

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

[TD 10013]

RIN 1545-BQ74

Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce, Including the Bureau of the Census, for Certain Statistical Purposes and Related Activities**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Final regulations.

SUMMARY: This document contains final regulations that amend existing regulations relating to the disclosure of specified return information to the Bureau of the Census (Bureau). The final regulations ensure the efficient and appropriate transfer of return information to the Bureau and permit the disclosure of additional return information pursuant to a request from the Secretary of Commerce. These regulations require no action by taxpayers and have no effect on their tax liabilities.

DATES:

Effective date: These final regulations are effective on November 26, 2024.

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

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**Authority**

This document amends the Procedure and Administration Regulations, 26 CFR part 301, relating to section 6103(j)(1)(A) of the Internal Revenue Code (Code), by adding final regulations under section 6103 (final regulations). Section 6103(j)(1) provides an express delegation of authority to the Secretary of the Treasury or her delegate (Secretary), stating that, “[u]pon request in writing by the Secretary of Commerce, the Secretary shall furnish . . . such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census” and “such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis” “as the Secretary may prescribe by regulation 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 6103(q) further authorizes the Secretary to “prescribe such other regulations as are necessary to carry out the provisions of” section 6103. The final regulations are also issued under the express delegation of authority under section 7805(a) of the Code.

Background

There is a long history of providing return information to the Bureau under section 6103(j)(1)(A), and the regulations promulgated under this section have been amended periodically to increase the amount of return information provided to facilitate the statistical activities of the Bureau. See e.g., TD 9037, 68 FR 2693, January 21, 2003; TD 9188, 70 FR 12141, March 11, 2005; TD 9267, 71 FR 38263, July 6, 2006; TD 9372, 72 FR 73262, December 27, 2007; TD 9439, 73 FR 79361, December 29, 2008; TD 9500, 75 FR 52459, August 26, 2010; TD 9631, 78 FR 52857, August 27, 2013; TD 9754, 81 FR 9767, February 26, 2016; TD 9856, 84 FR 14011, April 9, 2019.

The existing regulations under section 6103(j)(1)(A) are set forth in 26 CFR 301.6103(j)(1)–1. They authorize the Bureau to receive return information that supports many different Bureau projects and programs, including the Economic Census, the Longitudinal Employer-Household Dynamics program, and the Small Area Income and Poverty Estimates program, among others.

Pursuant to section 6103(p)(4), the IRS sets stringent privacy and security requirements for agencies receiving return information, including the Bureau. These requirements are currently detailed in IRS Publication 1075, *Tax Information Security Guidelines For Federal, State and Local Agencies*. See also § 301.6103(p)(4)–1.

By letter dated February 29, 2024, the Secretary of Commerce requested the Secretary amend existing § 301.6103(j)(1)–1 to provide for the disclosure of additional items of return information to the Bureau to enable the Bureau to perform mission critical statistical functions. The Secretary of Commerce further stated that the additional items would allow the Bureau to conduct its economic, demographic, decennial, and research statistics programs, censuses, and related program evaluations. The amendments to the existing regulations would permit the Bureau to publish statistical information, enhance the use of administrative records, improve the quality of program estimates, and

support the reduction of burden. 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.

On March 29, 2024, a notice of proposed rulemaking (REG–123376–22) was published in the **Federal Register** (89 FR 22101) (proposed regulations). The proposed regulations proposed amending the regulations that authorize disclosure of specified return information to the Bureau. The proposed regulations would allow the disclosure of additional items of return information requested by the Secretary of Commerce to enable the Bureau to perform mission critical statistical functions. The proposed regulations would also permit the disclosure of return information if an item of return information currently listed in the regulations is subsequently reported in a substantially similar format or on a substantially similar document.

The proposed regulations would formalize existing practice to include (1) the requirement that all projects that use return information disclosed under these regulations be approved by the IRS Director of Statistics of Income, and (2) language related to the IRS’s and the Bureau’s disclosure review obligations.

Summary of Comments and Explanation of Revisions

The Department of the Treasury (Treasury Department) and the IRS received eighteen comments in response to the proposed regulations. The comments are available for public inspection at <https://www.regulations.gov> or upon request. There was no request for a public hearing, and none was held. After full consideration of the comments received, which are described in this Summary of Comments and Explanation of Revisions, these final regulations adopt the proposed regulations with minor changes.

A. Comments Supporting the Proposed Regulations

Nine of the comments received did not seek to modify the items of return information permitted to be disclosed to the Bureau pursuant to the proposed regulations. Of these comments, six were supportive of the proposed regulations. One comment noted the importance of administrative tax data in measuring and understanding income and wealth in the United States. Another comment noted that the proposed regulations would improve the Bureau’s ability to accurately estimate household income and otherwise evaluate and improve the

Bureau's statistical products. This same comment also encouraged the IRS and the Bureau, along with the Office of Management and Budget and other statistical agencies, to explore additional pathways for increasing the statistical agencies' access to Federal tax data, as well as a greater sharing of administrative data across statistical agencies, noting that increased use of administrative data has significant promise for improving statistics on U.S. households and businesses. Finally, this comment noted its support for further consideration of possible means of expanding access to tax data for appropriate purposes in a reliably secure and confidential way.

Another comment supported the proposed regulations and stated that the data that could be disclosed as outlined in the proposed regulations was crucial for the IRS's efforts to advance equity. As one example, this comment noted that, if finalized, the proposed regulations would provide an important opportunity for government and independent researchers to understand demographic trends regarding the Child Tax Credit (CTC) and other refundable credits, as well as to identify and track potential disparities in tax administration. Another comment noted that the proposed changes to the existing regulations would enable the Bureau to produce data that provides more detail about the economic conditions of various populations across the United States, including populations that have been historically underserved, marginalized, and adversely affected by health inequity.

These comments reflect support for the proposed regulations' items of return information permitted to be disclosed to the Bureau. The Treasury Department and IRS agree that disclosure of this information will further the needs of the Bureau by authorizing the Bureau to receive return information that supports many different Bureau projects and programs, including the Economic Census, the Longitudinal Employer-Household Dynamics program, and the Small Area Income and Poverty Estimates program, among others.

B. Comments Proposing That Additional Items of Return Information Be Disclosed to the Bureau

Two comments suggested that additional information on the variety of energy credits under the Inflation Reduction Act of 2022 (IRA) be furnished to the Bureau. The IRA, Public Law 117-169, 136 Stat. 1818 (August 16, 2022), featured a significant number of new tax provisions related to

clean energy. Section 6103(j)(1)(A) provides that the Secretary "shall furnish" returns or return information requested by the Secretary of Commerce "for the purpose of, but only to the extent necessary in, the structuring of the censuses and national economic accounts and conducting related statistical activities authorized by law." In her request to the Secretary, the Secretary of Commerce did not request the furnishing of the return information recommended by the comments. Because the Secretary of Commerce did not request that information, the final regulations do not adopt these comments.

Similarly, two other comments recommended that additional data regarding partnership returns be furnished to the Bureau—specifically, the zip code of partners included on Form 1065, *U.S. Return of Partnership Income*, Schedule K-1. The Secretary of Commerce in her request to the Secretary did not request the return information recommended by the comments. Accordingly, the final regulations do not adopt these comments.

One comment suggested that it is important for the Bureau to have access to the series of Forms 1099 for both filers and non-filers because such information is important for measuring and understanding income and its distribution, and that the accuracy of income estimates would improve. The comment in particular identified Forms 1099-INT, *Interest Income*, and 1099-DIV, *Dividends and Distributions*, along with certain data from Form 1098-T, *Tuition Statement* (identifiers of the college attended, and tuition amount). The Secretary of Commerce in her request to the Secretary did not request the disclosure of the Form 1099 series in general or the Forms 1099-INT or 1099-DIV specifically. The proposed regulations would permit the disclosure of payments received for qualified tuition and related expenses as well as the identity of the eligible educational institution filing Form 1098-T. Accordingly, no change to the final regulations is necessary to adopt these comments.

Two other comments requested that payer and payee taxpayer identification numbers (TINs) from information returns be disclosed to the Bureau. Payer and payee TINs may already be disclosed to the Bureau under the existing regulations. See §§ 301.6103(j)(1)-1(b)(1) (relating to individual taxpayers); 301.6103(j)(1)-1(b)(2)(i) (relating to taxpayers engaged in a trade or business); 301.6103(j)(1)-1(b)(3) (relating to business-related

return information); and 301.6103(j)(1)-1(b)(4) (relating to tax-exempt organizations). The proposed regulations similarly provide for the ability to disclose payer and payee TINs. See proposed §§ 301.6103(j)(1)-1(b)(1)(i)(A) (relating to individual taxpayers); 301.6103(j)(1)-1(b)(1)(ii) (relating to returns filed on behalf of a trade or business); 301.6103(j)(1)-1(b)(1)(iii) (relating to tax-exempt organizations). Accordingly, no change to the final regulations is necessary to adopt these comments.

A comment supported the language in the proposed regulations that would provide the Bureau with information on health coverage (such as marketplace coverage parameters, and employer coverage on Forms 1095-A, *Health Insurance Marketplace Statement*, 1095-B, *Health Coverage*, and 1095-C, *Employer-Provided Health Insurance Offer and Coverage*) noting that the information reported on these forms provides a comprehensive record of health coverage nationwide and fills important gaps in data. The comment also noted that information regarding health savings accounts (HSAs) from Form 5498-SA, *HSA, Archer MSA, or Medicare Advantage MSA Information*, would also be valuable to policymakers, as the policy considerations with respect to HSAs are a frequent and important focus of ongoing research. The Treasury Department and the IRS note that certain data from Form 5498-SA are already included in the information that would be permitted to be disclosed to the Bureau under the proposed regulations. The final regulations in this regard adopt the proposed regulations without modification.

This same comment requested that the Bureau release (a) enhanced Annual Social and Economic Supplement (ASEC) of the Current Population Survey (CPS) data with new IRS data matched to it, and (b) detailed cross tabulations of newly released tax data by income, geographic area, filing type, and other available tax return statistics. In addition, this comment also encouraged the IRS to continue to carefully evaluate technical and policy solutions for safely sharing the various blended data and implement data governance principles such as accessibility and transparency, through the blending of IRS and Bureau data.

This same comment suggested that various data elements should be disclosed to the Bureau to allow the Bureau to have a more accurate understanding of the impact of current tax benefits and the potential impact of modifications to these provisions. The

suggested data elements included: tax-filing status, income from various sources, the number of earned income tax credit (EITC) eligible qualifying children, the amount of tax credits like EITC and the CTC that families receive, and tax liabilities. Each of these data elements may be disclosed either directly or indirectly under the existing regulations and also under the proposed regulations. See proposed §§ 301.6103(j)(1)–1(b)(1)(i) (reflecting returns and return information related to individual taxpayers); 301.6103(j)(1)–1(b)(1)(i)(B) (regarding tax-filing status); 301.6103(j)(1)–1(b)(1)(i)(O) (regarding earned income as defined under section 32(c)(2)); 301.6103(j)(1)–1(b)(1)(i)(GG) (regarding the EITC); 301.6103(j)(1)–1(b)(1)(i)(P) (regarding EITC-eligible qualifying children); 301.6103(j)(1)–1(b)(1)(i)(PP) (regarding the CTC). The overall tax liability of an individual taxpayer, which the Treasury Department and IRS interpret to mean the total amount of tax due or paid by an individual taxpayer, may be ascertained through the items of income, gain, deduction, and credit, that may similarly be disclosed under the proposed and final regulations. Accordingly, the final regulations adopt the proposed regulations in this respect without modification.

C. Comments Expressing Concerns Regarding Data Security

One comment suggested that in its finalized form, the proposed regulations should state affirmatively that, in addition to IRS data privacy protections, data are and will remain confidential under 13 U.S.C. 9, whether in their original form or when comingled or linked.

The final regulations do not adopt this recommendation. The provision cited in the comment, 13 U.S.C. 9, governs the protection and use of confidential data by the Department of Commerce. Section 214 of title 13, United States Code governs criminal penalties against employees or staff members of the Bureau for prohibited disclosure of such confidential data. The disclosures that would be permitted by the proposed regulations concern disclosures made by the IRS under section 6103(j) of Title 26, United States Code (Title 26). The proposed regulations, as well as these final regulations, do not govern data privacy or confidentiality requirements outside of Title 26. The Secretary of Commerce affirmed the application of 13 U.S.C. 9 and 214 in her February 29, 2024, request to the Secretary.

Two other comments expressed concerns that the data sharing contemplated by the proposed

regulations would weaken the confidentiality of personal tax data held by the IRS, encourage the inappropriate release of personal tax information, and increase the vulnerability of individual tax return information to data breaches, intrusion, data theft, and abuse.

The Treasury Department and the IRS take taxpayer confidentiality seriously. Section 6103(a) prohibits the unauthorized disclosure of tax returns and return information by officers or employees of the United States, which includes officers or employees of the Treasury Department, the IRS, the Department of Commerce, and the Bureau. Unauthorized disclosure of returns and return information, if willful, is a felony. See section 7213 of the Code. Unauthorized disclosure may also be punishable through civil damages. See section 7431 of the Code. Pursuant to section 6103(p)(4), the IRS sets stringent privacy and security requirements for agencies receiving return information, including the Bureau. See § 301.6103(p)(4)–1. Proposed § 301.6103(j)(1)–1(d) did not propose to modify the requirements set forth in section 6103(p)(4) and, instead, noted their applicability, stating that if the IRS determines that the Bureau fails to satisfy those requirements, the IRS may take action to ensure that the requirements are satisfied, “including suspension of disclosures of return information” until the IRS determines that the requirements of section 6103(p)(4) have been, or will be, satisfied.

No comments were received regarding proposed § 301.6103(j)(1)–1(d), and accordingly, the final regulations adopt the proposed regulation in this respect without modification. The regulation ensures that disclosures of returns and return information are made consistent with the requirements set forth in the Code and regulations, and that the IRS may suspend any disclosures to the Bureau should either entity fail to satisfy the requirements under section 6103(p)(4).

D. Comments Expressing Concerns About the Impacts of the Use of Data for Certain Classes of Taxpayers

One comment requesting that the proposed regulations be withdrawn expressed concerns that sharing additional tax data with the Bureau would result in unintended adverse consequences for immigrant communities. Specifically, the comment noted that additional data sharing could result in a “chilling effect” for immigrant taxpayers, suggesting that individuals may not file tax returns because they are concerned that their

tax return data will be shared with immigration enforcement agencies. The comment also expressed a concern that the proposed regulations could result in the creation of a list of taxpayers who file returns using Individual Taxpayer Identification Numbers that could be used to target individuals presumed to be undocumented for immigration enforcement purposes. The comment noted that the IRS should continue to assure taxpayers that their data is secure and that they can safely file their taxes without being concerned that their information will be used for reasons beyond tax administration.

As discussed previously in this Summary of Comments and Explanation of Revisions, return information that a taxpayer provides to the IRS may not be disclosed unless otherwise permitted by Title 26, and unauthorized disclosures of returns or return information may be subject to criminal and civil penalties. There is no provision in the United States Code that authorizes the disclosure or redisclosure of returns or return information for enforcement of immigration laws. Comments regarding other possible lawful disclosures of taxpayer information are outside the scope of these regulations because the proposed regulations relate to the disclosure of specified return information to the Bureau, as permitted by law, and not to any other agency, such as U.S. Immigration and Customs Enforcement or the U.S. Department of Homeland Security.

Another comment requested that the proposed regulations be withdrawn because sharing such personal and entity tax data encourages a racial and/or gender diversity impact analysis of tax policy decisions. The comment further stated that such a racial or gender diversity impact analysis is inappropriate where no discriminatory intent has been demonstrated and where tax provisions have been introduced by Congress based on independent considerations of tax policy without any design or purpose to create disproportionate racial or gender impact. The Treasury Department and the IRS do not adopt this comment. As previously described in this preamble, section 6103(j) states that the Secretary “shall furnish” returns and return information, upon the request of the Secretary of Commerce, to 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.” These regulations provide for disclosure to the Bureau that is fully consistent with that statutory mandate.

E. Modification To Clarify “Taxpayer Identity Information”

No comments were received regarding the definition of *taxpayer identity information*. Proposed § 301.6103(j)(1)–1(b)(1)(i)(A) is the first instance of where that term is used and includes the parenthetical “(as defined under section 6103(b)(6) of the Code).” Other references to taxpayer identity information in the proposed regulations lack that parenthetical descriptor. To provide consistency, the final regulations modify the proposed regulations to include that descriptor. See §§ 301.6103(j)(1)–1(b)(1)(ii)(A) (regarding taxpayer identity information of taxpayers engaged in a trade or business); 301.6103(j)(1)–1(b)(1)(ii)(P) (regarding taxpayer identity information of a parent corporation, shareholder, partner, and employer identity information); 301.6103(j)(1)–1(b)(1)(iii)(A) (regarding taxpayer identity information of a tax-exempt organization); 301.6103(j)(1)–1(b)(3)(i)(A)(1) (regarding taxpayer identity information reflected on returns of corporations); 301.6103(j)(1)–1(b)(3)(i)(B)(2) (regarding taxpayer identity information from Form SS–4, *Application for Employer Identification Number*).

Special Analyses

I. Regulatory Planning and Review

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

II. Regulatory Flexibility Act

Because these regulations would not impose any requirements on small entities, 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 was submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business. The Chief Counsel for the Office of Advocacy of the Small Business Administration did not provide any written comments.

III. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that

includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. In 2024, that threshold was \$200 million. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

IV. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Drafting Information

The principal author of these regulations is Elizabeth Erickson of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS also 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.

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 revising the entry for § 301.6103(j)(1)–1 and removing the entry for § 301.6103(j)(1)–1T to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 301.6103(j)(1)–1 also issued under 26 U.S.C. 6103(j)(1) and 6103(q).

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■ **Par 2.** Section 301.6103(j)(1)–1 is amended by adding a sentence to the end of paragraph (a) and revising paragraphs (b), (d), and (e) to 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.

(a) * * * To the extent a particular form, schedule, or other document filed with the Internal Revenue Service is referenced in this section, such information shall continue to be disclosable pursuant to this section even if subsequently reported in a substantially similar format or on a substantially similar document filed with the Internal Revenue Service.

(b) *Disclosure of return information reflected on returns to officers and employees of the Bureau of the Census.* (1) Officers or employees of the Internal Revenue Service will disclose the following return information reflected on returns to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

(i) With respect to returns filed by individual taxpayers:

(A) Taxpayer identity information (as defined in section 6103(b)(6) of the Internal Revenue Code (Code)), validity code with respect to the taxpayer identifying number (as described in section 6109 of the Code), and taxpayer identity information of spouse and dependents, if reported.

(B) Filing status.

(C) Number and classification of reported exemptions.

(D) Wage and salary income.

(E) Dividend income.

(F) Interest income.

(G) Gross rent and royalty income.

(H) Total of—

(1) Wages, salaries, tips, etc.;

(2) Interest income;

(3) Dividend income;

(4) Alimony received;

(5) Business income;

(6) Pensions and annuities;

(7) Income from rents, royalties, partnerships, estates, trusts, etc.;

(8) Farm income;

(9) Unemployment compensation; and

(10) Total Social Security benefits.

(I) Adjusted gross income.

(J) Type of tax return filed.

(K) Entity code.

(L) Code indicators for Form 1040, Form 1040 (Schedules A, C, D, E, F, and SE), and Form 8814.

(M) Posting cycle date relative to filing.

(N) Social Security benefits.

(O) Earned income (as defined in section 32(c)(2) of the Code).

(P) Number of Earned income credit-eligible qualifying children.

(Q) Electronic filing system indicator.

(R) Return processing indicator.

(S) Paid preparer code.

(T) Dependent Social Security numbers.

(U) Total income.

(V) Ordinary dividends.

(W) Taxable refunds, credits, or offsets of State and local income taxes.

(X) Business income or (loss).

(Y) Capital gain or (loss).

(Z) Other gains or (losses).

(AA) Individual Retirement Arrangement (IRA) distributions.

(BB) Taxable amount of IRA distributions.

(CC) Pensions and annuities.

(DD) Taxable amount of pensions and annuities.

(EE) Rental real estate, royalties, partnerships, S corporations, trusts, etc.

(FF) Farm income or (loss).

(GG) Earned income credit.

(HH) Taxable amount of Social Security benefits.

(II) Other income.

(JJ) Itemized deductions.

(KK) Taxable income.

(LL) Tax.

(MM) Credit for child and dependent care expenses.

(NN) Education credits.

(OO) Retirement savings contributions credit.

(PP) Child tax credit.

(QQ) Nontaxable combat pay election.

(RR) Additional Child Tax Credit.

(SS) American Opportunity Tax Credit.

(TT) Medical and dental expenses.

(UU) State and local income taxes.

(VV) State and local general sales taxes.

(WW) State and local personal property taxes.

(XX) State and local real estate taxes.

(YY) Other taxes (amount).

(ZZ) Home mortgage interest and points.

(AAA) Mortgage interest not on a Form 1098.

(BBB) Points not on a Form 1098.

(CCC) Investment interest.

(DDD) Total gifts to charity, including carryover from prior year.

(EEE) Casualty and theft losses.

(FFF) Total itemized deductions.

(GGG) Ordinary dividends.

(HHH) Qualified dividends.

(III) Tax-exempt interest.

(JJJ) Unemployment compensation.

(KKK) From Form 1098—

(1) Borrower taxpayer identification number;

(2) Mortgage interest;

(3) Outstanding mortgage principal;

(4) Refund of overpaid interest;

(5) Mortgage insurance premiums;

(6) Points paid on purchase of principal residence;

(7) Payee/payer/employee taxpayer identification number;

(8) Payee/payer/employee name (first, middle, last, suffix);

(9) Street address;

(10) City;

(11) State;

(12) Zip code (9 digit);

(13) Posting cycle week;

(14) Posting cycle year; and

(15) Document code.

(LLL) From Form 1098-E—Student loan interest.

(MMM) From Form 1098-T—

(1) Payments received for qualified tuition and related expenses;

(2) Scholarships or grants;

(3) Check box indicating that the amount in box 1 or 2 includes amounts for an academic period beginning in the following year;

(4) Check box indicating that student is at least a half-time student; and

(5) Check box indicating that student is a graduate student.

(NNN) From Form 5498—

(1) IRA contributions (other than amounts in certain boxes);

(2) Rollover contributions;

(3) Roth IRA conversion amount;

(4) Fair market value of account;

(5) Checkboxes: IRA, Simplified Employee Pension (SEP), Savings Incentive Match Plan for Employees of Small Employers (SIMPLE), Roth IRA;

(6) SEP contributions; and

(7) SIMPLE contributions.

(OOO) From Form SSA-1099/RRB-1099—

(1) Net benefits;

(2) Address; and

(3) Trust fund description.

(PPP) From Form 1099-G—Unemployment compensation.

(QQQ) From Form 1099-K—

(1) Filer name;

(2) Filer address;

(3) Filer taxpayer identification number;

(4) Payee taxpayer identification number;

(5) Payee name;

(6) Payee address;

(7) Gross payments;

(8) Card not present transactions;

(9) Merchant category code;

(10) Number of payment transactions; and

(11) Payments by month.
(RRR) From Form 1099-MISC—Nonemployee compensation.

(SSS) From Form 1099-NEC—Nonemployee compensation.

(TTT) From Form 1099-Q—

(1) Gross distribution; and

(2) Plan type checkboxes.

(UUU) From Form 1099-R/RRB-1099-R—

(1) Gross distribution;

(2) Distribution code(s); and

(3) Plan type checkboxes.

(VVV) From Form W-2—

(1) Employee's Social Security number;

(2) Employer identification number;

(3) Employer's name, address, and Zip code;

(4) Employee's name and address;

(5) Social Security tips;

(6) Medicare wages and tips;

(7) Box 12 codes and values; and

(8) Statutory employee, retirement plan, and third-party sick pay checkboxes.

(WWW) From Form 1040, Schedule D—

(1) Net short-term capital gain/loss; and

(2) Net long-term capital gain/loss.

(XXX) From Form 1040, Schedule E—

(1) Total rental real estate and royalty income or (loss); and

(2) Total estate and trust income or (loss).

(YYY) From Form 1040, Schedule F—

(1) Gross income;

(2) Total expenses;

(3) Net farm profit (or loss); and

(4) Gross income (accrual).

(ii) With respect to taxpayers filing a return on behalf of a trade or business—

(A) The taxpayer name directory and entity records consisting of taxpayer identity information (as defined in section 6103(b)(6) of the Code) with respect to taxpayers engaged in a trade or business.

(B) The principal industrial activity code.

(C) The filing requirement code.

(D) The employment code.

(E) The physical location.

(F) Monthly corrections of, and additions to, the information described in paragraphs (b)(1)(ii)(A) through (E) of this section.

(G) From Form SS-4, all information reflected on such form.

(H) From an employment tax return—

(1) Taxpayer identifying number of the employer;

(2) Total compensation reported;

(3) Master file tax account code (MFT);

(4) Taxable period covered by such return;

(5) Employer code;

- (6) Document locator number;
- (7) Record code;
- (8) Total number of individuals employed in the taxable period covered by the return;
- (9) Total taxable wages paid for purposes of chapter 21 of the Code;
- (10) Total taxable tip income reported for purposes of chapter 21 of the Code;
- (11) If a business has closed or stopped paying wages;
- (12) Final date a business paid wages; and
- (13) If a business is a seasonal employer and does not have to file a return for every quarter of the year.
- (I) From Form 1040, Schedule C—
- (1) Purchases less cost of items withdrawn for personal use;
- (2) Materials and supplies;
- (3) Gross income;
- (4) Total expenses; and
- (5) Net profit or loss.
- (J) From Form 1040 (Schedule SE)—
- (1) Taxpayer identifying number of self-employed individual;
- (2) Business activities subject to the tax imposed by chapter 21 of the Code;
- (3) Net earnings from farming;
- (4) Net earnings from nonfarming activities;
- (5) Total net earnings from self-employment;
- (6) Taxable self-employment income for purposes of chapter 2 of the Code;
- (7) Net profit and loss; and
- (8) Church employee income.
- (K) Total Social Security taxable earnings.
- (L) Quarters of Social Security coverage.
- (M) From Form 940—
- (1) State of state unemployment tax; and
- (2) Total payments to all employees.
- (N) From Form 941—
- (1) Number of employees who received wages, tips, or other compensation for the pay period including: March 12 (Quarter 1), June 12 (Quarter 2), September 12 (Quarter 3), or December 12 (Quarter 4); and
- (2) Wages, tips, and other compensation.
- (O) From Form 943—
- (1) Agricultural employees; and
- (2) Total wages subject to Social Security tax.
- (P) Taxpayer identity information (as defined in section 6103(b)(6) of the Code) including parent corporation, shareholder, partner, and employer identity information.
- (Q) Gross income, profits, or receipts.
- (R) Returns and allowances.
- (S) Cost of labor, salaries, and wages.
- (T) Total expenses or deductions, including totals of the following components thereof:
- (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.
- (U) Total assets.
- (V) Beginning- and end-of-year inventory.
- (W) Royalty income.
- (X) Interest income, including portfolio interest.
- (Y) Rental income, including gross rents.
- (Z) Tax-exempt interest income.
- (AA) Net gain from sales of business property.
- (BB) Other income.
- (CC) Total income.
- (DD) Percentage of stock owned by each shareholder.
- (EE) Percentage of capital ownership of each partner.
- (FF) Principal industrial activity code, including the business description.
- (GG) Consolidated return indicator.
- (HH) Wages, tips, and other compensation.
- (II) Social Security wages.
- (JJ) Deferred wages.
- (KK) Social Security tip income.
- (LL) Total Social Security taxable earnings.
- (MM) From Form 1099-R—Gross distributions from employer-sponsored and individual retirement plans.
- (NN) From Form 3921—
- (1) Date option granted;
- (2) Date option exercised;
- (3) Exercise price paid per share;
- (4) Fair market value per share on exercise date; and
- (5) Number of shares transferred.
- (OO) From Form 6765 (when filed with corporation income tax returns)—
- (1) 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;
- (2) Cycle posted; and
- (3) Research tax credit amount to be carried over to a business return, schedule, or form.
- (PP) Total number of documents reported on Form 1096 transmitting Forms 1099—MISC.
- (QQ) Total amount reported on Form 1096 transmitting Forms 1099—MISC.
- (RR) From Form 1125—A, purchases.
- (SS) From Form 1041—
- (1) Interest income;
- (2) Total ordinary dividends;
- (3) Total income;
- (4) Charitable deduction; and
- (5) Taxable income.
- (TT) From Form 1041, Schedule K—
- 1—
- (1) Beneficiary identifying number;
- (2) Beneficiary name;
- (3) Interest income;
- (4) Total ordinary dividends;
- (5) Net short-term capital gain;
- (6) Net long-term capital gain;
- (7) Other portfolio and non-business income;
- (8) Ordinary business income;
- (9) Net rental and real estate income; and
- (10) Other rental income.
- (UU) From Form 1120—
- (1) Cost of goods sold;
- (2) Compensation of officers; and
- (3) Salaries and wages (less employment credits).
- (VV) From Form 1120—REIT—
- (1) Compensation of officers;
- (2) Salaries and wages (less employment credits);
- (3) Total assets;
- (4) Principal Business Activity (PBA) code; and
- (5) Type of real estate investment trust (REIT).
- (WW) From Form 1120—S—
- (1) Cost of goods sold; and
- (2) Salaries and wages (less employment credits).
- (XX) From Form 1120—S, Schedule K—
- 1—
- (1) Ordinary business income (loss);
- (2) Net rental real estate income;
- (3) Other net rental income;
- (4) Interest income;
- (5) Total ordinary dividends;
- (6) Royalties;
- (7) Net short-term capital gain;
- (8) Net long-term capital gain;
- (9) Other income (loss); and
- (10) Current year allocation percentage.
- (YY) From Form 1065—
- (1) Gross receipts or sales less returns and allowances;
- (2) Cost of goods sold; and
- (3) Ordinary dividends.
- (ZZ) From Form 1065, Schedule K—
- 1—
- (1) Publicly-traded partnership indicator;
- (2) Partner's share of nonrecourse, qualified nonrecourse, and recourse liabilities;
- (3) Ordinary business income;
- (4) Net rental real estate income;
- (5) Other net rental income;

(6) Total guaranteed payments;
 (7) Interest income;
 (8) Total ordinary dividends;
 (9) Dividend equivalents;
 (10) Royalties;
 (11) Net short-term capital gain;
 (12) Net long-term capital gain; and
 (13) Other income.
 (AAA) From Form 3800 Part II (Current Year General Business Credit from Form 6765).
 (BBB) From Form 3800, Part III, Increasing research activities (Form 6765).
 (CCC) Dividends, including ordinary or qualified.
 (iii) With respect to returns filed on behalf of a tax-exempt organization—
 (A) Taxpayer identity information (as defined in section 6103(b)(6) of the Code).
 (B) Activity codes.
 (C) Filing requirement code.
 (D) Monthly corrections of, and additions to, the information described in paragraphs (b)(1)(iii)(A) through (C) of this section.
 (E) From Form 990, Salaries, other compensation, employee benefits.
 (F) From Form 990–PF—
 (1) Compensation of officers, directors, trustees, etc.; and
 (2) Pension plans, employee benefits.
 (G) From Form 990–EZ, Salaries, other compensation, employee benefits.
 (iv) With respect to taxpayers filing information returns relating to health insurance:
 (A) From Form 1095–A—
 (1) Marketplace information;
 (2) Policy issuer's name;
 (3) Recipient's name;
 (4) Recipient's Social Security number;
 (5) Recipient's spouse's name;
 (6) Recipient's spouse's Social Security number;
 (7) Policy start date;
 (8) Policy termination date;
 (9) Covered individual Social Security number;
 (10) Coverage start date;
 (11) Coverage termination date;
 (12) Monthly enrollment premium;
 (13) Monthly second lowest cost silver plan premium;
 (14) Monthly advance payment of premium tax credit;
 (15) Annual premium;
 (16) Annual second lowest cost silver plan premium; and
 (17) Annual advance payment of premium tax credit.
 (B) From Form 1095–B—
 (1) Name;
 (2) Social Security number;
 (3) Date of birth;
 (4) Origin of health coverage;
 (5) Employer name;

(6) Employer identification number of issuer or other coverage provider;
 (7) Employer address;
 (8) Employer identification number;
 (9) Name control validation;
 (10) Social Security number of covered individuals;
 (11) Date of birth of covered individuals; and
 (12) Coverage by month of covered individuals.
 (C) From Form 1095–C—
 (1) Name of employee;
 (2) Social Security number or other taxpayer identification number of employee;
 (3) Address of employee;
 (4) Name of employer;
 (5) Employer identification number;
 (6) Employer address;
 (7) Offer of coverage code;
 (8) Checkbox for employer provided self-insured coverage;
 (9) Employee required contribution, all 12 months;
 (10) Name control validation;
 (11) Social Security number or other taxpayer identification number of covered individuals; and
 (12) Coverage by month of covered individuals.
 (v) With respect to taxpayers filing information returns related to health savings accounts, from Form 5498–SA—
 (A) Taxpayer identification number;
 (B) Total contributions;
 (C) Fair market value of accounts; and
 (D) Account type checkboxes.
 (2) Subject to the requirements of paragraph (d) of this section and § 301.6103(p)(2)(B)-1, officers or employees of the Social Security Administration to whom the following return information reflected on returns has been disclosed as provided by section 6103(l)(1)(A) or (l)(5) may disclose such information to officers and employees of the Bureau of the Census for necessary purposes described in paragraph (b)(1) of this section:
 (i) From Form SS–4, all information reflected on such form.
 (ii) From Form 1040 (Schedule SE)—
 (A) Taxpayer identifying number of self-employed individual;
 (B) Business activities subject to the tax imposed by chapter 21 of the Code;
 (C) Net earnings from farming;
 (D) Net earnings from nonfarming activities;
 (E) Total net earnings from self-employment; and
 (F) Taxable self-employment income for purposes of chapter 2 of the Code.
 (iii) From Form W–2, and related forms and schedules—
 (A) Social Security number;
 (B) Employer identification number;

(C) Wages, tips, and other compensation;
 (D) Social Security wages; and
 (E) Deferred wages.
 (iv) Total Social Security taxable earnings.
 (v) Quarters of Social Security coverage.
 (3)(i) Officers or employees of the Internal Revenue Service will disclose the following return information (but not including return information described in section 6103(o)(2)) reflected on returns of corporations with respect to the tax imposed by chapter 1 of the Code to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, developing and preparing, as authorized by law, the Quarterly Financial Report:
 (A) From the business master files of the Internal Revenue Service—
 (1) Taxpayer identity information (as defined in section 6103(b)(6) of the Code), including parent corporation identity information;
 (2) Document code;
 (3) Consolidated return and final return indicators;
 (4) Principal industrial activity code;
 (5) Partial year indicator;
 (6) Annual accounting period;
 (7) Gross receipts less returns and allowances; and
 (8) Total assets.
 (B) From Form SS–4—
 (1) Month and year in which such form was executed;
 (2) Taxpayer identity information (as defined in section 6103(b)(6) of the Code); and
 (3) Principal industrial activity, geographic, firm size, and reason for application codes.
 (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.
 (ii) Subject to the requirements of paragraph (d) of this section and § 301.6103(p)(2)(B)-1, officers or employees of the Social Security Administration to whom return information reflected on returns of corporations described in paragraph (b)(3)(i)(B) of this section has been disclosed as provided by section 6103(l)(1)(A) or (l)(5) may disclose such information to officers and employees of the Bureau of the Census for a purpose described in paragraph (b)(3)(i) of this section.
 (iii) Return information reflected on employment tax returns disclosed pursuant to paragraphs (b)(1)(ii)(H)(1), (2), (4), (9), or (10) of this section may

be used by officers and employees of the Bureau of the Census for the purpose described in and subject to the limitations of paragraph (b)(3)(i) of this section.

* * * * *

(d) *Procedures and restrictions.* (1) Disclosure of return information reflected on returns by officers or employees of the Internal Revenue Service or the Social Security Administration as provided by paragraphs (b) and (c) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Secretary of Commerce describing—

(i) The particular return information reflected on returns to be disclosed;

(ii) The taxable period or date to which such return information reflected on returns relates; and

(iii) The particular purpose for which the return information reflected on returns is to be used, and designating by name and title the officers and employees of the Bureau of the Census or the Bureau of Economic Analysis to whom such disclosure is authorized.

(2) No officer or employee of the Bureau of the Census or the Bureau of Economic Analysis to whom return information reflected on returns is disclosed pursuant to the provisions of paragraph (b) or (c) of this section may disclose such information to any person, other than, pursuant to section 6103(e)(1), the taxpayer to whom such return information reflected on returns relates or other officers or employees of such bureau whose duties or responsibilities require such disclosure for a purpose described in paragraph (b) or (c) of this section, except in a form that cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If the Internal Revenue Service determines that the Bureau of the Census or the Bureau of Economic Analysis, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) of the Code or regulations in this part or published procedures (see § 601.601(d)(2) of this chapter), the Internal Revenue Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information reflected on returns otherwise authorized by section 6103(j)(1) and paragraph (b) or (c) of this section, until the Internal Revenue Service determines that such requirements have been or will be satisfied.

(3) All projects using returns or return information disclosed to the Bureau of

Census under this section must be approved by the Internal Revenue Service Director of Statistics of Income, the Director's successor, or the Director's delegate, prior to the release of such information.

(4) In its sole discretion, the Internal Revenue Service may authorize the use of the Bureau of Census's disclosure review processes prior to any public disclosure by the Bureau of Census of a project using information provided pursuant to this section. Any Bureau of Census disclosure review process authorized under this paragraph (d)(4) must ensure that all releases meet or exceed all requirements set by the Internal Revenue Service for protecting the confidentiality of returns and return information. Additionally, in its sole discretion, the Internal Revenue Service Statistics of Income Disclosure Review Board may review a Bureau of Census project using information provided pursuant to this section prior to disclosure of that project to the public to ensure that any proposed releases meet or exceed all requirements set by the Internal Revenue Service for protecting the confidentiality of returns and return information. This review requirement may be imposed at any stage of the project.

(e) *Applicability date.* This section applies to disclosures of return information made on or after November 26, 2024.

Heather C. Maloy,

Acting Deputy Commissioner.

Approved: November 6, 2024.

Aviva R. Aron-Dine,

Deputy Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF THE TREASURY

Office of Investment Security

31 CFR Parts 800 and 802

[Docket ID TREAS-DO-2024-0006]

RIN 1505-AC85

Penalty Provisions, Provision of Information, Negotiation of Mitigation Agreements, and Other Procedures Pertaining to Certain Investments in the United States by Foreign Persons and Certain Transactions by Foreign Persons Involving Real Estate in the United States

AGENCY: Office of Investment Security, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule revises certain provisions of the regulations of the Committee on Foreign Investment in the United States (CFIUS) pertaining to penalties for violations of statutory or regulatory provisions or agreements, conditions, or orders issued pursuant thereto; negotiation of mitigation agreements; requests for information by CFIUS; and certain other procedures.

DATES: This final rule is effective on December 26, 2024.

FOR FURTHER INFORMATION CONTACT:

Meena R. Sharma, Director, Office of Investment Security Policy and International Relations at U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220; telephone: (202) 622-3425; email: CFIUS.Regulations@treasury.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The regulations at parts 800 and 802 to title 31 of the Code of Federal Regulations (parts 800 and 802, respectively) implement the provisions of section 721 of the Defense Production Act of 1950 (DPA), as amended, which is codified at 50 U.S.C. 4565 (section 721) and which establishes the authorities of the Committee on Foreign Investment in the United States (CFIUS or the Committee). Section 721 authorizes the President or his designee (*i.e.*, CFIUS) to review mergers, acquisitions, and takeovers by or with any foreign person that could result in foreign control of any U.S. business, certain noncontrolling investments by foreign persons in a subset of U.S. businesses, as well as certain real estate transactions involving foreign persons. When in the course of its review CFIUS identifies a national security risk that arises as a result of a transaction within its jurisdiction (referred to in the regulations as a “covered transaction” or “covered real estate transaction” as appropriate), it is authorized to negotiate and enter into agreements with the transaction parties or impose conditions on the transaction parties, including through the issuance of orders, to mitigate the risk. CFIUS is further authorized to enforce those agreements, conditions, and orders, including through assessing a penalty.

On April 15, 2024, the U.S. Department of the Treasury (Treasury Department) published in the **Federal Register** a notice of proposed rulemaking (proposed rule) (89 FR 26107) that proposed amendments to certain provisions of parts 800 and 802. Specifically, the proposed rule included amendments that would: (1) expand the categories of information that CFIUS