

- Contain your company or association affiliation, if pertinent to your comment, and your reason for commenting (manufacturer, importer, consumer, etc.);
- Be legible when printed in a 8½" × 11" size (no special characters or symbols); and
- Be addressed to  
nprm@atfhg.atf.treas.gov.

We will not acknowledge receipt of e-mail. We will treat e-mail as originals.

#### *How Do I Send Comments Through the ATF Internet Web Site?*

Comments may be submitted electronically using ATF's web site. You may comment on this proposed notice by using the form provided through ATF's web site. You can reach this notice and the comment form through the address <http://www.atf.treas.gov/tobacco/rules/index.htm>.

#### *Can I Request a Public Hearing?*

If you desire the opportunity to comment orally at a public hearing on this proposed regulation, you must submit a request in writing to the Director within the 60-day comment period. The Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

### **3. Regulatory Analyses and Notices**

#### *Is This a Significant Regulatory Action as Defined by Executive Order 12866?*

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

#### *How does the Regulatory Flexibility Act Apply to this Proposed Rule?*

It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The proposed changes reduce regulatory burdens for the three firms that currently ship tobacco products from Puerto Rico to the United States.

#### *Does the Paperwork Reduction Act Apply to this Proposed Rule?*

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection(s) of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (ATF),

Office of Information and Regulatory Affairs, Washington, DC, 20503, with copies to the Chief, Document Services Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Comments are specifically requested concerning:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Alcohol, Tobacco and Firearms, including whether the information will have practical utility;
- The accuracy of the estimated burden associated with the proposed collection of information;
- How the quality, utility, and clarity of the information to be collected may be enhanced; and
- How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology.

The collection of information in this proposed regulation is in 27 CFR 275.106, 275.110 and 275.121. This information is required to ensure proper excise payment of taxes on Puerto Rican tobacco products and cigarette papers and tubes shipped from Puerto Rico to the United States and that a person who defers taxes on such shipments does not exceed the amount of the bond allowing the person to defer taxes. This information will be used to determine whether excise taxes have been properly paid and that any bonds for deferring taxes are in a sufficient amount. The collection of information is mandatory. The likely respondents may include small businesses or organizations.

The estimated annual burden per respondent will vary depending on the number of shipments of Puerto Rican tobacco products and cigarette papers and tubes from Puerto Rico to the United States. Estimated total annual recordkeeping burden for each year is 1 hour. Estimated average annual burden 2 hours per respondent and/or recordkeeper is 20 minutes. The estimated number of recordkeepers is three (3).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

### **4. Drafting Information**

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and the Treasury Department

participated in developing the document.

Signed: February 5, 2001.

**Bradley A. Buckles,**  
Director.

Approved: February 13, 2001.

**Timothy E. Skud,**  
Acting Deputy Assistant Secretary  
(Regulatory, Tariff and Trade Enforcement).  
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**BILLING CODE 4810-31-U**

## **DEPARTMENT OF THE TREASURY**

### **31 CFR Part 1**

#### **Internal Revenue Service: Privacy Act; Proposed Implementation**

**AGENCY:** Office of the Secretary, Department of the Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury gives notice of a proposed amendment to this section to exempt a proposed new Internal Revenue Service (IRS) system of records, the Employee Tax Compliance Records (ETC—Treasury/IRS 36.888, from certain provisions of the Privacy Act. The exemption is intended to increase the value of the system of records for law enforcement purposes.

**DATES:** Comments must be received no later than April 9, 2001.

**ADDRESSES:** Please submit comments to the National Director, Governmental Liaison and Disclosure, 1111 Constitution Avenue, Washington, DC 20224. Comments will be made available for inspection at the IRS Freedom of Information Reading Room also located at Room 1621, 1111 Constitution Avenue, NW. The telephone number for the Reading Room is (202) 622-5164.

**FOR FURTHER INFORMATION CONTACT:** David Silverman, Office of Governmental Liaison and Disclosure, IRS, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone number (202) 622-6200. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system is investigatory material compiled for law enforcement purposes. The IRS is hereby giving notice of a proposed rule to exempt the Employee Tax Compliance Records (ETC)—IRS 36.888, from certain provisions of the Privacy

Act of 1974 pursuant to 5 U.S.C. 552a(k)(2). The proposed exemption is from provisions 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H), (I), and (f) because the system contains investigatory material compiled for law enforcement purposes. The following are the reasons why this system of records maintained by the IRS is exempt pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974.

(1) 5 U.S.C. 552a(c)(3). This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c)(1) and (2) to the individual named in the record at his/her request. The reasons for exempting this system of records from the foregoing provision are:

(i) The release of disclosure accounting would put the subject of an investigation on notice that an investigation exists and that such person is the subject of that investigation.

(ii) Such release would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure was made. The release of such information to the subject of an investigation would provide the subject with significant information concerning the nature of the investigation and could result in the altering or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating the subject and the scope of the investigation and could aid the individual in impeding or compromising investigations by those agencies.

(2) 5 U.S.C. 552a(d)(1), (d)(2), (d)(3), (d)(4), (e)(4)(G), (H), and (f). These provisions of the Privacy Act relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requested access to records; the agency procedures relating to access to records and the contest of the information contained in such records and the administrative remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. The reasons for exempting this system of records from the foregoing provisions are as follows: To notify an individual at the individual's request of the existence of an investigative file

pertaining to such individual or to grant access to an investigative file pertaining to such individual could interfere with investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by such sources; and disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(1). This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The reasons for exempting this system of records from the foregoing are as follows:

(i) The IRS will limit the Employee Tax Compliance Records to those relevant and necessary for identifying, monitoring, and responding to employee tax compliance. However, an exemption from the foregoing is needed because, particularly in the early stages of an investigation, it is not possible to determine the relevance or necessity of specific information.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when first received may subsequently be determined to be irrelevant or unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established with certainty.

(iii) When information is received by the IRS relating to violations of law within the jurisdiction of other agencies, the IRS processes this information through IRS systems in order to forward the material to the appropriate agencies.

(4) 5 U.S.C. 552a(e)(4)(1). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons an exemption from this provision has been claimed are as follows:

(i) Revealing categories of sources of information could disclose investigative techniques and procedures;

(ii) Revealing categories of sources of information could cause sources that supply information to investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality.

As required by Executive Order 12866, it has been determined that this proposed rule is not a significant

regulatory action and, therefore, does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not significantly affect a substantial number of small entities. The proposed rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of Treasury has determined that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

#### List of Subjects in 31 CFR Part 1

Privacy.

Part 1, Subpart C of title 31 of the Code of Federal Regulations is amended as follows:

#### PART 1—[AMENDED]

1. The authority citation for part 1 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 paragraph (g)(v)(iii) is amended by adding the following text in numerical order to the table under the heading INTERNAL REVENUE SERVICE.

#### § 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 522a and this part.

*	*	*	*	*
(g)	*	*	*	
(v)	*	*	*	
(iii)	*	*	*	
Number		System name		
*	*	*	*	*
IRS 36 .888	.....	Employee Tax Compliance Records		
*	*	*	*	*

Dated: February 7, 2001.

**W. Earl Wright, Jr.,**

*Chief Management and Administrative Programs Officer.*

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