

with the Tax Division. The amendments also reflect a change to the law made by the Omnibus Budget Reconciliation Act of 1990 regarding the type of services about which disclosures may be made.

EFFECTIVE DATE: These regulations are effective on December 17, 1996.

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

SUPPLEMENTARY INFORMATION:

Background

On December 15, 1995, a notice of proposed rulemaking (DL-40-95 [1996-1 C.B. 731]) relating to the disclosure of returns and return information in connection with the procurement of property and services for tax administration purposes was published in the Federal Register (60 FR 64402). No public hearing was requested or held nor were any comments submitted by the public in response to this notice.

The regulations proposed by DL-40-95 are adopted by this Treasury decision without revision and are discussed below.

Explanation of provisions

As previously written, 26 CFR 301.6103(n)-1 authorized the Tax Division of the Department of Justice, among other entities and individuals, to disclose returns and return information pursuant to section 6103(n) of the Internal Revenue Code. This authority allowed the Tax Division to disclose tax information incident to its contracts to private parties for, among other purposes, automated litigation support services.

The Department of Justice indicated its intention to establish an expanded automated tracking system for all monetary judgments in favor of the United States, which will be operated by a private company under contract with the Department. Although the majority of tax cases are handled by the Tax Division, there are several United States Attorneys' offices that also have litigation responsibility in the civil tax area. In addition, the Tax Division refers some judgments in tax cases to the United States Attorneys for collection. The previously existing regulations arguably would not have permitted these offices, which are technically not part of the Tax Division, to disclose tax infor-

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

26 CFR 301.6103(n)-1: Disclosure of returns and return information in connection with procurement of property and services for tax administration purposes.

T.D. 8695

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

Disclosure of Returns and Return Information to Procure Property or Services for Tax Administration Purposes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the disclosure of returns and return information in connection with the procurement of property and services for tax administration purposes. The regulations authorize the Department of Justice, including offices of United States Attorneys, to make such disclosures. Prior to these amendments, disclosure authority within the Department of Justice rested only

mation incident to their inclusion of tax judgments in the automated tracking system.

The amendments adopted by this Treasury decision authorize the Department of Justice, including offices of United States Attorneys, to make disclosures to procure property and services for tax administration purposes. Any such disclosures will be made under the same conditions and restrictions already set forth in the previously existing regulations. By definition, any office within the Department of Justice without tax administration duties will not have occasion or authority pursuant to these regulations to make such disclosures.

The amendments also authorize disclosures in connection with "the providing of other services," i.e., services not related to the strict mechanical processing or manipulation of tax returns or return information. This conforms the regulations to the language of the statute, as amended by the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, 104 Stat. 1388-353).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 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, and because the notice of proposed rulemaking preceding the regulations was issued prior to March 29, 1996, the Regulatory

Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Donald Squires, Office of the Assistant Chief Counsel (Disclosure Litigation), IRS. However, other personnel from the IRS, Department of Justice and Treasury Department participated in their development.

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Adopted 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 * * *

Paragraph 2. Section 301.6103(n)-1 is amended as follows:

1. The first sentence of paragraph (a) introductory text is amended by removing the language "Tax Division,".

2. Paragraph (a)(2) is amended by removing the language "or to".

3. Paragraph (a)(2) is further amended by adding the language "or the providing of other services," immediately following the text "other property,".

4. The concluding text of paragraph (a) is amended by removing the language "Tax Division,".

5. The second sentence of paragraph (d) introductory text is amended by removing the language "Tax Division,".

6. Paragraph (d)(2) is amended by removing the language "Tax Division,".

7. Paragraph (e)(1) is amended by removing the language ", and" at the end of the paragraph and adding a semicolon in its place.

8. Paragraph (e)(2) is amended by removing the period at the end of the paragraph and adding "; and" in its place.

9. Paragraph (e)(3) is added.

10. The authority citation immediately following § 301.6103(n)-1 is removed.

The addition reads as follows:

§ 301.6103(n)-1 Disclosure of returns and return information in connection with procurement of property and services for tax administration purposes.
* * * * *

(e) * * *

(3) The term *Department of Justice* includes offices of the United States Attorneys.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved June 26, 1996.

Donald C. Lubick,
Acting Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on December 16, 1996, and published in the issue of the Federal Register for December 17, 1996, 61 F.R. 66217)