

By order of the Board of Directors of the HOPE for Homeowners Program.

Margaret E. Burns,

*Executive Director of the Board.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[TD 9439]

RIN 1545-BC93

#### Disclosure of Return Information to the Bureau of Economic Analysis; Correction

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

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to temporary regulations (TD 9439) that were published in the **Federal Register** on Monday, December 29, 2008 (73 FR 79361) relating to disclosures of corporate tax return information to the Bureau of Economic Analysis.

**DATES:** This correction is effective on February 20, 2009, and is applicable on December 29, 2008.

**FOR FURTHER INFORMATION CONTACT:** Philip J. Lindenmuth, (202) 622-3400 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The temporary regulations that are the subject of this document are under section 6103 of the Internal Revenue Code.

##### Need for Correction

The temporary regulations (TD 9439) that were published in the **Federal Register** on December 29, 2008, inadvertently removed § 301.6103(j)(1)-1T in its entirety rather than removing § 301.6103(j)(1)-1T(c). This document correctly adds the text of § 301.6103(j)(1)-1T into the Code of Federal Regulations.

##### List of Subjects in 26 CFR Part 301

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

##### Correction of Publication

■ Accordingly, 26 CFR Part 301 is corrected by making the following correcting amendments:

## 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 301.6103(j)(1)-1T is added to read as follows:

**§ 301.6103(j)(1)-1T Disclosures of return information reflected on returns to officers and employees of the Department of Commerce for certain statistical purposes and related activities (temporary).**

(a) through (b)(3)(xxiv) [Reserved]. For further guidance, see § 301.6103(j)(1)-1(a) through (b)(3)(xxiv).

(xxv) From Form 6765 (when filed with corporation income tax returns)—total qualified research expenses.

(c) and (d) [Reserved]. For further guidance, see § 301.6103(j)(1)-1(c) and (d).

(e) *Effective/applicability date.* The amendment to paragraph (b)(3)(xxv) of this section is applicable to disclosures to the Bureau of the Census on or after December 31, 2007.

(f) *Expiration date.* The applicability of the amendment to paragraph (b)(3)(xxv) of this section expires on or before December 28, 2010.

**Cynthia E. Grigsby,**

*Senior Federal Register Liaison Officer, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E9-3599 Filed 2-19-09; 8:45 am]

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## DEPARTMENT OF LABOR

### Office of Labor-Management Standards

#### 29 CFR Parts 403 and 408

RIN 1215-AB62

#### Labor Organization Annual Financial Reports

**AGENCY:** Office of Labor-Management Standards, Employment Standards Administration, Department of Labor.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** This final rule delays the effective date of new regulations pertaining to the filing by labor organizations of annual financial reports required by the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). The regulations were published in the **Federal Register** on January 21, 2009. They revised Labor Organization Annual Report Form LM-

2 and established a procedure whereby the Department may revoke, when warranted, a labor organization's authorization to file the simplified Labor Organization Annual Report Form LM-3. This final rule postpones the effective date of the regulations from February 20, 2009, until April 21, 2009, to allow additional time for the agency and the public to review questions of law and policy concerning the regulations and, meanwhile, to permit unions to delay costly development and implementation of any necessary new accounting and recordkeeping systems and procedures pending this further consideration.

**DATES:** The effective date of the rule amending 29 CFR Parts 403 and 408, published January 21, 2009, at 74 FR 3678, is delayed until April 21, 2009. Comments on matters of law and policy raised by the regulations published on January 21, 2009, at 74 FR 3678, will be accepted until March 5, 2009.

**FOR FURTHER INFORMATION CONTACT:** Denise M. Boucher, Director, Office of Policy Reports and Disclosure, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-5609, Washington, DC 20210, (202) 693-1185. This is not a toll-free number.

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Overview

Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) (Pub. L. 86-257, 73 Stat. 519), requires each covered labor organization to file annually with the Secretary of Labor a financial report, signed by its president and treasurer or corresponding principal officers, containing information in the detail necessary to disclose accurately its financial condition and operations for the preceding fiscal year. The Secretary of Labor has delegated the Secretary's authority under the LMRDA to the Assistant Secretary for Employment Standards.

The requirements of LMRDA section 201 apply to all labor organizations in the private sector including those representing employees under the provisions of the National Labor Relations Act, as amended, and the Railway Labor Act, as amended. Section 1209(b) of the Postal Reorganization Act made the LMRDA applicable to labor organizations representing employees of the U.S. Postal Service. Section 701 of the Civil Service Reform Act of 1978 (CSRA) and section 1017 of the Foreign Service Act of 1980 (FSA), as implemented by Department of Labor

regulations at 29 CFR parts 457–459, extended the LMRDA reporting requirements to labor organizations representing certain employees of the Federal government.

Section 208 of the LMRDA authorizes the Secretary to issue rules prescribing the form and publication of the annual financial reports required by section 201, and to provide a simplified report for labor organizations for which the Secretary finds that by virtue of their size a detailed report would be unduly burdensome. Under regulations issued pursuant to section 208, the Secretary has prescribed Form LM–2 for labor organizations with total annual receipts of \$250,000 or more, and the simplified Form LM–3 for labor organizations with total annual receipts of \$10,000 or more, but less than \$250,000.

On January 21, 2009, the Department of Labor's Office of Labor-Management Standards (OLMS) published in the **Federal Register** (74 FR 3677) regulations making revisions to the Form LM–2 (used by the largest labor organizations to file their annual financial reports). The regulations, when effective, will require labor unions to report additional information on Schedules 3 (Sale of Investments and Fixed Assets), 4 (Purchase of Investments and Fixed Assets), 11 (All Officers and Disbursements to Officers) and 12 (Disbursement to Employees). The regulations also would add itemization schedules corresponding to categories of receipts, and establish a procedure and standards by which the Secretary of Labor may revoke a particular labor organization's authorization to file the simplified annual report, Form LM–3, where appropriate, after investigation, due notice, and opportunity for a hearing. The regulations were scheduled to take effect on February 20, 2009.

Consistent with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review" and the memorandum of January 21, 2009, from the Director of the Office of Management and Budget (OMB), entitled "Implementation of Memorandum Concerning Regulatory Review," on February 3, 2009, OLMS published in the **Federal Register** a document seeking comment on a proposed 60 day extension of the effective date and requesting comment on legal and policy questions relating to the regulations, including on the merits of rescinding or retaining the regulations. The document was available for public inspection at the **Federal Register** on January 29, 2009

and was published on February 3, 2009 (74 FR 5899).

Public comment on the proposed extension was invited, with the comment period ending on February 13, 2009. Public comment was also invited generally on the regulations, including the merits of rescinding or retaining them, with this comment period ending on March 5, 2009.

For the reasons discussed below, the Department has decided to postpone, for 60 days, the effective date of the regulations published on January 21, 2009, until April 21, 2009, for additional public comment and agency review of questions of law and policy.

## II. Comments on the Proposal and the Department's Responses and Decision

The Department received 24 comments on its proposal to postpone the effective date of the new Form LM–2/LM–3 regulations for 60 days pending further review of questions of law and policy. Eight were received from individuals, five of these expressed support for the Form LM–2/LM–3 regulations, but took no position on the proposed delay; three opposed delay, but without further explanation. Three public policy organizations (one of which submitted two separate comments) opposed the delay. An employer association also opposed the delay. Nine national or international labor organizations and two federations of labor organizations argued in support of the delay.

Commenters opposing the delay asserted the need for greater union transparency provided by the new regulations. Two commenters opined that this greater transparency is consistent with the President's stated emphasis on oversight and accountability. One of these commenters advised that such transparency is particularly needed in the context of new economic stimulus funds that soon will impact workplaces. The Department recognizes the objectives of transparency in the context of the LMRDA. The purpose of this stage of the proceedings is not, however, to reconsider the merits of the regulations. It is to determine whether they raise substantial questions of law and policy, necessitating additional review. The Department has in place a well-utilized and fully-operational labor union reporting and disclosure system. The system will not be affected or delayed in any way. In addition, under the original effective date, annual reports due under the new regulation would not be available in any event until September of 2010, at the earliest. Consequently, a 60-day delay before the

rule goes into effect does no discernable or quantifiable damage to the transparency objectives of the LMRDA. The implementation date of the regulations is not so time sensitive that it forecloses present day policy and legal review.

A public policy organization stated that the effective date of the new Form LM–2/LM–3 regulations should not be postponed because organizations have had adequate time to prepare for implementation of the regulations and any further delays are unnecessary. The Department disagrees. The purpose of extending the effective date of the regulations is to prevent labor organizations from incurring potentially unnecessary expense and effort in modifying accounting systems and procedures in the event that the regulations are modified or rescinded, not to provide more time to implement the changes the regulation requires. One commenter expressed the view that any needed accounting changes would be insignificant. That viewpoint is not, however, supported by the burden analysis published with the regulations. 74 FR 3702–3719. As there stated, the "Department assumes that most of the burden associated with the changes will occur in the first year due to needed changes to the accounting software and staff training." 74 FR 3708. Several national and international labor organizations stated that the Department correctly recognized the appropriateness in delaying the effective date of the regulations pending further review of the regulations. Some of these labor organizations stated that postponement of the regulations to permit their review was appropriate because the regulations require unions to incur substantial additional reporting and recordkeeping costs for a second time within only a few years time.

Three public policy organizations stated their opposition to any delay in the effective date of the new Form LM–2/LM–3 regulations, citing the sufficiency of the public comment and regulatory process that led to their adoption. These commenters also challenged the basis for the Department's review of these regulations. One expressed concern that delay in the disclosure of perquisites and benefits to officials of unions that supported the Administration during last fall's national elections creates an appearance of impropriety that alone should prevent this action. The Department strongly disagrees with this assessment. The Department's proposal to delay the effective date of the regulations is consistent with the request of the Assistant to the President

and Chief of Staff and the Office of Management and Budget directed to all Executive branch agencies, without regard to particular agencies or program areas, to determine whether it might be appropriate to delay the effective date of regulations to permit their review for matters of law and policy before taking effect. This process is being undertaken in a fully transparent manner, and the instant rulemaking has been, and will continue to be, undertaken in full compliance with the requirements of the Administrative Procedure Act. Moreover, the Department's current action in publishing this final rule is limited to delaying the regulations' effective date to April 21, 2009.

An employer association expressed concern that the postponement of the rule's effective date could be used by labor organizations as an excuse for filing incomplete Form LM-2s in 2009. The Department disagrees with this assessment. Absent further action by this Department, labor organizations will be required to comply with the regulations published on January 21, 2009. These regulations will apply to labor organizations whose fiscal year begins on or after July 1, 2009. Moreover, even if the effective date of these regulations were to be further delayed, labor organizations would still be required to comply with the Form LM-2 requirements that have been in place since 2003. Thus, any concern about incomplete reports is misplaced.

A public policy organization requested the Department to extend the March 5, 2009 date prescribed in the February 3, 2009 NPRM for the submission of comments on legal and policy questions relating to the Form LM-2-3 regulations. The organization stated that members of the public who may be adversely affected by the possible rescission of the regulations require at least an additional 120 days to submit comments, additionally requesting that the Department specifically identify legal and policy questions raised by the regulations. The Department declines to extend the comment period. The regulations as published will take effect on April 21, 2009 absent further action by the Department. If the Department determines to propose the rescission of the regulations, such proposal will be subject to notice and comment, thereby providing the public an ample opportunity to express its views on the regulations, including any grounds identified by the Department in support of rescission.

No commenter identified any substantial harm that would arise from delaying the regulations for 60 days.

After carefully considering the comments, the Department remains of the view that a delay of the regulations is appropriate. The delay will reduce the risk that unnecessary expense and effort may be undertaken to comply with the regulations under review.

The Department has invited comments on matters of law and policy raised by the regulations, and it will continue to accept comments until March 5, 2009.

Dated: February 17, 2009.

**Andrew D. Auerbach,**

*Deputy Director, Office of Labor-Management Standards.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[USCG-2009-0058]

#### Drawbridge Operating Regulations; Gulf Intracoastal Waterway, Houma, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Louisiana State Route 316 (LA 316) pontoon span bridge, also known as the Bayou Blue Bridge, across Gulf Intracoastal Waterway, mile 49.8, west of Harvey Lock (WHL) at Houma in Lafourche Parish, Louisiana. This deviation provides for the bridge to remain closed to navigation for one day in order to perform scheduled maintenance.

**DATES:** This deviation is effective from 7 a.m. until 3:30 p.m. on Tuesday, March 24, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0058 and are available online at [www.regulations.gov](http://www.regulations.gov). They are also available for inspection or copying at two locations: the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 500 Poydras Street, New Orleans,

Louisiana, 70130-3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Phil Johnson, Bridge Administration Branch, telephone (504) 671-2128.

**SUPPLEMENTARY INFORMATION:** The Louisiana Department of Transportation has requested a temporary deviation in order to perform maintenance on the LA 316 Pontoon Span Bridge across Gulf Intracoastal Waterway at mile 49.8, WHL, at Houma, Louisiana. This maintenance is necessary to repair the pivot arm that is attached to the floating pontoon of the bridge. The pivot arm sustained damage from a vessel which recently collided with it. A winch truck will need to be positioned on the pontoon span to hold the pivot arm in proper alignment while it is cut, straightened and welded. In order for the winch truck to remain on the pontoon span, the span must be locked in the closed-to-navigation position. This temporary deviation will allow the bridge to remain closed to navigation position from 7 a.m. until 3:30 p.m. on Tuesday, March 24, 2009. During the closure the draw will not be able to open for emergencies. Currently, the draw opens on signal.

Navigation on the waterway consists of tugs with tows, commercial fishing vessels and recreational powerboats and sailboats. The bridge is a pontoon span bridge which prevents all marine traffic from transiting the site with it in the closed-to-navigation position. No alternate route is available. The Coast Guard has coordinated this closure with the Gulf Intracoastal Canal Association (GICA). The GICA representative indicated that the vessel operators will be able to schedule transits through the bridge such that operations will not significantly be hindered. Thus, it has been determined that this closure will not have a significant effect on these vessels. This closure is considered necessary for repair of the swing arm of the bridge for continued operation of the bridge.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 4, 2009.

**David M. Frank,**

*Bridge Administrator.*

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