

shall be made except after the giving of notice as provided in this subparagraph and except to the extent necessary (i) to determine the initial or continuing qualification of the organization under section 501(c)(3); (ii) to determine whether the organization qualifies as one, contributions to which are deductible under section 170, 545, 556, 642, 2055, 2106, or 2522; (iii) to obtain information for the purpose of ascertaining or verifying payments made by the organization to another person in determining the tax liability of the recipient, such as payments of salaries, wages, or other forms of compensation; or (iv) to determine the amount of tax, if any, imposed by the Code upon such organization. No examination of the books of account of a church or convention or association of churches shall be made unless the Regional Commissioner believes that such examination is necessary and so notifies the organization in writing at least 30 days in advance of examination. The Regional Commissioner will conclude that such examination is necessary only after reasonable attempts have been made to obtain information from the books of account by written request and the Regional Commissioner has determined that the information cannot be fully or satisfactorily obtained in that manner. In any examination of a church or convention or association of churches for the purpose of determining unrelated business income tax liability pursuant to such notice, no examination of the books of account of the organization shall be made except to the extent necessary to determine such liability.

(3) *Religious activities.* No examination of the religious activities of an organization which claims to be a church or convention or association of churches shall be made except (i) to the extent necessary to determine the initial or continuing qualification of the organization under section 501(c)(3); (ii) to determine whether the organization qualifies as one, contributions to which are deductible under section 170, 545, 556, 642, 2055, 2106, or 2522; or (iii) to determine whether the organization is a church or convention or association of churches subject to the provisions of part III of subchapter F of chapter 1.

The requirements of subparagraph (2) of this paragraph that the Regional Commissioner give notice prior to examination of the books of account of an organization do not apply to an examination of the religious activities of the organization for any purpose described in this subparagraph. Once it has been determined that the organization is a church or convention or association of churches, no further examination of its religious activities may be made in connection with determining its liability, if any, for unrelated business income tax.

(4) *Effective date.* The provisions of this paragraph shall apply to audits and examinations of taxable years beginning after December 31, 1969.

(j) *Effective date.* Paragraphs (a) through (g) of this section, inclusive, are effective for examinations scheduled after April 2, 1993.

(Secs. 1441(c)(4) (80 Stat. 1553; 26 U.S.C. 1441(c)(4)), 3401(a)(6) (80 Stat. 1554; 26 U.S.C. 3401(a)(6)), and 7805 (68A Stat. 917; 26 U.S.C. 7805), Internal Revenue Code of 1954)

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7146, 36 FR 20599, Oct. 27, 1971; T.D. 7977, 49 FR 36836, Sept. 20, 1984; T.D. 8297, 55 FR 12346, Apr. 3, 1990; T.D. 8469, 58 FR 17519, Apr. 5, 1993]

§ 301.7606-1 Entry of premises for examination of taxable objects.

Any officer or employee of the Internal Revenue Service may, in the performance of his duty, enter in the daytime any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of examining said articles or objects and also enter at night any such building or place, while open, for a similar purpose.

[T.D. 7297, 38 FR 34804, Dec. 19, 1973]

§ 301.7609-1 Special procedures for third-party summonses.

(a) *In general.* Section 7609 requires the Internal Revenue Service to follow special procedures when summoning the records of persons defined by section 7609(a)(3) as “third-party record-keepers.” Under these special procedures, the person about whom information is being gathered must be notified in advance in many cases. If the person

about whom information is being gathered has been given notice, that person has the right to institute, until and including the 20th day following the day such notice was served on or mailed to such notified person, a proceeding to quash the summons. During the time the validity of the summons is being litigated, the statutes of limitations are suspended under section 7609(e). Section 7609 does not restrict the authority under section 7602 (or under any other provision of law) to examine records and witnesses without serving a summons and without giving notice of an examination. Sections 301.7609-1 through 301.7609-5 relate to section 7609; § 301.7609-2, discusses matters under sections 7609(a)(3) and 7609(i) relating to third-party recordkeepers; § 301.7609-3 discusses matters under section 7609(b), relating to intervention rights; § 301.7609-4 and the institution of a proceeding to quash; § 301.7609-4 discusses matters under section 7609(c), relating to summonses excepted from the section 7609 procedures; and § 301.7609-5 discusses matters under section 7609(e), relating to the suspension of the statute of limitations.

(b) *Effective dates.* This section applies to summonses served after December 31, 1982. For the rules applicable to summonses issued on or after March 1, 1977 and served before January 1, 1983, see 26 CFR 301.7609-1 (revised as of April 1, 1984).

[T.D. 8091, 51 FR 23054, June 25, 1986]

§ 301.7609-2 Third-party recordkeepers.

(a) *Definitions*—(1) *Accountant.* A person is an “accountant” under section 7609(a)(3)(F) for purposes of determining whether that person is a third-party recordkeeper if the person is registered, licensed, or certified under State law as an accountant.

(2) *Attorney.* A person is an “attorney” under section 7609(a)(3)(E) for purposes of determining whether that person is a third-party recordkeeper if the person is admitted to the bar of a State.

(3) *Credit cards*—(i) *Person extending credit through credit cards.* The term “person extending credit through the use of credit cards or similar devices” under section 7609(a)(3)(C) generally in-

cludes any person who issues a credit card. It does not include a seller of goods or services that honors credit cards issued by other parties but does not extend credit on the basis of credit cards or similar devices issued by itself.

(ii) *Similar devices to credit cards.* An object is a “similar device” to a credit card under section 7609(a)(3)(C) only if it is physical in nature, such as a coupon book, a charge plate, or a letter of credit. Thus, a person who extends credit by requiring credit customers to sign sales slips without requiring use of physical objects issued by that person is not a third-party recordkeeping under section 7609(a)(3)(C).

(b) *When third-party recordkeeper status arises*—(1) *In general.* A person is a “third-party recordkeeper” with respect to a given set of records only if the person made or kept the records in the person’s capacity as a third-party recordkeeper. Thus, for instance, an accountant is not a third-party recordkeeper (by reason of being an accountant) with respect to the accountant’s records of a sale of property by the accountant to another person. Similarly, a credit card issuer is not a third-party recordkeeper (by reason of being a person extending credit through the use of credit cards or similar devices) with respect to—

(i) Records relating to noncredit card transactions, such as a cash sale by the issuer to a holder of the issuer’s credit card; or

(ii) Records relating to transactions involving the use of another issuer’s credit card.

(2) *Examples.* The rules of paragraph (b)(1) of this section may be illustrated by the following examples:

Example 1. V issues a credit card (the V card) that is honored by R, a retailer. When using the V card, C signs a sales slip in triplicate. C, R, and V each retain one copy. Only the copy held by V is held by a third-party recordkeeper under section 7609 (a)(3), even though R may issue its own credit card.

Example 2. Assume the same facts as in example 1, except R does issue its own credit card to C (the R card). When C makes a credit purchase from R using the R card, C signs a sales slip in duplicate. C and R each retain one copy. Because R keeps the copy in its capacity as credit card issuer, as well as in its