21, 2003.

**§301.6103(p)(2)(B)–1T [Removed]**

Par. 3. Section 301.6103(p)(2)(B)–1T is removed.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

Paragraph 4. The authority citation for part 602 continues to read as follows:

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

Paragraph 5. In §602.101, paragraph (b) is amended by removing the entry “301.6103(p)(2)(B)–1T” from the table and adding the entry “301.6103(p)(2)(B)–1” in numerical order to read as follows:

*§602.101 OMB Control numbers.*

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(b)\*\*\*

CFR part or section where identified and described	Current OMB control No.
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301.6103(p)(2)(B)–1 .....	1545–1757
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David A. Mader,  
Assistant Deputy Commissioner of  
Internal Revenue.

Approved December 20, 2002.

Pamela F. Olson,  
Assistant Secretary of  
the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on January 17, 2003, 8:45 a.m., and published in the issue of the Federal Register for January 21, 2003, 68 FR. 2695)

*26 CFR 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.*

## T.D. 9037

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

#### Disclosure of Return Information to the Bureau of the Census

AGENCY: Internal Revenue Service (IRS),  
Treasury.

ACTION: Final regulations and removal of  
temporary regulations.

SUMMARY: This document contains regulations relating to the list of items of tax information disclosed to the Bureau of the Census. These regulations reflect an agreement between the IRS and the Bureau of the Census as to items of tax information needed to more effectively meet the Bureau of the Census' program objectives as authorized under chapter 5 of title 13, United States Code (U.S.C.), including the Longitudinal Employer-Household Dynamics (LEHD) project and the Survey of Income and Program Participation (SIPP) project.

DATES: *Effective Date:* These regulations are effective January 21, 2003.

FOR FURTHER INFORMATION CONTACT: Christine Irwin, (202) 622-4570 (not a toll-free number).

#### Background

This document contains amendments to 26 CFR part 301 under section 6103(j) of the Internal Revenue Code (Code). On February 13, 2001, the **Federal Register** published temporary regulations (T.D. 8943, 2001-15 I.R.B. 1054 [66 FR 9957]) regarding tax information disclosed to the Bureau of the Census for use in the LEHD and SIPP projects, and a notice of proposed rulemaking (REG-121109-00, 2001-15 I.R.B. 1064 [66 FR 9991]) cross-referencing the temporary regulations. A correction to the notice of proposed rulemaking by cross-reference to the temporary regulations was published on March 23, 2001 (66 FR 16161). Three comments on these temporary regulations were received and considered, but no public hearing was requested or held. After consideration of the comments, the Treasury decision adopts the regulations as proposed with certain changes and removes the corresponding temporary regulations.

The changes include corrections to punctuation and clarification of certain terms used in the regulations, *e.g.*, references to Form SS-4 as a "form" as opposed to a tax "return." Additional changes include adopting the generic term "location code" to refer to locations of IRS offices from which tax information is retrieved. Changes also include using the terms "area/district office" and "campus/service" center as examples of location codes. The tax information disclosed to the Bureau of the Census is retrieved from older files, as well as current files. The older information is retrieved from files which contain the terms "district offices" and "service centers" as the location codes, while the more recent information is retrieved from files that use the terms "area offices" and "campuses" (in addition to other location codes). Although the terms "district offices" and "service centers" are no longer used by the IRS, having been replaced by the terms "area offices" and "campuses" respectively, as a result of the IRS reorganization mandated by section 1001 of the IRS Restructuring and Reform Act of 1998, the regulations' reference to "location code" will encompass all of these terms to ensure that tax information may be retrieved from both older and more current files.

Also, the final regulations narrow the tax information to be disclosed to the Bureau of the Census under §301.6103(j)(1)-

1(b)(3)(xxviii) pertaining to "Gross Distributions from Form 1099-R." Although the temporary regulations authorized the disclosure of all gross distributions from Form 1099-R under §301.6103(j)(1)-1T(b)(3)(xxviii), the Bureau of the Census needs only tax information related to distributions from employer-sponsored and individual retirement plans, according to a letter sent to the IRS from the Secretary of Commerce dated October 4, 2002. Therefore, the final regulations authorize the disclosure only of distributions from employer-sponsored and individual retirement plans from the Forms 1099-R under §301.6103(j)(1)-1(b)(3)(xxviii).

The final regulations also clarify the phrase "return information reflected on returns" — language that was incorporated into §301.6103(j)(1)-1 when the regulations were first promulgated in 1980 (see T.D. 7724, 1980-2 C.B. 360 [45 FR 65561]). The phrase "return information reflected on returns" is used in the regulations to describe the type of return information that may be disclosed to agencies under sections 6103(j)(1)(A) and (B) of the Code. (The phrase "return information reflected on returns" encompasses the phrases used in the statute under section 6103(j)(1)(A) and (B) of the Code that refer to "return information reflected thereon" and "return information reflected on returns of corporations.") The legislative history of section 6103(j)(1)(A) of the Code, authorizing the disclosure of "returns" and "return information reflected thereon" to officers and employees of the Bureau of the Census, does not specifically define the phrase "return information reflected thereon." Nor does the legislative history of section 6103(j)(1)(B) of the Code, authorizing the disclosure of "return information reflected on returns of corporations" to officers and employees of the Bureau of Economic Analysis, define the phrase "return information reflected on returns of corporations." These final regulations clarify the concept of "return information reflected on returns." Although the legislative history does not explicitly define the concept of "return information reflected on returns," it does use the term "information from tax returns" and expresses Congress' intent that only "limited information" for statistical purposes should be provided to the Bureau of the Census and the Bureau of Economic Analysis. The legisla-