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List of Subjects in 26 CFR Part 301

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

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 the following entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
 Section 301.9000-1 also issued under 5 U.S.C. 301 and 26 U.S.C. 6103(q) and 7804;
 Section 301.9000-2 also issued under 5 U.S.C. 301 and 26 U.S.C. 6103(q) and 7804;
 Section 301.9000-3 also issued under 5 U.S.C. 301 and 26 U.S.C. 6103(q) and 7804;
 Section 301.9000-4 also issued under 5 U.S.C. 301 and 26 U.S.C. 6103(q) and 7804;
 Section 301.9000-5 also issued under 5 U.S.C. 301 and 26 U.S.C. 6103(q) and 7804;
 Section 301.9000-6 also issued under 5 U.S.C. 301 and 26 U.S.C. 6103(q) and 7804;
 * * *

Par. 2. Section 301.9000-1 is revised and §§ 301.9000-2 through 301.9000-7 are added to read as follows:

§ 301.9000-1 Definitions when used in §§ 301.9000-1 through 301.9000-6.

(a) *IRS records or information* means any material (including copies thereof) contained in the files (including paper, electronic or other media files) of the Internal Revenue Service (IRS), any information relating to material contained in the files of the IRS, or any information acquired by an IRS officer or employee, while an IRS officer or employee, as a part of the performance of official duties or because of that IRS officer or employee's official status with respect to the administration of the internal revenue laws or any other laws administered by or concerning the IRS. IRS records or information includes, but is not limited to, returns and return information as those terms are defined in section 6103(b)(1) and (2) of the Internal Revenue Code (Code), tax convention information as defined in section 6105 of the Code, information gathered during Bank Secrecy Act and money laundering investigations, and personnel records and other information pertaining to IRS officers and employees. IRS records and information also includes information received, generated or collected by an IRS

contractor pursuant to the contractor's contract or agreement with the IRS. The term does not include records or information obtained by IRS officers and employees while under the direction and control of the United States Attorney's Office during the conduct of a Federal grand jury investigation. The term IRS records or information does include records or information obtained during the administrative stage of a criminal investigation (prior to the initiation of the grand jury), obtained from IRS files (such as transcripts or tax returns), or subsequently obtained by the IRS for use in a civil investigation.

(b) *IRS officers and employees* means all officers and employees of the United States appointed by, employed by, or subject to the directions, instructions, or orders of the Commissioner or IRS Chief Counsel and also includes such former officers and employees.

(c) *IRS contractor* means any person, including such person's current and former employees, maintaining IRS records or information pursuant to a contract or agreement with the IRS, and also includes former contractors.

(d) A *request* is any request for testimony of an IRS officer, employee or contractor or for production of IRS records or information, oral or written, by any person, which is not a demand.

(e) A *demand* is any subpoena or other order of any court, administrative agency or other authority, or the Congress, or a committee or subcommittee of the Congress, and any notice of deposition (either upon oral examination or written questions), request for admissions, request for production of documents or things, written interrogatories to parties, or other notice of, request for, or service for discovery in a matter before any court, administrative agency or other authority.

(f) An *IRS matter* is any matter before any court, administrative agency or other authority in which the United States, the Commissioner, the IRS, or any IRS officer or employee acting in an official capacity, or any IRS officer or employee (including an officer or employee of IRS Chief Counsel's office) in his or her individual capacity if the United States Department of Justice or the agency has agreed to represent or provide representation to the IRS officer or employee, is a party and that is directly related to official business of the IRS or to any law administered by or concerning the IRS, including, but not limited to, judicial and administrative proceedings described in section 6103(h)(4) and (l)(4) of the Code.

(g) An *IRS congressional matter* is any matter before the Congress, or a

committee or subcommittee of the Congress, that is related to the administration of the internal revenue laws or any other laws administered by or concerning the IRS, or to IRS records or information.

(h) A *non-IRS matter* is any matter that is not an IRS matter or an IRS congressional matter.

(i) A *testimony authorization* is a written instruction or oral instruction memorialized in writing within a reasonable period by an authorizing official that sets forth the scope of and limitations on proposed testimony and/or disclosure of IRS records or information issued in response to a request or demand for such IRS records or information. A testimony authorization may grant or deny authorization to testify or disclose IRS records or information and may make an authorization effective only upon the occurrence of a precedent condition, such as the receipt of a consent complying with the provisions of section 6103(c) of the Code. To authorize testimony means to issue the instruction described in this paragraph (i).

(j) An *authorizing official* is a person with delegated authority to authorize testimony and the disclosure of IRS records or information.

§ 301.9000-2 Considerations in responding to a request or demand for IRS records or information.

(a) *Situations in which disclosure shall not be authorized.* Authorizing officials shall not permit testimony or disclosure of IRS records or information in response to requests or demands if—

(1) Testimony or disclosure of IRS records or information would violate a Federal statute including, but not limited to, sections 6103 or 6105 of the Internal Revenue Code (Code), the Privacy Act of 1974 (5 U.S.C. 552a), or a rule of procedure, such as the grand jury secrecy rule, Fed. R. Crim. P. 6(e);

(2) Testimony or disclosure of IRS records or information would violate a specific Federal regulation, including, but not limited to, 31 CFR 103.53;

(3) Testimony or disclosure of IRS records or information would reveal classified national security information, unless properly declassified;

(4) Testimony or disclosure of IRS records or information would reveal the identity of an informant; or

(5) Testimony or disclosure of IRS records or information would reveal investigatory records or information compiled for law enforcement purposes which would permit interference with law enforcement proceedings or would disclose investigative techniques and