

Title 49 of the United States Code, Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends restricted areas in Nevada.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with 311d., FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures." This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

#### PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 73.48 [Amended]

■ 2. § 73.48 is amended as follows:

\* \* \* \* \*

#### R-4806W Las Vegas, NV [Amended]

Under Using agency, remove the words "U.S. Air Force, Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.," and insert the words "USAF Warfare Center, Nellis AFB, NV"

\* \* \* \* \*

#### R-4807A Tonopah, NV [Amended]

Under Using agency, remove the words "U.S. Air Force, Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.," and insert the words "USAF Warfare Center, Nellis AFB, NV"

\* \* \* \* \*

#### R-4807B Tonopah, NV [Amended]

Under Using agency, remove the words "U.S. Air Force, Commander, Tactical

Fighter Weapons Center, Nellis AFB, NV.," and insert the words "USAF Warfare Center, Nellis AFB, NV"

\* \* \* \* \*

#### R-4809 Tonopah, NV [Amended]

Under Using agency, remove the words "U.S. Air Force, Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.," and insert the words "USAF Warfare Center, Nellis AFB, NV"

\* \* \* \* \*

Issued in Washington, DC, on December 8, 2008.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

[FR Doc. E8-29754 Filed 12-15-08; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[TD 9437]

RIN 1545-B100

#### Amendments to the Section 7216 Regulations—Disclosure or Use of Information by Preparers of Returns

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and removal of temporary regulations.

**SUMMARY:** This document contains final regulations that provide rules relating to the disclosure and use of tax return information by tax return preparers. These regulations affect tax return preparers and provide updated guidance regarding the disclosure of a taxpayer's social security number to a tax return preparer located outside of the United States.

**DATES:** *Effective Date:* These regulations are effective on *December 16, 2008.*

*Applicability Date:* See § 301.7216-3(d), which states that the regulations apply to disclosures or uses of tax return information occurring on or after January 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Molly K. Donnelly, (202) 622-4940 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document amends 26 CFR part 301. On December 8, 2005, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-137243-02) in the **Federal Register** (70 FR 72954) proposing amendments to the regulations under section 7216 (regarding the use or disclosure of tax

return information by income tax return preparers). On January 3, 2008, the Treasury Department and the IRS issued final regulations under section 7216 (TD 9375) applicable to disclosures or uses of tax return information occurring on or after January 1, 2009. Thus, TD 9375 replaced previously issued final regulations that remain applicable to disclosures or uses of tax return information occurring prior to January 1, 2009.

TD 9375 included a revision of § 301.7216-3(b)(4) which, for disclosures and uses of tax return information occurring on or after January 1, 2009, provided that an income tax return preparer located in the United States may not disclose the taxpayer's social security number (SSN) to a tax return preparer located outside of the United States even if the taxpayer consents to the disclosure.

On July 1, 2008, a temporary regulation (TD 9409) was published in the **Federal Register** (73 FR 37804) that created a limited exception to the rule prohibiting the disclosure of a taxpayer's SSN outside of the United States. This temporary regulation modified the rules under § 301.7216-3(b)(4). A notice of proposed rulemaking (REG-121698-08) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (73 FR 37910), requesting comments and setting a public hearing date.

#### Summary of Comments and Explanation of Revisions

The IRS and the Treasury Department requested written or electronic comments by September 30, 2008. Persons wishing to present oral comments at the public hearing scheduled for October 6, 2008, were to submit an outline of the topics to be discussed at the hearing by September 15, 2008, and written or electronic comments by September 30, 2008. No written or electronic comments or requests to speak at the hearing, together with the required outline of topics, were submitted, and the hearing was cancelled (73 FR 56534).

The final regulations adopt the rules published in the proposed regulations without substantial change. The final regulations maintain the general rule in § 301.7216-3(b)(4) providing that an income tax return preparer located in the United States may not disclose the taxpayer's SSN to a tax return preparer located outside of the United States even if the taxpayer consents to the disclosure. The final regulations create a limited exception to the general rule providing that a tax return preparer located within the United States,

including any territory or possession of the United States, may obtain consent to disclose the taxpayer's SSN to a tax return preparer located outside of the United States or any territory or possession of the United States only if the tax return preparer discloses the SSN through the use of an adequate protection safeguard as described in guidance published in the Internal Revenue Bulletin and verifies the maintenance of the adequate data protection safeguards in the request for the taxpayer's consent pursuant to the specifications described in guidance published in the Internal Revenue Bulletin.

The rules adopted in the final regulations are substantially identical to those proposed in the notice of proposed rulemaking with the exception that § 301.7216-3T(d), which set forth the effective date for the rules contained in the temporary regulations, was removed and not adopted in the final regulations because the identical effective date is currently set forth in § 301.7216-3(d). In addition, minor and non-substantive edits were made to provide grammatical consistency and clarity throughout the regulations. Additional guidance regarding the adequate data protection safeguard set forth in the regulations may be found in Revenue Procedure 2008-35, 2008-29 I.R.B. 132. See § 601.601(d)(2)(ii)(b).

### 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 Internal Revenue Code, the notice of proposed rulemaking preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### Drafting Information

The principal author of these regulations is Molly K. Donnelly, Office of the Associate Chief Counsel (Procedure and Administration).

### 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 continues to read in part as follows:

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

■ **Par. 2.** Section 301.7216-3 is amended by revising paragraph (b)(4) to read as follows:

#### § 301.7216-3 Disclosure or use permitted only with the taxpayer's consent.

\* \* \* \* \*

(b) \* \* \*

(4) *No consent to the disclosure of a taxpayer's social security number to a return preparer outside of the United States with respect to a taxpayer filing a return in the Form 1040 Series—(i) In general.* Except as provided in paragraph (b)(4)(ii) of this section, a tax return preparer located within the United States, including any territory or possession of the United States, may not obtain consent to disclose the taxpayer's social security number (SSN) with respect to a taxpayer filing a return in the Form 1040 Series, for example, Form 1040, Form 1040NR, Form 1040A, or Form 1040EZ, to a tax return preparer located outside of the United States or any territory or possession of the United States. Thus, if a tax return preparer located within the United States (including any territory or possession of the United States) obtains consent from an individual taxpayer to disclose tax return information to another tax return preparer located outside of the United States, as provided under §§ 301.7216-2(c) and 301.7216-2(d), the tax return preparer located in the United States may not disclose the taxpayer's SSN, and the tax return preparer must redact or otherwise mask the taxpayer's SSN before the tax return information is disclosed outside of the United States. If a tax return preparer located within the United States initially receives or obtains a taxpayer's SSN from another tax return preparer located outside of the United States, however, the tax return preparer within the United States may, without consent, retransmit the taxpayer's SSN to the tax return preparer located outside the United States that initially provided the SSN to the tax return preparer located within the United States. For purposes of this section, a tax return preparer located

outside of the United States does not include a tax return preparer who is continuously and regularly employed in the United States or any territory or possession of the United States and who is in a temporary travel status outside of the United States.

(ii) *Exception.* A tax return preparer located within the United States, including any territory or possession of the United States, may obtain consent to disclose the taxpayer's SSN to a tax return preparer located outside of the United States or any territory or possession of the United States only if the tax return preparer within the United States discloses the SSN to a tax return preparer outside of the United States through the use of an adequate data protection safeguard as defined by the Secretary in guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter) and verifies the maintenance of the adequate data protection safeguards in the request for the taxpayer's consent pursuant to the specifications described by the Secretary in guidance published in the Internal Revenue Bulletin.

\* \* \* \* \*

#### § 301.7216-3T [Removed]

■ **Par. 3.** Section 301.7216-3T is removed.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

Approved: December 10, 2008.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2008-0100]

RIN 1625-AA09

### Drawbridge Operation Regulations; Wabash River; Activity Identifier; Permanent Change to Operating Schedule

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard moves that the procedures for Operation of Drawbridges across the Wabash River be revised to reflect the needs of navigation. There were no comments or