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[4380-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-208274-86]

RIN 1545-AJ93

Information Reporting by Passport Applicants

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking; notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide information reporting rules for certain passport applicants. These regulations do not provide information reporting rules for individuals applying to become permanent residents (green card holders). This document also withdraws the notice of proposed rulemaking (57 FR 61373) published in the **Federal Register** on December 24, 1992.

DATES: Comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-208274-86), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-208274-

86), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC , or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-208274-86).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Lynn Dayan or Quyen Huynh at (202) 622-3880; concerning submissions of comments and requests for public hearing, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and, pending receipt and evaluation of public comments approved by the Office of Management and Budget under control number 1545-1359.

Comments on the collections of information should be sent 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, with copies to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by **[INSERT DATE 60 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the duties of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in these proposed regulation is in §301.6039E-1(b). The information is required to be provided by individuals who apply for a United States passport or a renewal of a United States passport. The information provided by passport applicants will be used by the IRS for tax compliance purposes.

Estimated total annual reporting burden: 1,213,354 hours.

Estimated average annual burden hours per respondent: four to ten minutes.

Estimated number of respondents: 12,133,537.

Estimated annual frequency of responses: one.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed amendments to 26 CFR part 301 under section 6039E of the Internal Revenue Code. Section 6039E provides rules concerning information reporting by U.S. passport and permanent resident applicants, and requires specified federal agencies to provide certain information to the IRS.

On December 24, 1992, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-208274-86, 1993-1 CB 822) in the **Federal Register** (57 FR 61373) under section 6039E (the 1992 proposed regulations). The 1992 proposed regulations provided guidance for both passport and permanent resident applicants to comply with information reporting rules under section 6039E, and indicated the responsibilities of specified federal agencies to provide certain information to the IRS. No requests were received to testify on the 1992 proposed regulations and, accordingly, no public hearing was held. One written comment letter responding to the 1992 proposed regulations was received, which recommended modifications to Form 9003, "Additional

Questions to be Completed by All Applicants for Permanent Residence in the United States”. Because Form 9003 is no longer in use and these proposed regulations do not address information reporting rules for permanent resident applicants, the comment was not considered in drafting these regulations. The proposed regulations do not provide rules concerning information reporting by individuals applying to become permanent residents; therefore such individuals are not within the scope of the proposed regulations.

The information required to be provided by passport applicants under section 6039E is collected on the U.S. passport application form submitted by such applicants to the Department of State.

The proposed regulations also withdraw the 1992 proposed regulations.

Explanation of Provisions

The proposed regulations set forth rules concerning information reporting by passport applicants under section 6039E. Section 301.6039E-1(a) requires an individual applying for a U.S. passport (passport applicant), other than an individual who applies for an official passport, diplomatic passport or passport for use on other official U.S. government business, to provide certain information with his or her passport application.

Section 301.6039E-1(b)(1) describes the required information to be provided by passport applicants: the applicant’s full name and, if applicable, previous name; address of regular or principal place of residence within the country of residence and, if different, mailing address; taxpayer identifying number (TIN); and date of birth. Section 301.6039E-1(b)(2) provides that the

required information must be submitted with the passport application, regardless of where the applicant resides at the time it is submitted.

Section 301.6039E-1(c) provides guidance on the circumstances under which the IRS may impose a \$500 penalty amount on any passport applicant who fails to provide the required information.

Section 301.6039E-1 is proposed to be applicable to passport applications submitted after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has 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 regulations do not impose a collection of information 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, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Request for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the “Addresses” heading. The IRS and the Treasury Department request comments on all aspects of the proposed rules. All

comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Quyen P. Huynh of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Seals and insignia, Statistics, Taxes.

Withdrawal of Proposed Regulations

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (INTL-978-86; REG-208274-86) that was published in the **Federal Register** on December 24, 1992 (57 FR 61373) is withdrawn.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be 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 in part as follows:

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

Section 301.6039E-1 also issued under 26 U.S.C. 6039E.

Par. 2. Section 301.6039E-1 is added to read as follows:

§301.6039E-1 Information reporting by passport applicants.

(a) In general. Every individual who applies for a U.S. passport (passport applicant), other than an individual who applies for a U.S. passport for use in diplomatic, military, or other official U.S. government business, shall include with his or her passport application the information described in paragraph (b) of this section.

(b) Required information--(1) In general. The information required under paragraph (a) of this section shall include the following information:

(i) The passport applicant's full name and, if applicable, previous name;

(ii) Address of the passport applicant's regular or principal place of residence within the country of residence and, if different, mailing address;

(iii) The passport applicant's taxpayer identifying number (TIN), if such a number has been issued to the passport applicant. A TIN means the individual's social security number (SSN) issued by the Social Security Administration. A passport applicant who does not have an SSN must enter zeros in the appropriate space on the passport application; and

(iv) The passport applicant's date of birth.

(2) Time for furnishing information. A passport applicant must provide the information required by this section at the time of submitting his or her passport

application, whether by personal appearance or mail, to the Department of State (including United States Embassies and Consular posts abroad).

(c) Penalties--(1) In general. If the information required by paragraph (b)(1) of this section is incomplete or incorrect, or the information is not timely filed, then the passport applicant shall be subject to a penalty equal to \$500 per application. Before assessing a penalty under this section, the IRS will ordinarily provide to the passport applicant written notice of the potential assessment of the \$500 penalty, requesting the information being sought, and offering the applicant an opportunity to explain why such information was not provided at the time the passport application was submitted. A passport applicant has 60 days (90 days if the notice is addressed to an applicant outside the United States) to respond to the notice. If, after considering all the surrounding circumstances, the passport applicant demonstrates to the satisfaction of the Commissioner or his delegate that the failure is due to reasonable cause and not due to willful neglect, then the IRS will not assess the penalty.

(2) Example. The following example illustrates the provisions of paragraph (c) this section.

Example. C, a citizen of the United States, makes an error in supplying information on his passport application. Based on the nature of the error and C's timely response to correct the error after being contacted by the IRS, and considering all the surrounding circumstances, the Commissioner concludes that the mistake is due to reasonable cause and not due to willful neglect. Accordingly, no penalty is assessed.

(d) Effective/applicability date. The rules of this section apply to passport

applications submitted after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Steven T. Miller

Deputy Commissioner for Services and Enforcement.

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