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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1 and 301**

**(LR-133-86)**

**Proposed Rulemaking; Returns  
Relating to Persons Receiving  
Contracts From Federal Executive  
Agencies**

**AGENCY:** Internal Revenue Service,  
Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Section 6050M of the Internal Revenue Code ("Code"), which was added to the Code by the Tax Reform Act of 1986, requires Federal executive agencies to make a return to the Internal Revenue Service reporting the name, address, and taxpayer identification number (TIN) of each person with which the agency enters into a contract, together with any other information required by Treasury regulations. This document contains proposed rules concerning compliance with the new reporting requirements imposed by section 6050M.

**DATES:**

**Proposed Effective Date**

The regulations are proposed to be effective on the date the Treasury Decision is published in the Federal Register and are proposed to apply to contracts of Federal executive agencies obligating more than \$25,000 entered into on or after October 1, 1988, or for which the amount obligated is increased by more than \$25,000 on or after that date.

**Dates For Comments And Requests For  
A Public Hearing**

Written comments and requests for a public hearing must be mailed by August 29, 1988.

**ADDRESS:** Send comments or requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-133-86), Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Keith E. Stanley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) or telephone (202) 566-3458 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document proposes regulations to be added to the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) under section 6050M of the Internal Revenue Code of 1986. These proposed rules provide the needed guidance for complying with the provisions of section 6050M, which was enacted by section 1522 of the Tax Reform Act of 1986 (Pub. L. 99-514; 100 Stat. 2085).

**Explanation of Provisions**

Section 6050M requires the head of every Federal executive agency to file an information return with the Internal Revenue Service setting forth the name, address and TIN of each person with which that agency enters into a contract, as well as any other information prescribed under Treasury regulations. The information returns filed under section 6050M will be used as a source of information to collect delinquent Federal tax liabilities of persons who enter into contracts with Federal executive agencies.

In addition to the information specifically required by section 6050M, the proposed rules require other information that will facilitate the collection of delinquent Federal tax liabilities to be reported to the Internal Revenue Service. Included in the category of additional items are the expected date of completion of the contract as determined under any reasonable method (such as the expected contract delivery date under the contract schedule) and the total amount obligated under the contract action.

The proposed rules define the term "contract" to mean an obligation of a Federal executive agency to make payment of money (or other property) to a person in return for the sale of property, the rendering of services, or other consideration. The term "contract", however, does not include a license granted by a Federal executive agency, an obligation of a contractor (other than a Federal executive agency) to subcontractor, a debt instrument of the United States Government or of a Federal agency, or an obligation of a Federal executive agency to lend money, lease property to a lessee, or sell property.

Pursuant to the authority of section 6050M (d), it is proposed that contracts or contract actions for which the amount obligated is \$25,000 or less do not have to be reported. Because the purpose of section 6050M is to provide the Internal

Revenue Service with a source of information for collection, certain categories of contracts that will be of minimal use for this purpose are proposed to be excluded from the reporting requirements. Contracts with another Federal governmental unit or with a foreign, state, or local government (or an agency or instrumentality thereof) would not have to be reported. Additionally, no reporting would be required for any contract the terms of which provide that all amounts payable under the contract by any Federal executive agency will be paid within the 120 days following the date of the contract action, and for which it is reasonable to expect that all amounts will be so paid.

For contracts entered into on or after October 1, 1988, (or with respect to which there are contract actions required to be reported on or after that date) it is proposed that the information required to be reported to the Internal Revenue Service under section 6050M must be reported on a quarterly basis (calendar quarters). Generally, it is proposed that the information with respect to contracts entered into during a calendar quarter must be submitted on magnetic media to the Service on or before the last day of the calendar month following the quarter. A special reporting rule permitting the use of paper reporting on Form 8596 is provided for those Federal executive agencies that reasonably expect to enter into fewer than 250 contracts to be reported for a calendar year. To the extent permitted in future guidance relating to section 6050M, those Federal executive agencies that would be required to use magnetic media would be permitted to submit more than one return per quarter where each separate submission covers all of the contracts and contract actions required to be reported for the quarter for one or more readily identifiable operating functions of the Federal executive agency.

If a Federal executive agency reports all the information that the Internal Revenue Service requires with respect to one or more contracts to the Federal Procurement Data System, it is proposed that the agency may elect to have the Director of the Federal Procurement Data Center make, on its behalf, the return required with respect to all such contracts.

These rules are proposed to apply to Federal executive agencies with respect to their contracts (and their contract actions treated as contracts under paragraph (e) of the regulations) entered into on or after October 1, 1988. The Internal Revenue Service proposes to reserve on the issue of reporting by

Federal executive agencies regarding their contracts (and their contract actions treated as contracts under paragraph (e) of the regulations) entered into before October 1, 1988.

The reporting requirements proposed in this document are slightly different from those set forth in Notice 87-1, which was published in Internal Revenue Bulletin 1987-1, dated January 5, 1987. To the extent there is a difference, the rules proposed in this document, which are less burdensome than those in Notice 87-1, would be controlling, if adopted.

**Special Analyses**

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the notice and public procedure requirements of 5 U.S.C. 553 do not apply because the rules provided herein are interpretative. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that these proposed rules are not major rules as defined in Executive Order 12291 and that a Regulatory Impact Analysis therefore is not required.

**Comments and Requests For a Public Hearing**

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of time and place will be published in the Federal Register.

**Drafting Information**

The principal author of these proposed regulations is Thomas J. Kane of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both in matters of substance and style.

**List of Subjects**

26 CFR Part 1.6001-1—1.6109-2

Income taxes, Administration and procedures, Filing requirements.

For each quarter of a one year period beginning October 1

on that October 1

period

that one

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR Parts 1 and 301 are proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1986

Paragraph 1. The authority citation for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; \* \* \* § 1.6050M-1 also issued under 26 U.S.C. 6050M.

Par. 2. A new § 1.6050M-1 is added to read as follows:

§ 1.6050M-1 Information returns relating to persons receiving contracts from certain Federal executive agencies.

(a) General rule. Except as otherwise provided in paragraph (c) of this section, the head of every Federal executive agency or his or her delegate shall make an information return to the Internal Revenue Service reporting the following information with respect to each contract entered into by that Federal executive agency:

- (1) Name and address of the person with whom the contract is made ("contractor");
(2) Contractor's TIN and, if the contractor is a member of an affiliated group of corporations that files Federal income tax returns on a consolidated basis, the name and TIN of the common parent of the affiliated group;
(3) The date of the contract action;
(4) The expected date of completion of the contract as determined under any reasonable method, such as the expected contract delivery date under the contract schedule;
(5) The total amount obligated under the contract action;
(6) Any other information required by Forms 8596 and 8596A and their instructions, or by any other administrative guidance issued by the Internal Revenue Service (such as a revenue procedure).

See paragraph (e) of this section relating to the manner in which to report increases in amounts obligated under existing contracts. See paragraph (d)(5) of this section for special rules for agencies that submit contract

information to the Federal Procurement Data Center.

(b) Definitions. The following definitions apply for purposes of this section—

(1) Federal executive agency. The term "Federal executive agency" means—

(i) Any executive agency (as defined in 5 U.S.C. 105) other than the General Accounting Office;

(ii) Any military department (as defined in 5 U.S.C. 102); and

(iii) The United States Postal Service and the Postal Rate Commission.

(2) Contract—(i) General rule. The term "contract" means an obligation of a Federal executive agency to make payment of money (or other property) to a person in return for the sale of property, the rendering of services, or other consideration. The term "contract" includes, for example, such an obligation arising from a written agreement executed by the agency and the contractor, an award or notice of award, a job order or task letter issued under a basic ordering agreement, a letter contract, an order that becomes effective only upon written acceptance or performance, or a bilateral increase in amount obligated of a type described in paragraph (e) of this section.

(ii) Exceptions. For purposes of this section, the term "contract" does not include—

(A) A license granted by a Federal executive agency;

(B) An obligation of a contractor (other than a Federal executive agency) to a subcontractor;

(C) A debt instrument of the United States Government or a Federal agency, such as a treasury note, treasury bond, treasury bill, savings bond, or similar instrument; or

(D) An obligation of a Federal executive agency to lend money, lease property to a lessee, or sell property.

(iii) Special rule for certain minority contracts administered by the Small Business Administration. Any agreement entered into by the Small Business Administration ("SBA") as "prime contractor" on behalf of a procuring agency which is a Federal executive agency pursuant to the administration of section 8(a) of the Small Business Act (15 U.S.C. 637(a)) shall not be treated as a contract of the procuring agency for purposes of this section.

(iv) Certain schedule contracts. For purposes of this section—

(A) A Federal Supply Schedule Contract entered into by the General Services Administration.

(B) An Automated Data Processing Schedule Contract entered into by the General Services Administration, or

(C) A schedule contract entered into by the Veterans Administration on behalf of one or more Federal executive agencies is not a "contract" to be reported by the General Services Administration or the Veterans Administration at the time of execution. Instead, an order placed by a Federal executive agency, including the General Services Administration or the Veterans Administration, under such a schedule contract is a "contract" for purposes of this section.

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(v) Blanket purchase agreements. For purposes of this section, the term "contract" does not include a blanket purchase agreement between one or more Federal executive agencies and a contractor. Instead, an order placed by a Federal executive agency under the terms of a blanket purchase agreement is a "contract" for purposes of this section.

(3) Contractor. The term "contractor" means any person who enters into a contract with a Federal executive agency.

(4) Person and TIN. The terms "person" and "TIN" are defined in sections 7701(a) (1) and (41), respectively.

(c) Exceptions to information reporting requirements. The following do not need to be reported pursuant to this section:

(1) Any contract or contract action for which the amount obligated is \$25,000 or less;

(2) Any contract with a contractor who, in making the agreement, is acting in his or her capacity as an employee of a Federal executive agency (e.g., any contract of employment under which the employee is paid wages subject to the withholding provisions contained in Chapter 24 of Subtitle C);

(3) Any contract between a Federal executive agency and another Federal governmental unit (or agency or instrumentality thereof);

(4) Any contract with a foreign government (or any agency or instrumentality thereof);

(5) Any contract with a state or local governmental unit (or any agency or instrumentality thereof);

(6) Any contract with a person who is not required to have a TIN (see, for example, § 301.6109-1(g));

(7) Any contract the terms of which provide that all amounts payable under the contract by any Federal executive agency will be paid on or before the 120th day following the date of the contract action, and for which it is

reasonable to expect that all amounts will be so paid.

(d) *Filing requirements*—(1) *Frequency and time for filing.* The information returns required by this section with respect to contracts of a Federal executive agency entered into after October 1, 1988, must be filed on a quarterly basis for the calendar quarters ending on the last day of March, June, September and December. Except as provided in paragraph (d)(5) of this section, the returns for contracts entered into during a calendar quarter must be filed on or before the last day of the month following that quarter.

(2) *Form of reporting*—(i) *General rule concerning magnetic media.* The information returns required by this section with respect to contracts of a Federal executive agency for each calendar quarter shall be made in one submission (or in multiple submissions if permitted by paragraph (d)(4) of this section). Except as provided in paragraph (d)(2)(ii) of this section, the required return shall be made on magnetic media (within the meaning of § 301.6011-2) in accordance with any applicable revenue procedure or other guidance promulgated by the Internal Revenue Service for the filing of such returns under section 6050M.

(ii) *Magnetic media exception for low-volume filers.* Any Federal executive agency that on any October 1 has a reasonable expectation of entering into, during the one year period beginning on that date, fewer than 250 contracts that are subject to the reporting requirements under this section may make the information returns required by this section for each quarter of that one year period on the prescribed paper Form 8596 under penalties of perjury in accordance with the instructions accompanying such form.

(3) *Place of filing*—(i) *Returns on magnetic media.* Information returns made under this section on magnetic media shall be filed with the Internal Revenue Service at the National Computer Center, Martinsburg, West Virginia 25401, in accordance with any applicable revenue procedure or other guidance promulgated by the Internal Revenue Service relating to the filing of returns under section 6050M.

(ii) *Form 8596.* Information returns made on Form 8596 shall be filed with the Internal Revenue Service at the location specified in the instructions for that form.

(4) *Special rule concerning multiple returns.* To the extent permitted in any revenue procedure or other guidance relating to the filing of information returns under this section, a Federal executive agency which files

information returns under this section on magnetic media may make more than one magnetic media submission for any quarter, if each submission for that quarter contains all of the information required by paragraph (a) of this section for one or more departments, branches, bureaus, agencies, or other readily identifiable operating functions (such as a geographic region) of the Federal executive agency.

(5) *Special rules for agencies reporting to the Federal Procurement Data Center*—(i) *Election to have the Director of the Federal Procurement Data Center make return on behalf of agency.* If, in complying with the requirements of the Federal Procurement Data System (FPDS) (as established under the authority of the Office of Federal Procurement Policy Act, as amended, 41 U.S.C. 401 *et seq.*), a Federal executive agency submits to the Federal Procurement Data Center (FPDC) all the information with respect to one or more contracts required to be reported by paragraph (a) of this section, that Federal executive agency may, in lieu of making a return directly to the Internal Revenue Service with respect to those contracts, elect to have the Director of the FPDC (or his or her delegate) make the required return with respect to all of those contracts on its behalf. In order to make this election for contracts entered into during a calendar quarter, the head of a Federal executive agency (or his or her delegate) shall attach to its submission to the FPDC for that quarter a signed statement to the effect that (A) the Director of the FPDC (or his or her delegate) is authorized on the agency's behalf to make the return required by 26 CFR 1.6050M-1 for that quarter, and (B) the information provided by the agency for use by the FPDC in making that return is declared, under the penalties of perjury, to be, to the best of his or her knowledge and belief, true, correct, and complete. If the election is made, the Director of the FPDC (or his or her delegate) shall, on the electing agency's behalf, make the return required by paragraph (a) of this section with respect to the contracts to which the election applies.

(ii) *Time, manner, and place of filing.* The Director of the FPDC (or his or her delegate) must—

(A) Make the return on or before the earlier of—

(1) 45 days following the date that the contract information is required to be submitted to the FPDC, or

(2) 90 days following the end of the calendar quarter for which the election is made, except that, if that calendar quarter ends September 30, 105 days following the end of that quarter, and

(B) Comply with paragraphs (d) (2)(i) and (3)(i) of this section, relating to form and place of filing.

(iii) *Contracts reported directly to the Internal Revenue Service.* Even if the election is made, all information with respect to any particular contract required to be reported under paragraph (a) of this section must be reported directly to the Internal Revenue Service by the electing agency if that information is not submitted to the FPDC. An electing agency shall not make a direct return to the Internal Revenue Service of the contract information subject to the election.

(e) *Special rules relating to increases in amount obligated.* If, through the exercise of an option contained in a basic or initial contract or under any other rule of contract law, express or implied, the amount of money or other property obligated under the contract is increased by more than \$25,000, then that action shall be treated as the entering into of a new contract with respect to which the information required by paragraph (a) of this section is to be reported to the Internal Revenue Service for the calendar quarter in which the increase occurs.

(f) *Effective date*—(1) *Contracts entered into on or after October 1, 1988.* This section applies to each Federal executive agency with respect to (i) its contracts entered into on or after October 1, 1988, and (ii) its contract actions occurring on or after October 1, 1988, that are treated as new contracts under paragraph (e) of this section.

(2) *Contracts entered into before October 1, 1988.* [Reserved]

## PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for Part 301 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; . . .  
§ 301.6050M-1 is also issued under 26 U.S.C. 6050M.

Par. 4. A new § 301.6050M-1 is added to read as follows:

§ 301.6050M-1 Information returns relating to persons receiving contracts from certain Federal executive agencies  
~~(temporary)~~

For provisions relating to the requirements of returns of information relating to persons receiving contracts from certain Federal executive agencies,