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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-131151-10]

RIN 1545- BJ89

Rewards and Awards for Information Relating to Violations of Internal Revenue Laws

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation relating to the payment of rewards under section 7623(a) of the Internal Revenue Code and awards under section 7623(b). The guidance is necessary to clarify the definition of proceeds of amounts collected and collected proceeds under section 7623. This regulation provides needed guidance to the general public as well as officers and employees of the IRS who review claims under section 7623.

DATES: Written or electronic comments and requests for a public hearing must be received by April 18, 2011.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-131151-10), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-131151-10), Courier's Desk, Internal Revenue

Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at www.regulations.gov (IRS – REG-131151-10).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulation, Kirsten N. Witter, at (202) 927-0900; concerning submissions of comments and requests for a public hearing, Richard A. Hurst at Richard.A.Hurst@irs.counsel.treas.gov, or (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provision

Section 7623(a) provides the Secretary with the authority to pay such sums as he deems necessary from proceeds of amounts collected based on information provided to the Secretary when the information relates to the detection of underpayments of tax or the detection and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same. Section 7623(b) provides the Secretary with the authority to pay awards to individuals if the Secretary proceeds with an administrative or judicial action described in section 7623(a) that results in collected proceeds based on information provided by the individuals. Section 301.7623-1(a) currently provides that proceeds of amounts (other than interest) collected by reason of the information provided include both amounts collected because of the information provided and amounts collected prior to receipt of the information if the information leads to the denial of a claim for refund that otherwise would have been paid. 63 Fed. Reg. 44777.

Section 301.7623-1(a) was promulgated prior to amendments of section 7623 as part of the Tax Relief and Health Care Act of 2006, division A, section 406, Public Law 109-432, 120 Stat. 2958. The amendments designated the existing section 7623 as

section 7623(a). As originally enacted, section 7623 provided that rewards shall be paid “from the proceeds of amounts (other than interest) collected by reason of the information provided” The 2006 amendments to section 7623 struck the “other than interest” language. The amendments also added section 7623(b), which provides that in certain cases individuals shall receive an award of at least 15% but not more than 30% of the collected proceeds resulting from the action with which the Secretary proceeded based on information brought to the attention of the Secretary by the individual. The 2006 amendments to section 7623 also created the IRS Whistleblower Office, which is responsible for administering a whistleblower program within the IRS.

This regulation clarifies the definitions of proceeds of amounts collected and collected proceeds for purposes of section 7623 and that the provisions of Treas. Reg. §301.7623-1(a) concerning refund prevention claims are applicable to claims under section 7623(a) and (b). In clarifying the definitions of proceeds of amounts collected and collected proceeds, this regulation provides that the reduction of an overpayment credit balance is also considered proceeds of amounts collected and collected proceeds under section 7623.

Special Analysis

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, 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. Pursuant to section

7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Requests for a Public Hearing

Before this proposed regulation is adopted as a final regulation, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The Treasury Department and the IRS request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of this regulation is Kirsten N. Witter, Office of the Associate Chief Counsel (General Legal Services).

List of Subjects in 26 CFR part 301

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

Proposed Amendment 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 an entry in numerical order to read as follows:

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

Section 301.7623-1 also issued under 26 U.S.C. 7623. * * *

Par. 2. Section 301.7623-1 is amended by revising the section heading, and paragraphs (a) and (g), to read as follows:

§301.7623-1 Rewards and awards for information relating to violations of internal revenue laws.

(a) In general--(1) Rewards and awards. When information that has been provided to the Internal Revenue Service results in the detection of underpayments of tax or the detection and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same, the IRS may approve a reward under section 7623(a) in a suitable amount from the proceeds of amounts collected in cases when rewards are not otherwise provided by law, or shall determine an award under section 7623(b) from collected proceeds.

(2) Proceeds of amounts collected and collected proceeds. For purposes of section 7623 and this section, both proceeds of amounts collected and collected proceeds include: tax, penalties, interest, additions to tax, and additional amounts collected by reason of the information provided; amounts collected prior to receipt of the information if the information provided results in the denial of a claim for refund that otherwise would have been paid; and a reduction of an overpayment credit balance used to satisfy a tax liability incurred because of the information provided.

* * * * *

(g) Effective/applicability date. This section is applicable with respect to rewards paid after January 29, 1997, except the rules of paragraph (a) of this section

apply with respect to rewards and awards paid after these regulations are published as final regulations in the **Federal Register**.

Heather C. Maloy,
(Acting) Deputy Commissioner for Services and Enforcement.

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