

respectively). Thus, for taxable year 2007, $\$833x$ ($\frac{1}{6} \times \$5000x = \$833x$) of these earnings and profits is allocated to FC10's common stock and $\$4167x$ ($\frac{5}{6} \times \$5000x = \$4167x$) is allocated to its preferred stock.

(7) *Effective dates.* Except as provided in paragraphs (e)(3)(v) and (e)(4)(ii) of this section, this paragraph (e) applies for taxable years of a controlled foreign corporation beginning on or after January 1, 2005. * * *

* * * * *

Approved: February 8, 2006.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9245]

RIN 1545-BE15

Disclosure of Return Information to the Department of Agriculture

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that incorporate and clarify the phrase “return information reflected on returns” in conformance with the terms of section 6103(j)(5) of the Internal Revenue Code (Code), which provides for limited disclosures of returns and return information in connection with the census of agriculture. These final regulations also remove certain items of return information that the Department of Agriculture no longer needs for conducting the census of agriculture.

DATES: *Effective Date:* These regulations are effective on February 22, 2006.

FOR FURTHER INFORMATION CONTACT: Deborah Lambert-Dean at (202) 622-4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 301 under section 6103(j) of the Code. On June 6, 2003, the **Federal Register** published a temporary regulation (TD 9060) regarding disclosure of return information to the Department of Agriculture (68 FR

33857) and a notice of proposed rulemaking (NPRM) (REG-103809-03) cross-referencing the temporary regulations (68 FR 33887). There were no comments submitted in response to the NPRM. There was no request for a public hearing, and none took place. The proposed regulations are adopted and the corresponding temporary regulations are removed.

Special Analyses

It has been determined that this Treasury decision 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, the IRS submitted the NPRM preceding this Treasury decision to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Deborah Lambert-Dean, Office of the Associate Chief Counsel, Procedure & Administration (Disclosure & Privacy Law Division).

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 is amended by removing the entry for “Section 301.6103(j)(5)–1T” and adding an entry in numerical order to read in part as follows:

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

Section 301.6103(j)(5)–1 also issued under 26 U.S.C. 6103(j)(5). * * *

301.6103(j)(5)–1T [Removed]

■ **Par. 2.** Section 301.6103(j)(5)–1T is removed.

■ **Par. 3.** Section 301.6103(j)(5)–1 is added to read as follows:

§ 301.6103(j)(5)–1 Disclosures of return information reflected on returns to officers and employees of the Department of Agriculture for conducting the census of agriculture.

(a) *General rule.* Pursuant to the provisions of section 6103(j)(5) of the Internal Revenue Code and subject to the requirements of paragraph (c) of this section, officers or employees of the Internal Revenue Service will disclose return information reflected on returns to officers and employees of the Department of Agriculture to the extent, and for such purposes, as may be provided by paragraph (b) of this section. “Return information reflected on returns” includes, but is not limited to, information on returns, information derived from processing such returns, and information derived from other sources for the purposes of establishing and maintaining taxpayer information relating to returns.

(b) *Disclosure of return information reflected on returns to officers and employees of the Department of Agriculture.* (1) Officers or employees of the Internal Revenue Service will disclose the following return information reflected on returns described in this paragraph (b) for individuals, partnerships and corporations with agricultural activity, as determined generally by industry code classification or the filing of returns for such activity, to officers and employees of the Department of Agriculture for purposes of, but only to the extent necessary in, structuring, preparing, and conducting, as authorized by chapter 55 of title 7, United States Code, the census of agriculture.

(2) From Form 1040 “U.S. Individual Income Tax Return”, Form 1041 “U.S. Income Tax Return for Estates and Trusts”, Form 1065 “U.S. Return of Partnership Income” and Form 1065–B “U.S. Return of Income for Electing Large Partnerships” (Schedule F)—

(i) Taxpayer identity information (as defined in section 6103(b)(6) of the Internal Revenue Code);

(ii) Spouse’s Social Security Number;

(iii) Annual accounting period;

(iv) Principal Business Activity (PBA) code;

(v) Taxable cooperative distributions;

(vi) Income from custom hire and machine work;

(vii) Gross income;

(viii) Master File Tax (MFT) code;

(ix) Document Locator Number (DLN);

(x) Cycle posted;

(xi) Final return indicator;

(xii) Part year return indicator; and

(xiii) Taxpayer telephone number.

(3) From Form 943, "Employer's Annual Tax Return for Agricultural Employees"—

- (i) Taxpayer identity information;
- (ii) Annual accounting period;
- (iii) Total wages subject to Medicare taxes;

- (iv) MFT code;
- (v) DLN;
- (vi) Cycle posted;
- (vii) Final return indicator; and
- (viii) Part year return indicator.

(4) From Form 1120 series, "U.S. Corporation Income Tax Return"—

- (i) Taxpayer identity information;
- (ii) Annual accounting period;
- (iii) Gross receipts less returns and allowances;

- (iv) PBA code;
- (v) MFT Code;
- (vi) DLN;
- (vii) Cycle posted;
- (viii) Final return indicator;
- (ix) Part year return indicator; and
- (x) Consolidated return indicator.

(5) From Form 1065 series, "U.S. Return of Partnership Income"—

- (i) Taxpayer identity information;
- (ii) Annual accounting period;
- (iii) PBA code;
- (iv) Gross receipts less returns and allowances;

- (v) Net farm profit (loss);
- (vi) MFT code;
- (vii) DLN;
- (viii) Cycle posted;
- (ix) Final return indicator; and
- (x) Part year return indicator.

(c) *Procedures and Restrictions.* (1)

Disclosure of return information reflected on returns by officers or employees of the Internal Revenue Service as provided by paragraph (b) of this section will be made only upon written request designating, by name and title, the officers and employees of the Department of Agriculture to whom such disclosure is authorized, to the Commissioner of Internal Revenue by the Secretary of Agriculture and describing—

- (i) The particular return information reflected on returns for disclosure;
- (ii) The taxable period or date to which such return information reflected on returns relates; and
- (iii) The particular purpose for the requested return information reflected on returns.

(2)(i) No such officer or employee to whom the Internal Revenue Service discloses return information reflected on returns pursuant to the provisions of paragraph (b) of this section shall disclose such information to any person, other than the taxpayer to whom such return information reflected on returns relates or other officers or employees of the Department of Agriculture whose

duties or responsibilities require such disclosure for a purpose described in paragraph (b)(1) of this section, except in a form that cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(ii) If the Internal Revenue Service determines that the Department of Agriculture, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) of the Internal Revenue Code or regulations or published procedures, the Internal Revenue Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information reflected on returns otherwise authorized by section 6103(j)(5) and paragraph (b) of this section, until the Internal Revenue Service determines that such requirements have been or will be satisfied.

(d) *Effective date.* This section is applicable on February 22, 2006.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: February 11, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 153

[0790-AH73]

Criminal Jurisdiction Over Civilians Employed by or Accompanying the Armed Forces Outside the United States, Service Members, and Former Service Members

AGENCY: Department of Defense, General Counsel of the Department of Defense.

ACTION: Final rule.

SUMMARY: Chapter 212 of title 18, United States Code (Military Extraterritorial Jurisdiction Act of 2000 (MEJA)) establishes Federal criminal jurisdiction over whoever engages in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year (i.e., a felony offense) while employed by or accompanying the Armed Forces outside the United States, certain members of the Armed Forces subject to the Uniform Code of Military Justice (Chapter 47 of title 10, United States

Code), and former members of the Armed Forces. This rule is established to correspond with the Department of Defense Instruction 5525.11, "Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members," that the Deputy Secretary of Defense approved on March 3, 2005.

DATES: *Effective:* March 3, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Reed, 703-695-1055.

SUPPLEMENTARY INFORMATION: On February 2, 2004 (69 FR 4890) the Department of Defense published a proposed rule. Several comments were received, reviewed, and accepted to better clarify the provisions of the proposed rule and to add appropriate definitions of terms used. Other comments addressed concerns raised and considered during the legislative process and were not adopted as additional modifications for the Final Rule.

Pursuant to the comment opportunity afforded the public by the **Federal Register** publication of the proposed rule on February 2, 2004, public comments recommended that international agreements involving extradition procedures be considered, ensure that potential conflict with the Posse Comitatus Act and double jeopardy be eliminated, that military defense counsel be clearly designated to serve as qualified defense counsel for limited representation purposes, and that juveniles be include in the discussions of persons subject to the Military Extraterritorial Jurisdiction Act ("the Act"). Each of these concerns were specifically considered and addressed when the Act was legislatively developed and further changes to the Proposed Rule were considered unnecessary. A recommendation that the term "Designated Commanding Officer (DCO)" be defined was approved and added to the definitions in the Final Rule. Another recommendation was approved to clarify the discussion of the amenability of the Act to Reserve component personnel and proper use of "reservists," as well as clarify that annual reports due in February were to encompass information for the immediately preceding calendar year. A recommendation was approved to clarify that "command sponsorship" was not to be used to consider whether a person was a dependent for purposes of the Act. It was determined that the Proposed Rules' discussion of union representation was sufficient and a recommendation to expand the discussion of a union's statutory right to