

Regulatory Analyses

Executive Orders 12866 and 13563

This final rule has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review" section 1(b), Principles of Regulation, and in accordance with Executive Order 13563, "Improving Regulation and Regulatory Review" section 1(b) General Principles of Regulation.

The Department of Justice has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule does not have tribal implications warranting the application of Executive Order 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA. As explained above and in the interim final rule, the DEA determined that there was good cause to exempt the IFR from notice and comment. Consequently, the RFA does not apply to this final rule.

Paperwork Reduction Act of 1995

This rule does not involve a collection of information within the meaning of

the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995 (2 U.S.C. 1501 *et seq.*), the DEA has determined and certifies pursuant to UMRA that this action would not result in any Federal mandate that may result "in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted for inflation) in any one year" Therefore, neither a Small Government Agency Plan nor any other action is required under the provisions of UMRA of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA) (5 U.S.C. 804). This rule will not result in an annual effect on the economy of \$100,000,000 or more, a major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets. However, pursuant to the CRA, the DEA has submitted a copy of this final rule to both Houses of Congress and to the Comptroller General.

Administrative Procedure Act

The APA requires the publication of a substantive rule to be made not less than 30 days before its effective date. 5 U.S.C. 553(d). However, one exception is "as otherwise provided by the agency for good cause found and published with the rule." Because the DEA removed [123I]ioflupane from the schedules of controlled substances as of September 11, 2015, [80 FR 22919], there is no longer any need for a registration exemption for persons administering DaTscan, and the DEA is hereby removing the IFR through this final rule. The broader decontrol action has superseded it. Therefore, it is unnecessary to delay the effective date of this final rule by 30 days, and this rule shall take effect immediately upon publication.

List of Subjects in 21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Controlled substances, Drug abuse, Reporting and recordkeeping requirements.

Accordingly, 21 CFR part 1301 is amended as follows:

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 831, 871(b), 875, 877, 886a, 951, 952, 953, 956, 957, 958, 965.

§ 1301.29 [Removed and Reserved]

■ 2. Remove and reserve § 1301.29.

Dated: February 23, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–04224 Filed 2–25–16; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9754]

RIN 1545–BL59

Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that authorize the disclosure of certain items of return information to the Bureau of the Census (Bureau) in conformance with section 6103(j)(1) of the Internal Revenue Code (Code). These regulations finalize temporary regulations that were made pursuant to a request from the Secretary of Commerce. These regulations require no action by taxpayers and have no effect on their tax liabilities. Thus, no taxpayers are likely to be affected by the disclosures authorized by this guidance.

DATES: *Effective Date:* These regulations are effective on February 26, 2016.

Applicability Date: For dates of applicability, see § 301.6103(j)(1)–1(e).

FOR FURTHER INFORMATION CONTACT: William Rowe, (202) 317–5093 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to 26 CFR part 301. Section 6103(j)(1)(A) authorizes the Secretary of Treasury to

furnish, upon written request by the Secretary of Commerce, such returns or return information as the Secretary of Treasury may prescribe by regulation to officers and employees of the Bureau for the purpose of, but only to the extent necessary in, the structuring of censuses and conducting related statistical activities authorized by law. Section 301.6103(j)(1)–1 of the existing regulations further defines such purposes by reference to 13 U.S.C. chapter 5 and provides an itemized description of the return information authorized to be disclosed for such purposes.

By letter dated May 10, 2013, the Secretary of Commerce requested that additional items of return information be disclosed to the Bureau for purposes of structuring a census that costs less per housing unit and still maintains high quality results. A major cost in previous decennial censuses was the high number of follow-up, in-person attempts to collect information from housing units that did not return a completed census form. The Bureau intends to conduct research and testing for the next decennial census using administrative data from federal agencies, state agencies, and commercial vendors to determine whether the number of non-response follow-up visits can be reduced through the strategic reuse of this data. Specifically, the Bureau aims to achieve the following research initiatives: (1) Validating and enhancing the Master Address File; (2) Designing and assigning resources to carry out the next decennial census; (3) Un-duplicating public, private, and census lists; and (4) Imputing missing data. All administrative data from the above sources, including return information, will be integrated into the Bureau's data system that is used for the next decennial census and housing counts and will be done in a manner such that the source (for example, commercial vendor, IRS, or Social Security Administration) will not be associated with any data element in the final decennial person-level census records.

On July 15, 2014, a temporary regulation (TD 9677) was published in the **Federal Register** (79 FR 41132). The text of the temporary regulations also serves as the text of proposed regulations set forth in a notice of proposed rulemaking (REG–120756–13) published in the **Federal Register** for the same day (79 FR 41152). No public hearing was requested or held. Two comments responding to the notice of proposed rulemaking were received. After consideration of these comments, the proposed regulations are adopted by

this Treasury decision, and the corresponding temporary regulations are removed.

The temporary regulations authorized disclosure of additional items of return information from the Form 1040, “U.S. Individual Income Tax Return”, and disclosure of items from the Form 1098, “Mortgage Interest Statement”. Specifically, § 301.6103(j)(1)–1T of the temporary regulations authorizes the disclosure of the following additional items of return information from Forms 1040: (1) Electronic Filing System Indicator; (2) Return Processing Indicator; and (3) Paid Preparer Code. Section 301.6103(j)(1)–1T authorizes the disclosure of the following items of return information from Form 1098: (1) Payee/Payer/Employee Taxpayer Identification Number; (2) Payee/Payer/Employee Name (First, Middle, Last, Suffix); (3) Street Address; (4) City; (5) State; (6) ZIP Code (9 digit); (7) Posting Cycle Week; (8) Posting Cycle Year; and (9) Document Code. These temporary regulations apply to disclosures to the Bureau of the Census made on or after July 15, 2014, and expire on or before July 14, 2017.

Both comments opposed publication of the regulations and questioned the underlying authority for the IRS to disclose federal tax return information. Contrary to the views expressed in these comments, section 6103(j)(1) specifically authorizes the IRS to disclose returns or return information to the Bureau of the Census 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. The final regulations under § 301.6103(j)(1)–1 are being issued under the authority of section 6103(j)(1). Accordingly, the recommendation of both commentators that the regulations not be published has not been adopted.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. 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. In addition, 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. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C.

chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, the Notice of Proposed Rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these final regulations is William Rowe, Office of the Associate Chief Counsel (Procedure & Administration).

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 continues to read in part as follows:

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

■ **Par. 2.** Section 301.6103(j)(1)–1 is amended by adding paragraphs (b)(1)(xviii) through (xx) and (b)(7) and revising paragraph (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.

* * * * *

(b) * * *

(1) * * *

(xviii) Electronic Filing System Indicator.

(xix) Return Processing Indicator.

(xx) Paid Preparer Code.

* * * * *

(7) Officers or employees of the Internal Revenue Service will disclose the following return information reflected on Form 1098 “Mortgage Interest Statement” to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of title 13, United States Code, demographic statistics programs, censuses, and surveys—

(i) Payee/Payer/Employee Taxpayer Identification Number;

(ii) Payee/Payer/Employee Name (First, Middle, Last, Suffix);

(iii) Street Address;

(iv) City;

(v) State;

- (vi) ZIP Code (9 digit);
- (vii) Posting Cycle Week;
- (viii) Posting Cycle Year; and
- (ix) Document Code.

* * * * *

(e) *Effective/applicability date.*

Paragraphs (b)(1)(xviii) through (xx) and (b)(7) of this section apply to disclosures to the Bureau of the Census made on or after July 15, 2014. For rules that apply to disclosures to the Bureau of the Census before that date, see 26 CFR 301.6103(j)(1)–1 (revised as of April 1, 2014).

§ 301.6103(j)(1)–1T [Removed]

■ **Par. 3.** Section 301.6103(j)(1)–1T is removed.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: January 22, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury.

[FR Doc. 2016–04310 Filed 2–24–16; 4:15 pm]

BILLING CODE 4830–01–P

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

32 CFR Part 1704

Mandatory Declassification Review Program

AGENCY: Office of the Director of National Intelligence.

ACTION: Direct final rule with request for comments.

SUMMARY: The Office of the Director of National Intelligence (ODNI) is publishing this direct final rule pursuant to Executive Order 13526, relating to classified national security information. It provides procedures for members of the public to request from ODNI a Mandatory Declassification Review (MDR) of information classified under the provisions of Executive Order 13526 or predecessor orders such that the agency may retrieve it with reasonable effort. This rule also informs requesters where to send requests for an MDR.

DATES: This rule is effective April 26, 2016 without further action, unless adverse comment is received by March 28, 2016. If adverse comment is received, ODNI will publish a timely withdrawal of the rule in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Hudson, 703–874–8085.

SUPPLEMENTARY INFORMATION: It is the policy of the ODNI to act in matters

relating to national security information in accordance with Executive Order 13526 and directives issued thereunder by the Information Security Oversight Office (ISOO). The purpose of this rule is to assist in implementing specific sections of Executive Order 13526 concerning the Mandatory Declassification Review (MDR). This is being issued as a direct final rule without prior notice of proposed rulemaking as allowed by the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A) for rules of agency procedure and interpretation.

Regulatory Impact

This rule is not a significant regulatory action for the purposes of Executive Order 12866. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking. As required by the Regulatory Flexibility Act, we certify that this rule will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies.

List of Subjects in 32 CFR Part 1704

Declassification, Information, Intelligence, National security information.

■ For the reasons set forth in the preamble, ODNI adds 32 CFR part 1704 to read as follows:

PART 1704—MANDATORY DECLASSIFICATION REVIEW PROGRAM

Sec.

- 1704.1 Authority and purpose.
- 1704.2 Definitions.
- 1704.3 Contact information.
- 1704.4 Suggestions or comments.
- 1704.5 Guidance.
- 1704.6 Exceptions.
- 1704.7 Requirements.
- 1704.8 Fees.
- 1704.9 Determination by originator or interested party.
- 1704.10 Appeals.

Authority: 50 U.S.C. 3001; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp, p. 298.

§ 1704.1 Authority and purpose.

(a) *Authority.* This part is issued under the authority of 32 CFR 2001.33; Section 3.5 of Executive Order 13526 (or successor Orders); the National Security Act of 1947, as amended (50 U.S.C. 3001 *et seq.*).

(b) *Purpose.* This part prescribes procedures, subject to limitations set forth below, for requesters to request a mandatory declassification review of information classified under Executive Order 13526 or predecessor or successor orders. Section 3.5 of Executive Order

13526 and these regulations are not intended to and do not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees, or agents, or any other person.

§ 1704.2 Definitions.

For purposes of this part:

Control means the authority of the agency that originates information, or its successor in function, to regulate access to the information. (32 CFR 2001.92)

Day means U.S. Federal Government working day, which excludes Saturdays, Sundays, and federal holidays. Three (3) days may be added to any time limit imposed on a requester by this part if responding by U.S. domestic mail; ten (10) days may be added if responding by international mail.

D/IMD means the Director of the Information Management Division and the leader of any successor organization, who serves as the ODNI's manager of the information review and release program.

Federal Agency means any *Executive Agency*, as defined in 5 U.S.C. 105; any *Military department*, as defined in 5 U.S.C. 102; and any other entity within the executive branch that comes into the possession of classified information.

Information means any knowledge that can be communicated or documentary material, regardless of its physical form that is owned by, produced by or for, or under the control of the U.S. Government; it does not include information originated by the incumbent President, White House Staff, appointed committees, commissions or boards, or any entities within the Executive Office that solely advise and assist the incumbent President.

Interested party means any official in the executive, military, congressional, or judicial branches of government, or U.S. Government contractor who, in the sole discretion of the ODNI, has a subject matter or other interest in the documents or information at issue.

NARA means the National Archives and Records Administration.

ODNI means the Office of the Director of National Intelligence.

Order means Executive Order 13526, “Classified National Security Information” (December 29, 2009) or successor Orders.

Originating element means the element that created the information at issue.

Presidential libraries means the libraries or collection authorities established under the Presidential Libraries Act (44 U.S.C. 2112) and