

Clearance Officer, W:CAR:MP:T:T:SP, Washington DC 20224. Comments on the collections of information should be received by June 30, 2003.

Comments on the collections of information are specifically requested concerning the following:

(a) Whether the collections of information are necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

(b) The accuracy of the estimated burden associated with the collections of information (see below);

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

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

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

Portions of the burden for the reporting requirements contained in paragraph (b) will be reflected in IRS Forms 4506, 6847, and 8821, and in the United States Department of Education form entitled "William D. Ford Federal Direct Loan Program Income Contingent Repayment Plan Consent to Disclosure of Tax Information." A portion of the burden for the reporting requirement contained in paragraph (c)(1) will be reflected in the return of the taxpayer. The burden for the reporting requirement contained in paragraph (d)(1) will be reflected in IRS Forms 8453 and 8879 and the income tax return of the taxpayer.

*Estimated total annual reporting burden under § 301.6103(c)-1(b) for consents not using forms disclosed above:* 800 hours.

*Estimated annual burden per respondent:* 0.2 hours (12 minutes).

*Estimated number of respondents:* 4,000.

*Estimated annual frequency of responses:* On occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information 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 return information are

confidential, as required by 26 U.S.C. 6103.

### Background

On January 11, 2001, a temporary regulation (TD 8935) and a cross-referenced notice of proposed rulemaking (REG-103320-00) under section 6103(c) of the Internal Revenue Code (Code) were published in the **Federal Register** (66 FR 2261).

No written comments were received on the proposed regulation. In this Treasury decision, the regulation proposed by REG-103320-00 is adopted as revised in six minor respects.

### Explanation of Provisions

Under section 6103(a), returns and return information are confidential unless disclosure is otherwise authorized by the Code. Section 6103(c), as amended in 1996 by section 1207 of the Taxpayer Bill of Rights II, Public Law 104-168 (110 Stat. 1452), authorizes the IRS to disclose returns and return information to such person or persons as the taxpayer may designate in a request for or consent to disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. Disclosure is permitted subject to such requirements and conditions as may be prescribed by regulations. With the amendment in 1996, Congress eliminated the longstanding requirement that disclosures to designees of the taxpayer must be pursuant to the written request or consent of the taxpayer.

The temporary regulation contained in TD 8935 authorized the disclosure of tax returns and return information to a designee of the taxpayer pursuant to a nonwritten request or consent when the taxpayer seeks the assistance of a third party in resolving a tax matter. TD 8935 also amended the existing regulation to clarify the rules applicable to written requests or consents to disclosure. The temporary regulation is scheduled to expire on January 10, 2004.

This final regulation adopts the proposed regulation as revised in six minor respects.

Paragraphs (b) and (c) of the proposed regulation permit disclosures of returns or return information to the designee of a taxpayer when the requirements of such paragraphs are met. In the final regulation, paragraphs (b) and (c) have been amended to state that returns or return information may be disclosed in written or nonwritten form. This amendment is intended as a

clarification rather than a change in the effect of the regulation.

Paragraph (b) of the proposed regulation concerns disclosures of returns and return information to a designee of the taxpayer pursuant to a written request or consent. Paragraph (b)(1) (i)–(iv) lists four pieces of information that must be included in the written request or consent (taxpayer identity information, the identity of the person to whom disclosure is to be made, the type of return or return information to be disclosed, and the taxable years covered by the return or return information). The final regulation adds language to paragraph (b) to make clear that, in order to constitute a valid written request or consent, a writing must contain the four pieces of information when it is signed and dated by the taxpayer. A written request or consent is not valid if the taxpayer signs it in blank, *i.e.*, signs the written request or consent with any of the four pieces of information or the date missing, even if another party later adds such information or the date. This addition is intended as a clarification rather than a change in the effect of the regulation.

Paragraph (c)(2) of the proposed regulation concerns disclosures of returns and return information to a designee of the taxpayer pursuant to a nonwritten request or consent. Paragraph (c)(2)(i) sets forth the requirements to be met in order for such disclosures to be authorized. Paragraph (c)(2)(ii) provides two examples of circumstances under which such disclosures may be useful or convenient: a meeting or interview with the IRS to which a taxpayer brings a friend, relative, or other person, and a telephone conversation with the IRS when the taxpayer wishes to involve another person. In the final regulation, a new paragraph (c)(2)(iii) has been added, which states that the taxpayer does not need to be present, either in person or as part of a telephone conversation, for disclosures of returns and return information to be made to the other person under paragraph (c)(2). This addition is intended as a clarification rather than a change in the effect of the regulation.

Paragraphs (d)(1) and (d)(2) of the proposed regulation provide parameters for the development of consents for, respectively, the IRS's electronic filing program and combined Federal-State (FedState) return filing programs. Each of these paragraphs permits the creation of limited purpose disclosure consents that would not otherwise be effective under paragraph (b) (relating to general purpose consents in the form of separate written documents pertaining solely to