

summarized information from 500 to 1,000 returns of the largest corporations, taxpayer names, addresses, employer identification numbers, gross receipts, accounting periods, industry codes, and sample codes. (See Staff of Joint Committee on Internal Revenue Taxation, 94th Cong., 2d Sess., Tax Revision Issues—1976 (H.R. 10612), No. 6: Administrative Matters, at 40–41 (Comm. Print, April 14, 1976) (Joint Committee Report)). According to the legislative history, the “sample code” provided the “sampling process used by the IRS with respect to its Statistics of Income (not with respect to audit, etc.). * * *” See Joint Committee Report at 41. These sample codes were not information submitted by taxpayers on tax returns filed with the IRS. Rather, these codes were information generated by the IRS in conjunction with returns and disclosed by the IRS to at least one agency for statistical purposes. Therefore, when Congress enacted section 6103(j)(1)(A) and (B) of the Code in 1976, adopting the language “return information reflected thereon” and “such return information reflected on returns of corporations” to describe the type of information that could be disclosed to agencies for statistical purposes, the information described includes not only information on returns, but also information derived from the processing of such returns, and/or information related to the establishment and maintenance of taxpayer information in IRS data bases, such as sample codes. Therefore, these final regulations clarify the phrase “return information reflected on returns” by stating that it includes, but is not limited to, information on returns, information derived from processing such returns, and information derived from the Social Security Administration (SSA) and other sources for the purposes of establishing and maintaining taxpayer information relating to returns. This includes information derived from returns and Forms SS-4 “Application for Employer Identification Number,” monthly corrections of, and additions to, taxpayer information contained in IRS and SSA databases (e.g., taxpayer address and name changes) that are obtained from SSA and other sources, and computer codes compiled by the IRS and the SSA derived from returns and/or tax forms and integrated within taxpayer data bases.

Further, these final regulations clarify a restriction that was imposed by the temporary regulations with respect to the disclosure of tax information to the Bureau of the Census. Specifically, the

explanation of provisions section to the temporary regulations stated that information will be furnished under the temporary regulations only for the purposes of conducting the LEHD project and/or SIPP/SSA project as specified in the request letters and with the understanding that the information will be used strictly in accordance with the provisions of the Code pertaining to confidentiality (see 66 FR 9958 under “Explanation of Provisions” of the preamble). These tax disclosure restrictions to the LEHD and SIPP projects were included during the inception of an agreement entered into between the IRS and the Bureau of the Census that provides detailed criteria for the review and approval by the IRS of Census Bureau projects that use Federal tax information. This inter-agency agreement between the IRS and the Bureau of the Census dated September 15, 2000, is entitled “Criteria for the Review and Approval of Census Projects that Use Federal Tax Information” (inter-agency agreement) and provides detailed procedures for implementing the requirements set forth in § 301.6103(j)(1)–1(d) of the regulations. According to § 301.6103(j)(1)–1(d) of the regulations and the inter-agency agreement, the IRS must approve the proposed uses for tax information disclosed on a project-by-project basis. The implementation of this inter-agency agreement has strengthened the IRS’ review process for approving proposed uses for tax information disclosed to the Bureau of the Census. It has also improved the ability of the IRS and the Bureau of the Census to ensure that appropriate procedures, especially relating to safeguards and approved usage documentation, are employed for access to, and use of, Federal tax information.

Although the explanation of provisions section to the temporary regulations stated that the additional tax information authorized for disclosure under the temporary regulations under § 301.6103(j)(1)–1T(b)(2), (3), and (5) would be disclosed only for purposes of conducting the LEHD and/or SIPP projects, the actual language of the temporary regulations under § 301.6103(j)(1)–1T(b)(2), (3), and (5) did not contain such a limitation. Rather, the temporary regulations adopted the same language describing the authorized use of the tax information by the Bureau of the Census that appeared in § 301.6103(j)(1)–1(b)(2), (3), and (5) of the previous regulations (prior to the implementation of the temporary regulations). This language authorizes a broader use of the disclosed tax

information by the Bureau of the Census for demographic and economic statistics programs, censuses, and surveys authorized by chapter 5 of title 13, U.S.C. These final regulations do not change this language pertaining to the authorized uses of the tax information by the Bureau of the Census in § 301.6103(j)(1)–1(b)(2), (3), and (5). Accordingly, these final regulations permit the disclosure of tax information to the Bureau of the Census, not only for the LEHD and SIPP projects, but also to the extent necessary in conducting and preparing demographic and economic statistics programs, censuses, and surveys, as authorized by chapter 5 of title 13, U.S.C., and as approved for these purposes by the IRS according to procedures reflected in the September 15, 2000 inter-agency agreement described above and § 301.6103(j)(1)–1(d) of the regulations.

Summary of Comments

With respect to the three comments received in response to the temporary regulations, two strongly supported, and one objected to, the additional disclosure of tax information to the Bureau of the Census. Specifically, two of the comments supported the additions to the list of items of tax information disclosed to the Bureau of the Census for use in the SIPP project. One comment stated that these additional disclosures to the Census Bureau will make it possible to provide an accurate measure of prospective pension benefits that is critically important in providing estimates of the future economic well-being of an increasingly large segment of the population and will provide legislators, policy analysts, and researchers with a much more useful measure of the net government transfers to different households than that provided by the current SIPP. These additional disclosures will also provide a crucial source of information for assessing potential reforms of the Social Security System, according to the comment.

The third comment expressed opposition to the compiling of data by the Bureau of Census beyond that necessary to determine population distribution for the purpose of legislative redistricting. This objection does not recognize that the Bureau of the Census is authorized under chapter 5 of title 13, U.S.C., to conduct various demographic, economic, and agricultural statistics programs and censuses and related program evaluation that includes the LEHD and SIPP projects. Therefore, the comment was not adopted.