



## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

#### [REG-129260-16]

#### RIN 1545-BN96

### Disclosure of Returns and Return Information in Connection with Written Contracts or Agreements for the Acquisition of Property or Services for Tax Administration Purposes; Withdrawal

**AGENCY:** Internal Revenue Service (IRS), Treasury.

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

**SUMMARY:** This document withdraws a notice of proposed rulemaking that has been determined to be unnecessary. The notice of proposed rulemaking proposed to authorize the Department of State (State Department) to disclose returns and return information to its contractors who assist the State Department in carrying out certain responsibilities related to revoking or denying a passport of any individual certified to have a seriously delinquent tax debt.

**DATES:** The notice of proposed rulemaking that was published in the ***Federal Register*** on March 13, 2018, is withdrawn as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Alexander Wu of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317-6845 (not a toll-free number).

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

Section 7345 of the Internal Revenue Code (Code), which was added to the Code by section 32101(a) of the Fixing America's Surface Transportation (FAST) Act,

Public Law 114-94, 129 Stat. 1312 (2015), requires the IRS to notify the State Department about any tax debt of an individual that the IRS certifies as seriously delinquent. Section 32101(e) of the FAST Act requires the State Department to deny such individual a passport (or the renewal of a passport) if the IRS notifies the State Department that the individual has been certified as having a seriously delinquent tax debt. Section 32101(e) of the FAST Act also permits the State Department to revoke a passport previously issued to such person. The State Department procures services from outside contractors in connection with carrying out its responsibilities under the FAST Act.

Under section 6103(a) of the Code, returns and return information are confidential unless the Code otherwise authorizes disclosure. Section 6103(n) authorizes, pursuant to regulations prescribed by the Secretary of the Treasury or the Secretary's delegate (Secretary), the disclosure of returns and return information to any person for purposes of tax administration to the extent necessary in connection with, among other things, a written contract for services. Section 6103(b)(4) defines the term "tax administration" to include "the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes." Because implementation of the FAST Act relates to the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws and related statutes, disclosure of return information for the purpose of carrying out responsibilities under the FAST Act is a tax administration purpose.

On March 13, 2018, the Department of the Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking in the ***Federal Register*** (83 FR 10811) containing proposed regulations that would add the State Department to the list of agencies in §301.6103(n)-1(a)(1) whose officers and employees may disclose returns

and return information to any person or to an officer or employee of such person for tax administration purposes to the extent necessary in connection with a written contract for the acquisition of property or services. The proposed regulations would authorize the State Department to disclose returns and return information to its contractors providing services in connection with the revocation or denial of passports pursuant to the requirements of the FAST Act and section 7345.

The proposed regulations are unnecessary because the State Department is already authorized under §301.6103(n)-1(a)(2)(ii) to disclose returns and return information to its contractors providing services in connection with the revocation or denial of passports pursuant to the FAST Act and section 7345, so long as the IRS authorizes the disclosure in writing and the disclosure conforms to the other provisions of §301.6103(n)-1. Under §301.6103(n)-1(a)(2)(ii), if an officer or employee of the Treasury Department has disclosed returns or return information to the State Department for purposes of the provision of services in furtherance of tax administration, then the State Department may further disclose the returns or return information, when authorized in writing by the IRS, to the extent necessary to carry out the tax administration purpose. Under §301.6103(n)-1(a)(2)(ii), such further disclosures may include disclosures to an agent or subcontractor of the person, or officer or employee of the agent or subcontractor.

#### **List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

#### **Withdrawal of Notice of Proposed Rulemaking**

Under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-129260-16) published in the ***Federal Register*** on March 13, 2018 (83 FR 10811) is withdrawn.

**Edward T. Killen,**

Acting Chief Tax Compliance Officer.

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