

Dated: March 24, 2011.

**Shawn Collins,**

*Director, Taxpayer Advocacy Panel.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Privacy Act of 1974, as Amended

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

**ACTION:** Notice of Proposed New Privacy Act System of Records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury, Internal Revenue Service, gives notice of a proposed new system of records entitled "Treasury/IRS 42.888—Qualifying Therapeutic Discovery Project Records."

**DATES:** Comments must be received no later than May 2, 2011. This new system of records will be effective May 2, 2011 unless the IRS receives comments which would result in a contrary determination.

**ADDRESSES:** Comments should be sent to the Office of Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Comments will be available for inspection and copying in the Freedom of Information Reading Room (Room 1621), at the above address. The telephone number for the Reading Room is (202) 622-5164. All comments, including attachments and other supporting materials, received are subject to public disclosure. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:**

Dave Thurber, Chief, Abusive Transactions and Technical Issues (ATTI) Group, Office of Examination, Small Business/Self-Employed Division, Internal Revenue Service, (707) 646-7291 (*Dave.Thurber@irs.gov*).

**SUPPLEMENTARY INFORMATION:** The IRS is required to administer, in consultation with the Department of Health and Human Services, the Qualifying Therapeutic Discovery Program pursuant to The Patient Protection and Affordable Care Act (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152) (Affordable Care Act).

The qualifying therapeutic discovery tax credit targets projects that show significant potential to produce new therapies, address unmet medical needs,

reduce the long-term growth of health care costs, and advance the goal of curing cancer within the next 30 years. Allocation of credits will also take into consideration which projects show the greatest potential to create and sustain high-quality, high-paying jobs in the United States and to advance our competitiveness in the fields of life, biological, and medical sciences.

This proposed new system will contain information regarding qualifying therapeutic discovery projects that are designed to develop a product, process, or therapy to diagnose, treat, or prevent diseases and afflictions by: (1) Conducting pre-clinical activities, clinical trials, clinical studies, and research protocols; or (2) developing technology or products designed to diagnose diseases and conditions, including molecular and companion drugs and diagnostics, or to further the delivery or administration of therapeutics.

The Affordable Care Act requires the IRS to disclose certain information to the public regarding the amount of the grant or credit, the identity of the person receiving the grant or credit, and a description of the project with respect to which the grant was made or the credit allowed. This proposed new system includes a routine use authorizing these disclosures to comply with the Act and the intent of Congress to publicize projects that show significant potential to produce new and cost-saving therapies, support good jobs, and increase U.S. competitiveness.

As required by 5 U.S.C. 552a(r), a report of a new system of records has been provided to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget.

The system of records entitled "Treasury/IRS 42.888—Qualifying Therapeutic Discovery Project Records" is published in its entirety below.

Dated: March 11, 2011.

**Melissa Hartman,**

*Deputy Assistant Secretary for Privacy, Transparency, and Records.*

#### Treasury/IRS 42.888

**SYSTEM NAME:**

Qualifying Therapeutic Discovery Project Records.

**SYSTEM LOCATION:**

IRS Campus, Covington, KY.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who file an Application for a Qualifying Therapeutic Discovery

Project credit (or grant in lieu of credit) in their individual capacity or on behalf of their sole proprietorship.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records include information pertaining to the IRS's administration of the Qualifying Therapeutic Discovery Project Program. Records include, but are not limited to the application, including Form 8942 and the Project Information Memorandum, representative authorization information, and a unique administrative control identifier associated with each application for certification. The records may contain taxpayer names and Taxpayer Identification Numbers (TIN) (social security number (SSN)).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301 and 26 U.S.C. 48D and 7801. Section 9023(a) of The Patient Protection and Affordable Care Act (Pub. L. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (P. L. 111-152) [Affordable Care Act].

**PURPOSE:**

To administer, in consultation with the Department of Health & Human Services, a qualifying therapeutic discovery project program to consider and award certifications for qualified investments eligible for the credit (or, at the taxpayer's election, the grant) to qualifying therapeutic discovery project sponsors.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. All other records may be used as described below if the IRS deems that the purpose of the disclosure is compatible with the purpose for which IRS collected the records, and no privilege is asserted.

(1) To disclose certain information to the public regarding the amount of the grant, the identity of the person to whom the grant was made, and a description of the project with respect to which the grant was made in accordance with the intent of Congress to publicize the projects that show significant potential to produce new and cost-saving therapies, support good jobs, and increase U.S. competitiveness.

(2) Disclose information to the Department of Justice (DOJ) when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity;

(c) any IRS employee in his or her individual capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the records are relevant and necessary to the proceeding or advice sought.

(3) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof; (b) any IRS employee in his or her official capacity; (c) any IRS employee in his or her personal capacity if the IRS or DOJ has agreed to provide representation for the employee; or (d) the United States is a party to, has an interest in, or is likely to be affected by, the proceeding and the IRS or DOJ determines that the information is relevant and necessary to the proceeding. Information may be disclosed to the adjudicative body to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(4) Disclose information to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(6) Disclose information to a contractor, including an expert witness or a consultant hired by the IRS, to the extent necessary for the performance of a contract.

(7) To appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in

connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(8) Disclose information to professional organizations or associations with which individuals covered by this system of records may be affiliated, such as state bar disciplinary authorities, to meet their responsibilities in connection with the administration and maintenance of standards of conduct and discipline.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records and electronic media.

**RETRIEVABILITY:**

By taxpayer name and Taxpayer Identification Number (TIN) (social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS.

**SAFEGUARDS:**

Only persons authorized by law will have access to these records. Access controls are not less than those published in IRM 10.8.1, Information Technology (IT) Security Policy and Guidance, and IRM 10.2, Physical Security Program.

**RETENTION AND DISPOSAL:**

Records are maintained in accordance with IRM 1.15, Records Management.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commissioner, SB/SE, 5000 Ellin Road, New Carrollton, MD 20706.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed as in "Record Access Procedures" below.

**RECORDS ACCESS PROCEDURES:**

Individuals seeking access to any record contained in this system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to Disclosure Office 5, Room 7019, 550 Main Street, Cincinnati, OH 45202. The IRS may assert 5 U.S.C. 552a(d)(5) as appropriate.

**CONTESTING RECORDS PROCEDURES:**

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. For all other records, see "Records Access Procedures" above.

**RECORDS SOURCE CATEGORIES:**

Records in this system are provided by the applicants, the Department of Health and Human Services, and the IRS taxpayer account records.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**Proposed Collection; Comment Request for Notice 2008-113; Correction**

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

**ACTION:** Correction to notice and request for comments.

**SUMMARY:** This document describes corrections to a notice and request for comments that was published in the **Federal Register** on Monday, March 7, 2011 at 76 FR 12415 inviting the general public and other Federal Agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the forms and instructions should be directed to Ralph Terry at (202) 622-8144, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at [Ralph.M.Terry@irs.gov](mailto:Ralph.M.Terry@irs.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice and request for comments that is the subject of this correction is required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**Need for Correction**

As published, the notice and request for comments for Proposed Collection; Comment Request for Notice 2008-113 contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of the notice and request for comments for Proposed Collection; Comment Request for Notice 2008-113, which was the