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December 26, 2000

MEMORANDUM

TO: Sarah Wilson
Ann Bushmiller
Debra Premysler

FROM: Lara Levinson

RE: Disclosure of Tax Return Information to Archives

I have attached the statute and legislative history relating to disclosure of tax return information to Archives.

26 U.S.C. 6103(l)(17) (attached) states that the Secretary of Treasury "shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration [NARA] for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention."

Section (l)(17) was added to the statute in 1998 (public law attached).

The Senate Report (attached) states that, under prior law, "NARA noted several instances where the disclosure prohibitions of Code section 6103 complicated their review of many IRS records." The Report explains that the Committee believed it "appropriate to permit disclosure to NARA for purposes of scheduling records for destruction or retention." (Senate Report, p. 102). Therefore, according to the Report, section (l)(17) "provides an exception to the disclosure rules to require IRS to disclose IRS records to officers or employees of NARA." (Senate Report, p. 102).

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Lexis 12845-
Aug 1997
* 3 1998 US Dist
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21ST DOCUMENT of Level 1 printed in FULL format.

UNITED STATES CODE SERVICE
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*** CURRENT THROUGH P.L. 106-372, APPROVED 10/27/00 ***
*** WITH A GAP OF 106-369 ***

TITLE 26. INTERNAL REVENUE CODE
SUBTITLE F. PROCEDURE AND ADMINISTRATION
CHAPTER 61. INFORMATION AND RETURNS
SUBCHAPTER B. MISCELLANEOUS PROVISIONS

<=1> GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

26 USCS § 6103 (2000)

§ 6103. Confidentiality and disclosure of returns and return information.

(a) General rule. Returns and return information shall be confidential, and except as authorized by this title--

- (1) no officer or employee of the United States,
- (2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program listed in subsection (1) (7) (D) who has or had access to returns or return information under this section, and
- (3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e) (1) (D) (iii), paragraph (6), (12), or (16) of subsection (1), paragraph (2) or (4) (B) of subsection (m), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

(b) Definitions. For purposes of this section--

(1) Return. The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(2) Return information. The term "return information" means--

(A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or

26 USCS § 6103

possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense,

(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section §6110(b)) which is not open to public inspection under section 6110, and

(C) any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement,

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

(3) Taxpayer return information. The term "taxpayer return information" means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

(4) Tax administration. The term "tax administration"--

(A) means--

(i) the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and

(ii) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and

(B) includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

(5) State. The term "State" means--

(A) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and

(B) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p) any municipality--

(i) with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),

(ii) which imposes a tax on income or wages, and

(iii) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.

(6) Taxpayer identity. The term "taxpayer identity" means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

(7) Inspection. The terms "inspected" and "inspection" mean any examination of a return or return information.

(8) Disclosure. The term "disclosure" means the making known to any person in any manner whatever a return or return information.

(9) Federal agency. The term "Federal agency" means an agency within the meaning of section 551(1) of title 5, United States Code.

(10) Chief executive officer. The term "chief executive officer" means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality.

(c) Disclosure of returns and return information to designee of taxpayer. The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

(d) Disclosure to State tax officials and State and local law enforcement agencies.

(1) In general. Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36 shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

(2) Disclosure to State audit agencies.

(A) In general. Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

(B) State audit agency. For purposes of subparagraph (A), the term "State audit agency" means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs.

(3) Exception for reimbursement under section 7624. Nothing in this section shall be construed to prevent the Secretary from disclosing to any State or local law enforcement agency which may receive a payment under section 7624 the amount of the recovered taxes with respect to which such a payment may be made.

(4) Availability and use of death information [Caution: For postponement of effective date of this paragraph with respect to certain States, see P.L. 103-66, Sec. 13444(b), which appears as a note to this section.].

(A) In general. No returns or return information may be disclosed under paragraph (1) to any agency, body, or commission of any State (or any legal representative thereof) during any period during which a contract meeting the requirements of subparagraph (B) is not in effect between such State and the

agency, body, or commission designating the officers or employees to whom such information is to be furnished. Information may be furnished and used under this paragraph only for purposes of the licensing, registration, or regulation of income tax return preparers.

(6) Disclosure by internal revenue officers and employees for investigative purposes. An internal revenue officer or employee may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under the internal revenue laws, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this title. Such disclosures shall be made only in such situations and under such conditions as the Secretary may prescribe by regulation.

(7) Disclosure of excise tax registration information. To the extent the Secretary determines that disclosure is necessary to permit the effective administration of subtitle D, the Secretary may disclose--

(A) the name, address, and registration number of each person who is registered under any provision of subtitle D (and, in the case of a registered terminal operator, the address of each terminal operated by such operator), and

(B) the registration status of any person.

(8) Levies on certain government payments.

(A) Disclosure of return information in levies on financial management service. In serving a notice of levy, or release of such levy, with respect to any applicable government payment, the Secretary may disclose to officers and employees of the Financial Management Service--

(i) return information, including taxpayer identity information,

(ii) the amount of any unpaid liability under this title (including penalties and interest), and

(iii) the type of tax and tax period to which such unpaid liability relates.

(B) Restriction on use of disclosed information. Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

(C) Applicable government payment. For purposes of this paragraph, the term 'applicable government payment' means--

(i) any Federal payment (other than a payment for which eligibility is based on the income or assets (or both) of a payee) certified to the Financial Management Service for disbursement, and

(ii) any other payment which is certified to the Financial Management Service for disbursement and which the Secretary designates by published notice.

(9) Disclosure of information to administer section 6311. The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(1) Disclosure of returns and return information for purposes other than tax

administration.

(1) Disclosure of certain returns and return information to Social Security Administration and Railroad Retirement Board. The Secretary may, upon written request, disclose returns and return information with respect to--

(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057(d); and

(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

(2) Disclosure of returns and return information to the Department of Labor and Pension Benefit Guaranty Corporation. The Secretary may, upon written request, furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

(3) Disclosure that applicant for Federal loan has tax delinquent account.

§ (A) In general. Upon written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

(B) Restriction on disclosure. Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question.

(C) Included Federal loan program defined. For purposes of this paragraph, the term "included Federal loan program" means any program under which the United States or a Federal agency makes, guarantees, or insures loans.

(4) Disclosure of returns and return information for use in personnel or claimant representative matters. The Secretary may disclose returns and return information--

(A) upon written request--

(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 330 of title 31, United States Code,

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

(5) Social Security Administration. Upon written request by the Commissioner of Social Security, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of--

upon written request, disclose to officers and employees of--

- (A) any Federal agency,
- (B) any agency of a State or local government, or
- (C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law.

(16) Disclosure of return information for purposes of administering the District of Columbia Retirement Protection Act of 1997.

(A) In general. Upon written request available return information (including such information disclosed to the Social Security Administration under paragraph (1) or (5) of this subsection), relating to the amount of wage income (as defined in section 3121(a) or 3401(a)), the name, address, and identifying number assigned under section 6109, of payors of wage income, taxpayer identity (as defined in subsection 6103(b)(6)), and the occupational status reflected on any return filed by, or with respect to, any individual with respect to whom eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997, is sought to be determined, shall be disclosed by the Commissioner of Social Security, or to the extent not available from the Social Security Administration, by the Secretary, to any duly authorized officer or employee of the Department of the Treasury, or a Trustee or any designated officer or employee of a Trustee (as defined in the District of Columbia Retirement Protection Act of 1997), or any actuary engaged by a Trustee under the terms of the District of Columbia Retirement Protection Act of 1997, whose official duties require such disclosure, solely for the purpose of, and to the extent necessary in, determining an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

(B) Disclosure for use in judicial or administrative proceedings. Return information disclosed to any person under this paragraph may be disclosed in a judicial or administrative proceeding relating to the determination of an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

(17) Disclosure to National Archives and Records Administration. The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsection (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.

(m) Disclosure of taxpayer identity information.

(1) Tax refunds. The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

(2) Federal claims.

(A) In general. Except as provided in subparagraph (B), the Secretary may,

2(17)

ESS.

July 22

PUBLIC LAW 105-206 [H.R. 2676]; July 22, 1998

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

*For Legislative History of Act, see Report for P.L. 105B206 in
U.S.C.C. & A.N. Legislative History Section*

An Act to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; WAIVER OF ESTIMATED TAX PENALTIES; TABLE OF CONTENTS.

(a) SHORT TITLE.--This Act may be cited as the "Internal Revenue Service Restructuring and Reform Act of 1998".

(b) AMENDMENT OF 1986 CODE.--Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) WAIVER OF ESTIMATED TAX PENALTIES.--No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an installment required to be paid on or before the 30th day after the date of the enactment of this Act to the extent such underpayment was created or increased by any provision of this Act.

(d) TABLE OF CONTENTS.--The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; waiver of estimated tax penalties; table of contents.

TITLE I--REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A--Reorganization of the Internal Revenue Service

Sec. 1001. Reorganization of the Internal Revenue Service.

Sec. 1002. Internal Revenue Service mission to focus on taxpayers' needs.

Subtitle B--Executive Branch Governance and Senior Management

Sec. 1101. Internal Revenue Service Oversight Board.

Sec. 1102. Commissioner of Internal Revenue; other officials.

Sec. 1103. Treasury Inspector General for Tax Administration.

Sec. 1104. Other personnel.

Sec. 1105. Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle C--Personnel Flexibilities

Sec. 1201. Improvements in personnel flexibilities.

Sec. 1202. Voluntary separation incentive payments.

Sec. 1203. Termination of employment for misconduct.

Sec. 1204. Basis for evaluation of Internal Revenue Service employees.

Sec. 1205. Employee training program.

TITLE II--ELECTRONIC FILING

Sec. 2001. Electronic filing of tax and information returns.

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26 USC 1 note.

26 USC 6654
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“(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language;

“(B) the existence of other low-income taxpayer clinics serving the same population;

“(C) the quality of the program offered by the low-income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low-income taxpayers; and

“(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

“(5) REQUIREMENT OF MATCHING FUNDS.--A low-income taxpayer clinic must provide matching funds on a dollar-for-dollar basis for all grants provided under this section. Matching funds may include--

“(A) the salary (including fringe benefits) of individuals performing services for the clinic; and

“(B) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.”

(b) CLERICAL AMENDMENT.--The table of sections for chapter 77, as amended by section 3411, is amended by adding at the end the following new item:

“Sec. 7526. Low-income taxpayer clinics.”

26 USC 7526
note.

(c) EFFECTIVE DATE.--The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle H--Other Matters

26 USC 7604
note.

SEC. 3701. CATALOGING COMPLAINTS.

In collecting data for the report required under section 1211 of the Taxpayer Bill of Rights 2 (Public Law 104-168), the Secretary of the Treasury or the Secretary's delegate shall, not later than January 1, 2000, maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.

SEC. 3702. ARCHIVE OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.--Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

“(17) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.--The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsection (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration

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whose official duties require such disclosure for purposes of such appraisal."

(b) CONFORMING AMENDMENTS.--Section 6103(p) is amended--

(1) in paragraph (3)(A), by striking "or (16)" and inserting "(16), or (17)";

(2) in paragraph (4), by striking "or (14)" and inserting ", (14), or (17)" in the matter preceding subparagraph (A); and

(3) in paragraph (4)(F)(ii), by striking "or (15)" and inserting ", (15), or (17)".

(c) EFFECTIVE DATE.--The amendments made by this section shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act.

SEC. 3703. PAYMENT OF TAXES.

The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.

SEC. 3704. CLARIFICATION OF AUTHORITY OF SECRETARY RELATING TO THE MAKING OF ELECTIONS.

Subsection (d) of section 7805 is amended by striking "by regulations or forms".

SEC. 3705. INTERNAL REVENUE SERVICE EMPLOYEE CONTACTS.

(a) NOTICE.--The Secretary of the Treasury or the Secretary's delegate shall provide that--

(1) any manually generated correspondence received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence;

(2) any other correspondence or notice received by a taxpayer from the Internal Revenue Service shall include in a prominent manner a telephone number that the taxpayer may contact; and

(3) an Internal Revenue Service employee shall give a taxpayer during a telephone or personal contact the employee's name and unique identifying number.

(b) SINGLE CONTACT.--The Secretary of the Treasury or the Secretary's delegate shall develop a procedure under which, to the extent practicable and if advantageous to the taxpayer, one Internal Revenue Service employee shall be assigned to handle a taxpayer's matter until it is resolved.

(c) TELEPHONE HELPLINE IN SPANISH.--The Secretary of the Treasury or the Secretary's delegate shall provide, in appropriate circumstances, that taxpayer questions on telephone helplines of the Internal Revenue Service are answered in Spanish.

(d) OTHER TELEPHONE HELPLINE OPTIONS.--The Secretary of the Treasury or the Secretary's delegate shall provide, in appropriate circumstances, on telephone helplines of the Internal Revenue Service an option for any taxpayer to talk to an Internal Revenue Service employee during normal business hours. The person shall direct phone questions of the taxpayer to other Internal Revenue Service personnel who can provide assistance to the taxpayer.

(e) EFFECTIVE DATES.--

Applicability.
26 USC 6103
note.

Regulations.
26 USC 6311
note.

26 USC 7801
note.

Procedures.

Calendar No. 341

105TH CONGRESS }
2d Session }

SENATE

REPORT
105-174

Senate
Report

INTERNAL REVENUE SERVICE RESTRUCTURING AND
REFORM ACT OF 1998

APRIL 22, 1998.—Ordered to be printed

Mr. ROTH, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 2676]

The Committee on Finance, to which was referred the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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ployee basis, the IRS will not be able to adequately investigate such allegations or properly prepare the required report.

Explanation of Provision

The provision requires that, in collecting data for this report, records of taxpayer complaints of misconduct by IRS employees must be maintained on an individual employee basis. These individual records are not to be listed in the report.

Effective Date

The requirement is effective on the date of enactment.

2. Archive of records of Internal Revenue Service (sec. 3702 of the bill and sec. 6103 of the Code)

Present Law

The IRS is obligated to transfer agency records to the National Archives and Records Administration ("NARA") for retention or disposal. The IRS is also obligated to protect confidential taxpayer records from disclosure. These two obligations have created conflict between NARA and the IRS. Under present law, the IRS determines whether records contain taxpayer information. Once the IRS has made that determination, NARA is not permitted to examine those records. NARA has expressed concern that the IRS may be using the disclosure prohibition to improperly conceal agency records with historical significance.

IRS obligation to archive records

The IRS, like all other Federal agencies, must create, maintain, and preserve agency records in accordance with section 3101 of title 44 of the United States Code. NARA is the Government agency responsible for overseeing the management of the records of the Federal government.³⁷ Federal agencies are required to deposit significant and historical records with NARA.³⁸ The head of each Federal agency must also establish safeguards against the removal or loss of records.³⁹

Authority of NARA

NARA is authorized, under the Federal Records Act, to establish standards for the selective retention of records of continuing value.⁴⁰ NARA has the statutory authority to inspect records management practices of Federal agencies and to make recommendations for improvement.⁴¹ The head of each Federal agency must submit to NARA a list of records to be destroyed and a schedule for such destruction.⁴² NARA examines the list to determine if any of the records on the list have sufficient administrative, legal research, or other value to warrant their continued preservation. In many cases, the description of the record on the list is sufficient for

³⁷ 44 U.S.C. sec. 2904.

³⁸ 5 U.S.C. sec. 552a(b)(6).

³⁹ 44 U.S.C. sec. 3105.

⁴⁰ 44 U.S.C. sec. 2905.

⁴¹ 44 U.S.C. sec. 2904(c)(7).

⁴² 44 U.S.C. sec. 3303.

NARA to make the determination. For example, NARA does not need to inspect Presidential tax returns to determine that they have historical value and should be retained. In some cases, NARA may find it helpful to examine a particular record. NARA has general authority to inspect records solely for the purpose of making recommendations for the improvement of records management practices.⁴³ However, tax returns and return information can only be disclosed under the authority provided in section 6103 of the Internal Revenue Code. There is no exception to the disclosure prohibition for records management inspection by NARA.⁴⁴

In connection with its evaluation of the records management system of the IRS, NARA noted several instances where the disclosure prohibitions of Code section 6103 complicated their review of many IRS records.

NARA is also responsible for the custody, use and withdrawal of records transferred to it.⁴⁵ Statutory provisions that restrict public access to the records in the hands of the agency from which the records were transferred also apply to NARA. Thus, if a confidential record, such as a Presidential tax return, is transferred to NARA for archival storage, NARA is not permitted to disclose it. In general, the application of such restrictions to records in the hands of NARA expire after the records have been in existence for 30 years.⁴⁶ The issue of whether the specific disclosure prohibition of section 6103 takes precedence over the general 30-year expiration of restrictions generally applicable to records in the hands of NARA has not been addressed by a court, but an informal advisory opinion from the Office of Legal Counsel of the Attorney General concluded that the 30-year expiration provision would not reach records subject to section 6103.⁴⁷

Confidentiality requirements

The IRS must preserve the confidentiality of taxpayer information contained in Federal income tax returns. Such information may not be disclosed except as authorized under Code section 6103. Section 6103 was substantially revised in 1976 to address Congress' concern that tax information was being used by Federal agencies in pursuit of objectives unrelated to administration and enforcement of the tax laws. Congress believed that the widespread use of tax information by agencies other than the IRS could adversely affect the willingness of taxpayers to comply voluntarily with the tax laws and could undermine the country's self-assessment tax system.⁴⁸ Section 6103 does not authorize the disclosure of confidential return information to NARA.

Section 6103 restricts the disclosure of returns and return information only. Return means any tax or information return, declaration of estimated tax, or claim for refund, including schedules and attachments thereto, filed with the IRS. Return information includes the taxpayer's name; nature and source or amount of in-

⁴³ 44 U.S.C. sec. 2906.

⁴⁴ *American Friends Service Committee v. Webster*, 720 F.2d 29 (D.C. Cir. 1983).

⁴⁵ 44 U.S.C. sec. 2108.

⁴⁶ 44 U.S.C. sec. 2108.

⁴⁷ Department of Justice, Office of Legal Counsel, Memorandum to Richard K. Willard, Assistant Attorney General (Civil Division) (February 27, 1986).

⁴⁸ S. Rept. 94-938, p. 317 (1976).

come; and whether the taxpayer's return is under investigation. Section 6103(b)(2) provides that "nothing in any other provision of law shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws." Section 6103 does not restrict the disclosure of other records required to be maintained by the IRS, such as records documenting agency policy, programs and activities, and agency histories. Such records are required to be made available to the public under the Freedom of Information Act ("FOIA").⁴⁹

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding \$5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431).

Reasons for Change

The Committee believes that it is appropriate to permit disclosure to NARA for purposes of scheduling records for destruction or retention, while at the same time preserving the confidentiality of taxpayer information in those documents.

Explanation of Provision

The provision provides an exception to the disclosure rules to require IRS to disclose IRS records to officers or employees of NARA, upon written request from the U.S. Archivist, for purposes of the appraisal of such records for destruction or retention. The present-law prohibitions on and penalties for disclosure of tax information would generally apply to NARA.

Effective Date

The provision is effective for requests made by the Archivist after the date of enactment.

3. Payment of taxes (sec. 3703 of the bill)

Present Law

The Code provides that it is lawful for the Secretary to accept checks or money orders as payment for taxes, to the extent and under the conditions provided in regulations prescribed by the Secretary (sec. 6311). Those regulations state that checks or money orders should be made payable to the Internal Revenue Service.

Reasons for Change

The Committee believes that it more appropriate that checks be made payable to the United States Treasury.

⁴⁹ FOIA does not require disclosure of records or information that would frustrate law enforcement efforts. 5 U.S.C. sec. 552(b)(7).

105TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
105-599

INTERNAL REVENUE SERVICE
RESTRUCTURING AND REFORM ACT OF 1998

CONFERENCE REPORT

TO ACCOMPANY

H.R. 2676



JUNE 24, 1998.—Ordered to be printed

house
report

House Bill

The provision requires that, in collecting data for this report, records of taxpayer complaints of misconduct by IRS employees must be maintained on an individual employee basis. These individual records are not to be listed in the report.

Effective date.—Date of enactment.

Senate Amendment

Same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

Effective date.—January 1, 2000.

2. Archive of records of Internal Revenue Service (sec. 373 of the House bill and sec. 3702 of the Senate amendment)

Present Law

The IRS is obligated to transfer agency records to the National Archives and Records Administration ("NARA") for retention or disposal. The IRS is also obligated to protect confidential taxpayer records from disclosure. These two obligations have created conflict between NARA and the IRS. Under present law, the IRS determines whether records contain taxpayer information. Once the IRS has made that determination, NARA is not permitted to examine those records. NARA has expressed concern that the IRS may be using the disclosure prohibition to improperly conceal agency records with historical significance.

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding \$5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). Section 6103 does not authorize the disclosure of confidential return information to NARA.

House Bill

The House bill provides an exception to the disclosure rules to require IRS to disclose IRS records to officers or employees of NARA, upon written request from the U.S. Archivist, for purposes of the appraisal of such records for destruction or retention. The present-law prohibitions on and penalties for disclosure of tax information would generally apply to NARA.

Effective date.—Effective for requests made by the Archivist after the date of enactment.

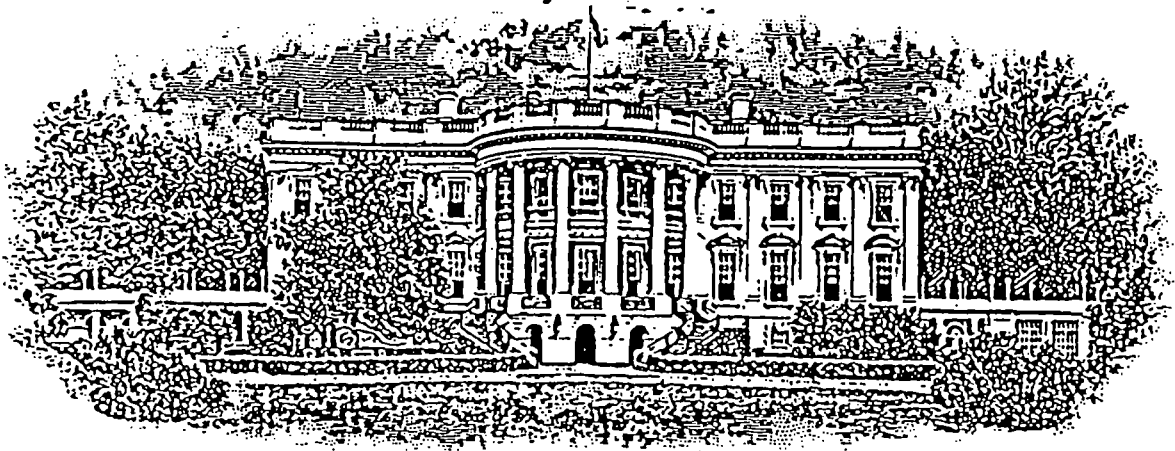
Senate Amendment

Same as the House bill.

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The White House



COUNSEL'S OFFICE

Facsimile Transmission Cover Sheet

Telephone 202 456-6229

Fax 202 456-2146

DATE:

1/18/99 00

TO:

Carolyn Smith

FACSIMILE NUMBER:

226-1758

TELEPHONE NUMBER:

FROM:

Mike O'Connor Jr.

TELEPHONE NUMBER:

456-5079

PAGES (WITH COVER):

3

COMMENTS:

Please call if you have any questions.
It was a pleasure to work with
Deirdre James. Thanks! Mike O'Connor

PLEASE DELIVER AS SOON AS POSSIBLE

The document(s) accompanying this facsimile transmittal sheet is intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received this information in error, please immediately notify the sender at their telephone number stated above.

THE WHITE HOUSE

WASHINGTON

January 18, ²⁰⁰⁰~~1999~~

Ms. Lindy L. Paull
Chief of Staff
Joint Committee on Taxation
Congress of the United States

Dear Ms. Paull:

I have received your letter of January 4, 2000 regarding 26 U.S.C. § 6103 of the Internal Revenue Code. I thank you for asking my opinion on this matter and hope that my response is helpful to you.

Your letter inquires about the Executive Branch's use of two subsections of § 6103, which permit access to otherwise confidential taxpayer information under specified conditions. The first, § 6103(c), permits a taxpayer to authorize the disclosure of his or her tax information. The second, § 6103(g), permits certain Administration officials to access tax information upon the personal written request of the President (or, in some cases, the heads of federal agencies). You have asked why the Executive Branch generally obtains tax checks under subsection (c) rather than (g).

This Administration follows the practice of prior Administrations in relying on subsection (c) rather than (g) for conducting tax checks on potential appointees. In our view, there are several persuasive reasons for this practice.

Subsection (c), unlike subsection (g), has the advantage of requiring taxpayer consent, which we believe is a preferable means of obtaining sensitive taxpayer information when practicable. If tax checks were routinely conducted under subsection (g), no prior authorization of the taxpayer would be required. Indeed, under (g)(1), the taxpayer would not even be entitled to notification within three days, as is required under (g)(2). In addition, subsection (c) has the advantage of enabling us to obtain the taxpayer's consent for certain information that is not obtainable under subsection (g)(2), such as information confirming proper filing and payment prior to the immediately preceding three tax years. Finally, please note that subsection (c) is a practicable means by which a President-elect can vet potential candidates for a new Administration, whereas subsection (g) might not be applicable to Presidents-elect.

In the rare event that extraordinary confidentiality or other exigencies require the President to obtain a tax check on a potential candidate before informing the candidate that he or she is under consideration, subsection (g) provides appropriate authority. As I discuss below, we believe that the availability of such an option is important. Nonetheless, routine reliance on subsection (g) by the White House for each and every potential appointment would be

burdensome and unwarranted. To suggest that the President should personally approve numerous routine consensual requests would trivialize the extraordinary element of personal Presidential approval embodied in subsection (g).

Your letter indicates that you are considering whether to recommend to Congress that subsection (g) be repealed as "deadwood" because it has never been used. In our view, the fact that subsection (g) has been viewed as an extraordinary remedy to be used in rare instances, and that it has not been used to date, does not support a repeal of the authority granted in that subsection. To the contrary, it may in fact indicate that the law has worked precisely as intended. We believe that occasions might arise when the Chief Executive might need to seek, upon his personal approval, access to certain taxpayer information for which he cannot obtain taxpayer consent, in order properly to carry out his constitutional authorities. Such an instance might arise, for example, in a situation raising national security concerns. Without conceding that the President could not seek such information even in the absence of statutory authority to do so, it seems far sounder to leave in place a statute setting forth the appropriate procedures and limitations, including necessary reporting requirements, should that contingency arrive, rather than to create a void that would have to be filled with only a moment's notice. As it stands, subsection (g) reflects a pragmatic understanding between Congress and the Executive Branch regarding the balance between Executive authority and the important privacy interests of American taxpayers. That the President has not chosen to use subsection (g) does not mean that Congress should eliminate that authority.

In conclusion, I would like both to thank you for asking our input on this matter and to compliment your staff for its cooperation. Please call me if you would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth Nolan", with a long horizontal flourish extending to the right.

Beth Nolan
Counsel to the President

JOINT COMMITTEE ON TAXATION

Telecopier/Facsimile Transmission
FacesheetMark
Mike
BruceNumber of Pages to Follow: 4
(not including facesheet)DATE & TIME: 1/4/00 1:32pmTO: Ms. Beth Nolan, Counsel to the President 202 456-6279FROM: Deirdre JamesCOMMENTS: Original to follow by mail - Attached
is a request for assistance regarding a study
of the confidentiality of tax returns and return
information (Section 6103 of the Internal Revenue Code)

This document is transmitted for the Joint Committee on Taxation on a Xerox WorkCenter PRO 657 telecopier which may be accessed at (202) 226-1758.

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SENDER: Deirdre James 202 225-7377
[name] [telephone no.]

Congress of the United States**JOINT COMMITTEE ON TAXATION****Washington, D.C. 20515****JAN 04 2000**

Ms. Beth Nolan
Counsel to the President
White House, West Wing, Second Floor
Washington, D.C. 20502

Dear Ms. Nolan:

Section 3802 of the IRS Reform and Restructuring Act of 1998 requires the Joint Committee on Taxation ("Joint Committee") to conduct a study regarding the scope and use of provisions regarding taxpayer confidentiality. The Joint Committee's report and recommendations are due to Congress on January 22, 2000. For purposes of this study, we are including a discussion on the use of return information by the President and other executive agencies. We would like to include your views on this topic.

Section 6103 of the Internal Revenue Code generally protects the confidentiality of tax returns and return information unless an exception applies. Two exceptions are relevant to the use of return information by the President and executive branch agencies. Section 6103(g) permits the President to have access to returns and return information upon written request signed by him personally. This section also permits the Executive Office of the President and the head of any Federal agency to receive a limited amount of return information concerning individuals under consideration for appointments to the executive or judicial branch of the Federal Government ("tax checks"). Section 6103(c) permits a taxpayer to authorize the disclosure of his or her tax returns and return information to a designee of such taxpayer.

It is our understanding from the IRS that no disclosures have ever been made under section 6103(g). In addition, we understand that section 6103(c) is routinely used by the Executive Branch to secure taxpayer returns and return information for tax checks.

Because the exception contained in section 6103(g) has never been used, we are considering recommending to the Congress that this exception be repealed as deadwood. We would like your views on this proposal and would like you to advise us whether you believe there are problems with this recommendation. In addition, we would appreciate any information you can provide as to why section 6103(g) has not been used, and why section 6103(c) is being used to conduct tax checks in lieu of section 6103(g).

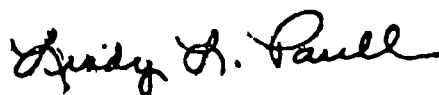
Congress of the United States
JOINT COMMITTEE ON TAXATION
Washington, D.C. 20515

Ms. Beth Nolan
Counsel to the President

Page 2

Because we are required to report to the Congress by January 22, 2000, we would appreciate your response by January 13, 2000. Should you have any questions regarding this matter, please contact Deirdre James of my staff at (202) 225-7377.

Sincerely,



Lindy L. Paull
Chief of Staff

Enclosures: Sections 6103(c) and (g)

s. 6103(D)(4)(A)

Information and return

of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(B) Other committees. Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(5) Disclosure by whistleblower. Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a committee referred to in paragraph (1) or any individual authorized to receive or inspect information under paragraph (4)(A) if such person believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.

(g) Disclosure to President and certain other persons.

(1) In general. Upon written request by the President, signed by him personally, the Secretary shall furnish to the President, or to such employee or employees of the White House Office as the President may designate by name in such request, a return or return information with respect to any taxpayer named in such request. Any such request shall state—

- (A) the name and address of the taxpayer whose return or return information is to be disclosed;
- (B) the kind of return or return information which is to be disclosed;
- (C) the taxable period or periods covered by such return or return information; and
- (D) the specific reason why the inspection or disclosure is requested.

(2) Disclosure of return information as to Presidential appointees and certain other Federal Government appointees. The Secretary may disclose to a duly authorized representative of the Executive Office of the President or to the head of any Federal agency, upon written request by the President or head of such agency, or to the Federal Bureau of Investigation on behalf of and upon written request by the President or such head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government.

Such return information shall be limited to whether such individual—

- (A) has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years;
- (B) has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;
- (C) has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of any such investigation; or
- (D) has been assessed any civil penalty under this title for fraud.

Within 3 days of the receipt of any request for any return information with respect to any individual under this paragraph, the Secretary shall notify such individual in writing that such information has been requested under the provisions of this paragraph.

(3) Restriction on disclosure. The employees to whom returns and return information are disclosed under this subsection shall not disclose such returns and return information to any other person except the President or the head of such agency without the personal written direction of the President or the head of such agency.

(4) Restriction on disclosure to certain employees. Disclosure of returns and return information under this subsection shall not be made to any employee whose annual rate of basic pay is less than the annual rate of basic pay specified for positions subject to section 5316 of title 5, United States Code.

(5) Reporting requirements. Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests. The President shall not be required to report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

(h) Disclosure to certain Federal officers and employees for purposes of tax administration, etc.

(1) Department of the Treasury. Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

(2) Department of Justice. In a matter involving tax administration, a return or return information shall be open to inspection by or disclosure to officers and employees of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, any proceeding before a Federal grand jury or preparation for any proceeding (or investigation with

Information and returns

Information and returns

Code Sec. 6103(d)(1)

41(c)(1), redesignated item 6111 as 6112
1... Sec. 142(c)(1), redesignated item
as item 6112.

1201(c), redesignated the item for Code
Code Sec. 6111 ... added a new item
'a(2), amended the item for Code Sec.

cm for Code Sec. 6103 read as follows:
and disclosures of information as to per-

2(b)(1), repealed Code Sec. 6104, but
an amendment to delete that item from

13(i)(2), added the item for Code Sec.

(b)(2), amended the item for Code Sec.
ed by the ACT
om for Code Sec. 6111 read as follows:
6111

4(b), substituted "disclosure of informa-
tation tax returns" for "disclosure of infor-
mation tax returns"

Item 6109 and redesignated former item

ered by returns or other docu-

rovided for by this title, the Secre-
prescribe the period for which, or
y return, statement, or other docu-
e or by regulations, shall be made.

1906(b)(13)(A), substituted "Secretary"
for "each place it appeared in Code Sec.

ions on returns or other docu-

Internal Revenue forms.

ized to provide with respect to any
shown on a form prescribed for any
statement, or other document, that if
item is other than a whole-dollar

of a dollar shall be disregarded; or
of a dollar shall be disregarded un-
half dollar or more, in which case
d without regard to the fractional
be increased by \$1.
whole dollar amounts.

return, statement, or other document
regulations prescribed by the Secre-
rn, statement, or other document
don (a).

putation of amount.
sections (a) and (b) shall not be ap-
must be taken into account in mak-
necessary to determine the amount re-
form, but shall be applicable only

1906(b)(13)(A), substituted "Secretary"
for "each place it appeared in Code Sec.

lity and disclosure of returns and

formation shall be confidential, and
his title—

oyee of the United States,
loyee of any State, any local child
agency, or any local agency adminis-
in subsection (1)(7)(D) who has or

and access to returns or return information under this sec-
tion, and

(2) no other person (or officer or employee thereof) who
has or had access to returns or return information under
subsection (c)(1)(D)(iii), paragraph (6), (12), or (16) of
subsection (1), paragraph (2) or (4)(B) of subsection (m),
or subsection (n),

and disclose any return or return information obtained by
in any manner in connection with his service as such an
officer or an employee or otherwise or under the provisions
of this section. For purposes of this subsection, the term "of-
ficer or employee" includes a former officer or employee,
or definitions.

For purposes of this section—

(1) Return. The term "return" means any tax or informa-
tion return, declaration of estimated tax, or claim for re-
fund required by, or provided for or permitted under, the
provisions of this title which is filed with the Secretary
by, on behalf of, or with respect to any person, and any
amendment or supplement thereto, including supporting
schedules, attachments, or lists which are supplemental to,
or part of, the return so filed.

(2) Return information. The term "return information"
means—

(A) a taxpayer's identity, the nature, source, or amount
of his income, payments, receipts, deductions, exemp-
tions, credits, assets, liabilities, net worth, tax liability,
tax withheld, deficiencies, over assessments, or tax pay-
ments, whether the taxpayer's return was, is being, or
will be examined or subject to other investigation or
processing, or any other data, received by, recorded by,
prepared by, furnished to, or collected by the Secretary
with respect to a return or with respect to the determi-
nation of the existence, or possible existence, of liabil-
ity (or the amount thereof) of any person under this title
for any tax, penalty, interest, fine, forfeiture, or other
imposition, or offense, and

(B) any part of any written determination or any back-
ground file document relating to such written determi-
nation (as such terms are defined in section 6110(b))
which is not open to public inspection under section
6110.

but such term does not include data in a form which can-
not be associated with, or otherwise identify, directly or
indirectly, a particular taxpayer. Nothing in the preceding
sentence, or in any other provision of law, shall be con-
strued to require the disclosure of standards used or to be
used for the selection of returns for examination, or data
used or to be used for determining such standards, if the
Secretary determines that such disclosure will seriously
impair assessment, collection, or enforcement under the
internal revenue laws.

(3) Taxpayer return information. The term "taxpayer
return information" means return information as defined
in paragraph (2) which is filed with, or furnished to, the
Secretary by or on behalf of the taxpayer to whom such
return information relates.

(4) Tax administration. The term "tax administration"—
(A) means—

(i) the administration, management, conduct, direc-
tion, and supervision of the execution and application
of the internal revenue laws or related statutes (or
equivalent laws and statutes of a State) and tax con-
ventions to which the United States is a party, and
(ii) the development and formulation of Federal tax
policy relating to existing or proposed internal reve-
nue laws, related statutes, and tax conventions, and

(B) includes assessment, collection, enforcement, litiga-
tion, publication, and statistical gathering functions
under such laws, statutes, or conventions.

(5) State. The term "State" means—

(A) any of the 50 States, the District of Columbia, the
Commonwealth of Puerto Rico, the Virgin Islands, the
Canal Zone, Guam, American Samoa, and the Com-
monwealth of the Northern Mariana Islands, and

(B) for purposes of subsections (a)(2), (b)(4), (d)(1),
(h)(4), and (p) any municipality—

(i) with a population in excess of 250,000 (as deter-
mined under the most recent decennial United States
census data available),

(ii) which imposes a tax on income or wages, and

(iii) with which the Secretary (in his sole discretion)
has entered into an agreement regarding disclosure.

(6) Taxpayer identity. The term "taxpayer identity"
means the name of a person with respect to whom a re-
turn is filed, his mailing address, his taxpayer identifying
number (as described in section 6109), or a combination
thereof.

(7) Inspection. The terms "inspected" and "inspection"
mean any examination of a return or return information.

(8) Disclosure. The term "disclosure" means the making
known to any person in any manner whatever a return or
return information.

(9) Federal agency. The term "Federal agency" means an
agency within the meaning of section 551(1) of title 5,
United States Code.

(10) Chief executive officer. The term "chief executive
officer" means, with respect to any municipality, any
elected official and the chief official (even if not elected)
of such municipality.

(c) Disclosure of returns and return information to desig-
nate of taxpayer.

The Secretary may, subject to such requirements and con-
ditions as he may prescribe by regulations, disclose the re-
turn of any taxpayer, or return information with respect to
such taxpayer, to such person or persons as the taxpayer
may designate in a request for or consent to such disclosure,
or to any other person at the taxpayer's request to the extent
necessary to comply with a request for information or as-
sistance made by the taxpayer to such other person. However,
return information shall not be disclosed to such person or
persons if the Secretary determines that such disclosure
would seriously impair Federal tax administration.

(d) Disclosure to State tax officials and State and local
law enforcement agencies.

(1) In general. Returns and return information with re-
spect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23,
24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36
shall be open to inspection by, or disclosure to, any State
agency, body, or commission, or its legal representative,
which is charged under the laws of such State with re-
sponsibility for the administration of State tax laws for the
purpose of, and only to the extent necessary in, the admin-
istration of such laws, including any procedures with re-
spect to locating any person who may be entitled to a re-
fund. Such inspection shall be permitted, or such
disclosure made, only upon written request by the head of
such agency, body, or commission, and only to the repre-
sentatives of such agency, body, or commission desig-
nated in such written request as the individuals who are to
inspect or to receive the returns or return information on
behalf of such agency, body, or commission. Such repre-
sentatives shall not include any individual who is the chief
executive officer of such State or who is neither an em-

UNITED STATES CODE ANNOTATED

Title 26
Internal Revenue Code
§§ 6001 to 6400

1999
Cumulative Annual Pocket Part

Replacing 1998 pocket part in back of 1989 bound volume

Includes the Laws of the
105th CONGRESS, Second Session (1998)

For close of Notes of Decisions
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WEST GROUP

(B) **Exception.**—If the domicile of the decedent was not in an internal revenue district, or if he had no domicile, the estate tax return required under section 6018 shall be made at such place as the Secretary may by regulations designate.

(4) **Hand-carried returns.**—Notwithstanding paragraph (1), (2), or (3), a return to which paragraph (1)(A), (2)(A), or (3)(A) would apply, but for this paragraph, which is made to the Secretary by hand-carrying shall, under regulations prescribed by the Secretary, be made in the internal revenue district referred to in paragraph (1)(A)(i), (2)(A)(i), or (3)(A)(i), as the case may be.

(5) **Exceptional cases.**—Notwithstanding paragraph (1), (2), (3), or (4) of this subsection, the Secretary may permit a return to be filed in any internal revenue district; and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary.

(6) **Alcohol, tobacco, and firearms returns, etc.**—In the case of any return of tax imposed by section 4181 or subtitle E (relating to taxes on alcohol, tobacco, and firearms), subsection (a) shall apply (and this subsection shall not apply).

(Aug. 16, 1954, c. 736, 68A Stat. 752; Nov. 2, 1966, Pub.L. 89-713, § 1(a), 80 Stat. 1107; Dec. 31, 1970, Pub.L. 91-614, Title I, § 101(f), 84 Stat. 1838; Oct. 4, 1976, Pub.L. 94-455, Title X, §§ 1051(h)(4), 1052(c)(6), 1053(d)(4), Title XII, § 1204(c)(3), Title XIX, § 1906(b)(13)(A), 90 Stat. 1647-1649, 1697, 1834; Nov. 8, 1978, Pub.L. 95-615, Title II, § 202(g)(5), formerly §§ 202(f)(5), 207(b), 92 Stat. 3100, 3108, renumbered Apr. 1, 1980, Pub.L. 96-222, Title I, § 108(a)(1)(A), 94 Stat. 223; Aug. 13, 1981, Pub.L. 97-34, Title I, §§ 111(b)(3), 112(b)(6), 95 Stat. 194, 195; Oct. 22, 1986, Pub.L. 99-514, Title XII, § 1272(d)(10), Title XVIII, § 1879(r)(1), 100 Stat. 2594, 2912; Dec. 22, 1987, Pub.L. 100-203, Title X, § 10713(h)(2)(A), 101 Stat. 1330-470; Dec. 19, 1989, Pub.L. 101-239, Title VII, § 7841(f), 103 Stat. 2429.)

1 So in original. Word "and" is probably superfluous.

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1989 Act. House Report No. 101-247, House Conference Report No. 101-356, and Statement by President, see 1989 U.S. Code Cong. and Adm. News, p. 2017.

Amendments

1989 Amendment. Subsec. (b)(6). Pub.L. 101-239, § 7841(f), inserted reference to section 4181.

LIBRARY REFERENCES

Encyclopedias

Place for filing returns in general, see C.J.S. Internal Revenue § 1044.

33 Am Jur 2d, Federal Taxation (1995) ¶¶ 1708, 2653, 3104.

33 Am Jur 2d, Federal Taxation (1996) ¶¶ 1708, 2653, 3104.

33A Am Jur 2d, Federal Taxation (1996) ¶ 5954.

33A Am Jur 2d, Federal Taxation (1995) ¶ 5814.

34A Am Jur 2d, Federal Taxation (1995) ¶¶ 148,660, 148,661, 183,064, 183,065.

Texts and Treatises

Requirement that corporate income tax returns be filed where corporation has principal place of business, see Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction 2d § 3625.

1 Fed Proc L Ed, Access to District Courts § 1:142.

20 Fed Proc L Ed, Internal Revenue § 48:1.

5 Soc Sec LP, Taxes § 70:26.

NOTES OF DECISIONS

4. — Delivery to proper official

Where petitioner W and former H excluded H's wages as exempt foreign earned income from their 1985 joint income tax return; instruc-

tions for Form 2555 stated it was to be attached to and filed with Form 1040 at Philadelphia Service Center, but return was mailed to Ogden Service Center on July 30, 1986; Ogden Service

Center sent petitioner's 1985 return to Philadelphia Center Commissioner sometime after Oct. 20, 1986; and Commissioner mailed deficiency notice on Aug. 17, 1989, Court determined earliest date Philadelphia could have received petitioner's errant return would have been Aug. 19, 1986, and Commissioner's assessment of 1985 tax was not time-barred, since taxpayers claiming foreign earned income exclusion must file return where this section or regulations require, and returns are not deemed filed until received by designated revenue office (when timely mail-

ing rule is inapplicable). *Winnett v. C. I. R.*, U.S. Tax Ct. 1991, 96 T.C. 802.

6. Residence of taxpayer

Chapter 7 debtor's tax returns were not properly "filed," and his tax debts for those years were thus nondischargeable, where debtor delivered his returns to wrong Internal Revenue Service (IRS) office, in a city that was not internal revenue district in which debtor's legal residence was located, nor at service center servicing that district. *In re Savage*, 10th Cir. BAP (Wyo.) 1998, 218 B.R. 126.

PART VIII—DESIGNATION OF INCOME TAX PAYMENTS TO PRESIDENTIAL ELECTION CAMPAIGN FUND

§ 6096. Designation by individuals

(a) **In general.**—Every individual (other than a nonresident alien) whose income tax liability for the taxable year is \$3 or more may designate that \$3 shall be paid over to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a). In the case of a joint return of husband and wife having an income tax liability of \$6 or more, each spouse may designate that \$3 shall be paid to the fund.

(b) **Income tax liability.**—For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown in his return) allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof).

(c) **Manner and time of designation.**—A designation under subsection (a) may be made with respect to any taxable year—

(1) at the time of filing the return of the tax imposed by chapter 1 for such taxable year, or

(2) at any other time (after the time of filing the return of the tax imposed by chapter 1 for such taxable year) specified in regulations prescribed by the Secretary.

Such designation shall be made in such manner as the Secretary prescribes by regulations except that, if such designation is made at the time of filing the return of the tax imposed by chapter 1 for such taxable year, such designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature.

(Added Pub.L. 89-809, Title III, § 302(a), Nov. 13, 1966, 80 Stat. 1587, and amended Pub.L. 92-178, Title VIII, § 802(a), Dec. 10, 1971, 85 Stat. 573; Pub.L. 93-53, § 6(a), July 1, 1973, 87 Stat. 138; Pub.L. 94-12, Title II, §§ 203(b)(4), 208(d)(4), Mar. 29, 1975, 89 Stat. 30, 35; Pub.L. 94-455, Title IV, § 401(a)(2)(C), Title V, § 504(c)(2), Title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1555, 1565, 1834; Pub.L. 95-30, Title II, § 202(d)(6), May 23, 1977, 91 Stat. 151; Pub.L. 95-618, Title I, § 101(b)(4), Nov. 9, 1978, 92 Stat. 3180; Pub.L. 96-223, Title II, §§ 231(b)(2), 232(b)(3)(C), Apr. 2, 1980, 94 Stat. 272, 276; Pub. L. 97-34, Title II, § 221(c)(1), Title III, § 331(e)(1), Aug. 13, 1981, 95 Stat. 247, 295; Pub.L. 97-414, § 4(c)(2), Jan. 4, 1983, 96 Stat. 2056; Pub.L. 98-369, Div. A, Title IV, § 474(r)(31), July 18, 1984, 98 Stat. 845; Pub.L. 103-66, Title XIII, § 13441(a), Aug. 10, 1993, 107 Stat. 667.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. House Report No. 103-111 and House Conference Report No. 103-213, see 1993 U.S. Code Cong. and Adm. News, p. 378.

Amendments

1993 Amendments. Subsec. (a). Pub.L. 103-66, § 13441(a), substituted "\$6" for "\$2" in

one instance and "\$3" for "\$1" wherever appearing.

Effective and Termination Dates

1993 Acts. Section 13441(b) of Pub.L. 103-66 provided that: "The amendments made by subsection (a) [amending subsec. (a) of this section] apply with respect to tax returns required to be filed after December 31, 1993."

LIBRARY REFERENCES

Encyclopedias

33 Am Jur 2d, Federal Taxation (1995) ¶ 1719.
33 Am Jur 2d, Federal Taxation (1996) ¶ 1719.

Law Review and Journal Commentaries

Beyond lights and wires in a box: Ensuring the existence of public television. Meredith C. Hightower, 3 J.L. & Pol'y 133 (1994).

Campaign finance reform: A key to restoring the health of our democracy. Fred Wertheimer and Susan Weiss Manes, 94 Colum.L.Rev. 1126 (1994).

Texts and Treatises

10A Fed Proc L Ed, Elections and Elective Franchise § 28:294.
23 Fed Tax Coord 2d ¶ S-7102.

SUBCHAPTER B—MISCELLANEOUS PROVISIONS

Subchapter B—Miscellaneous Provisions

Sec.		Sec.	
6103.	Confidentiality and disclosure of returns and return information.	6109.	Identifying numbers.
6104.	Publicity of information required from certain exempt organizations and certain trusts.	6111.	Registration of tax shelters.
		6115.	Disclosure related to quid pro quo contributions.
		6116.	Cross reference.

HISTORICAL AND STATUTORY NOTES

Amendments

1993 Amendments. Pub.L. 103-66, Title XIII, § 13173(c)(1), Aug. 10, 1993, 107 Stat. 457.

added item relating to section 6115 and redesignated item relating to former section 6115 as 6116.

§ 6101. Period covered by returns or other documents

LIBRARY REFERENCES

Income tax accounting periods, see C.J.S. Internal Revenue §§ 22 to 55.
2A Immigration Law Service, Taxation § 26:25.

Texts and Treatises

2A Immigration Law Service, Other Rights, Privileges, Duties, and Obligations § 28:55.

§ 6102. Computations on returns or other documents

LIBRARY REFERENCES

Encyclopedias

Form and sufficiency of returns, see C.J.S. Internal Revenue § 1046.
33 Am Jur 2d, Federal Taxation (1995) ¶ 1717.
33 Am Jur 2d, Federal Taxation (1996) ¶ 1717.

Texts and Treatises

23 Fed Tax Coord 2d ¶ S-1006.

§ 6103. Confidentiality and disclosure of returns and return information

(a) General rule.—Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D) who has or had access to returns or return information under this section, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), paragraph (6), (12), or (16) of subsection (l), paragraph (2) or (4)(B) of subsection (m), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

(b) Definitions.—For purposes of this section—

(1) Return.—The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of,

or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(2) Return information.—The term "return information" means—

(A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and

(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

(3) Taxpayer return information.—The term "taxpayer return information" means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

(4) Tax administration.—The term "tax administration"—

(A) means—

(i) the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and

(ii) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and

(B) includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

(5) State.—The term "State" means—

(A) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and

(B) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p) any municipality—

(i) with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),

(ii) which imposes a tax on income or wages, and

(iii) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.

(6) Taxpayer identity.—The term "taxpayer identity" means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

(7) Inspection.—The terms "inspected" and "inspection" mean any examination of a return or return information.

(8) Disclosure.—The term "disclosure" means the making known to any person in any manner whatever a return or return information.

(9) Federal agency.—The term "Federal agency" means an agency within the meaning of section 551(1) of title 5, United States Code.

(10) **Chief executive officer.**—The term “chief executive officer” means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality.

(c) **Disclosure of returns and return information to designee of taxpayer.**—The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

(d) **Disclosure to State tax officials and State and local law enforcement agencies.**—

(1) **In general.**—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36 shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

(2) **Disclosure to State audit agencies.**—

(A) **In general.**—Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

(B) **State audit agency.**—For purposes of subparagraph (A), the term “State audit agency” means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs.

(3) **Exception for reimbursement under section 7624.**—Nothing in this section shall be construed to prevent the Secretary from disclosing to any State or local law enforcement agency which may receive a payment under section 7624 the amount of the recovered taxes with respect to which such a payment may be made.

(4) **Availability and use of death information.**—

(A) **In general.**—No returns or return information may be disclosed under paragraph (1) to any agency, body, or commission of any State (or any legal representative thereof) during any period during which a contract meeting the requirements of subparagraph (B) is not in effect between such State and the Secretary of Health and Human Services.

(B) **Contractual requirements.**—A contract meets the requirements of this subparagraph if—

(i) such contract requires the State to furnish the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it, and

(ii) such contract does not include any restriction on the use of information obtained by such Secretary pursuant to such contract, except that such contract may provide that such information is only to be used by the

Secretary (or any other Federal agency) for purposes of ensuring that Federal benefits or other payments are not erroneously paid to deceased individuals.

Any information obtained by the Secretary of Health and Human Services under such a contract shall be exempt from disclosure under section 552 of title 5, United States Code, and from the requirements of section 552a of such title 5.

(C) **Special exception.**—The provisions of subparagraph (A) shall not apply to any State which on July 1, 1993, was not, pursuant to a contract, furnishing the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it.

(5) **Disclosure for certain combined reporting project.**—The Secretary shall disclose taxpayer identities and signatures for purposes of the demonstration project described in section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.

(e) **Disclosure to persons having material interest.**—

(1) **In general.**—The return of a person shall, upon written request, be open to inspection by or disclosure to—

(A) in the case of the return of an individual—

(i) that individual,

(ii) the spouse of that individual if the individual and such spouse have signified their consent to consider a gift reported on such return as made one-half by him and one-half by the spouse pursuant to the provisions of section 2513; or

(iii) the child of that individual (or such child's legal representative) to the extent necessary to comply with the provisions of section 1(g);

[(iv) Redesignated (iii)]

(B) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

(C) in the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

(D) in the case of the return of a corporation or a subsidiary thereof—

(i) any person designated by resolution of its board of directors or other similar governing body,

(ii) any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer,

(iii) any bona fide shareholder of record owning 1 percent or more of the outstanding stock of such corporation,

(iv) if the corporation was a foreign personal holding company, as defined by section 552, any person who was a shareholder during any part of a period covered by such return if with respect to that period, or any part thereof, such shareholder was required under section 551 to include in his gross income undistributed foreign personal holding company income of such company,

(v) if the corporation was an electing small business corporation under subchapter S of chapter 1, any person who was a shareholder during any part of the period covered by such return during which an election was in effect, or

(vi) if the corporation has been dissolved, any person authorized by applicable State law to act for the corporation or any person who the Secretary finds to have a material interest which will be affected by information contained therein;

(E) in the case of the return of an estate—

(i) the administrator, executor, or trustee of such estate, and

(ii) any heir at law, next of kin, or beneficiary under the will, of the decedent, but only if the Secretary finds that such heir at law, next of kin,

or beneficiary has a material interest which will be affected by information contained therein; and

(F) in the case of the return of a trust—

(i) the trustee or trustees, jointly or separately, and

(ii) any beneficiary of such trust, but only if the Secretary finds that such beneficiary has a material interest which will be affected by information contained therein.

(2) **Incompetency.**—If an individual described in paragraph (1) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee, or guardian of his estate.

(3) **Deceased individuals.**—The return of a decedent shall, upon written request, be open to inspection by or disclosure to—

(A) the administrator, executor, or trustee of his estate, and

(B) any heir at law, next of kin, or beneficiary under the will, of such decedent, or a donee of property, but only if the Secretary finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

(4) **Title 11 cases and receivership proceedings.**—If—

(A) there is a trustee in a title 11 case in which the debtor is the person with respect to whom the return is filed, or

(B) substantially all of the property of the person with respect to whom the return is filed is in the hands of a receiver,

such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary finds that such trustee or receiver, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

(5) **Individual's title 11 case.**—

(A) **In general.**—In any case to which section 1398 applies (determined without regard to section 1398(b)(1)), any return of the debtor for the taxable year in which the case commenced or any preceding taxable year shall, upon written request, be open to inspection by or disclosure to the trustee in such case.

(B) **Return of estate available to debtor.**—Any return of an estate in a case to which section 1398 applies shall, upon written request, be open to inspection by or disclosure to the debtor in such case.

(C) **Special rule for involuntary cases.**—In an involuntary case, no disclosure shall be made under subparagraph (A) until the order for relief has been entered by the court having jurisdiction of such case unless such court finds that such disclosure is appropriate for purposes of determining whether an order for relief should be entered.

(6) **Attorney in fact.**—Any return to which this subsection applies shall, upon written request, also be open to inspection by or disclosure to the attorney in fact duly authorized in writing by any of the persons described in paragraph (1), (2), (3), (4), (5), (8), or (9) to inspect the return or receive the information on his behalf, subject to the conditions provided in such paragraphs.

(7) **Return information.**—Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Secretary determines that such disclosure would not seriously impair Federal tax administration.

(8) **Disclosure of collection activities with respect to joint return.**—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing by either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected. The preceding sentence shall not apply to any deficiency which may not be collected by reason of section 6502.

(9) **Disclosure of certain information where more than 1 person subject to penalty under section 6672.**—If the Secretary determines that a person is liable

for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected.

(f) **Disclosure to Committees of Congress.**—

(1) **Committee on Ways and Means, Committee on Finance, and Joint Committee on Taxation.**—Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(2) **Chief of Staff of Joint Committee on Taxation.**—Upon written request by the Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any return or return information specified in such request. Such Chief of Staff may submit such return or return information to any committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(3) **Other committees.**—Pursuant to an action by, and upon written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

(4) **Agents of committees and submission of information to Senate or House of Representatives.**—

(A) **Committees described in paragraph (1).**—Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such committee or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(B) **Other committees.**—Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such

committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(5) **Disclosure by whistleblower.**—Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a committee referred to in paragraph (1) or any individual authorized to receive or inspect information under paragraph (4)(A) if such person believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.

(g) **Disclosure to President and certain other persons.**—

(1) **In general.**—Upon written request by the President, signed by him personally, the Secretary shall furnish to the President, or to such employee or employees of the White House Office as the President may designate by name in such request, a return or return information with respect to any taxpayer named in such request. Any such request shall state—

- (A) the name and address of the taxpayer whose return or return information is to be disclosed,
- (B) the kind of return or return information which is to be disclosed,
- (C) the taxable period or periods covered by such return or return information, and
- (D) the specific reason why the inspection or disclosure is requested.

(2) **Disclosure of return information as to Presidential appointees and certain other Federal Government appointees.**—The Secretary may disclose to a duly authorized representative of the Executive Office of the President or to the head of any Federal agency, upon written request by the President or head of such agency, or to the Federal Bureau of Investigation on behalf of and upon written request by the President or such head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government. Such return information shall be limited to whether such individual—

- (A) has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years;
- (B) has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;
- (C) has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of any such investigation; or
- (D) has been assessed any civil penalty under this title for fraud.

Within 3 days of the receipt of any request for any return information with respect to any individual under this paragraph, the Secretary shall notify such individual in writing that such information has been requested under the provisions of this paragraph.

(3) **Restriction on disclosure.**—The employees to whom returns and return information are disclosed under this subsection shall not disclose such returns and return information to any other person except the President or the head of such agency without the personal written direction of the President or the head of such agency.

(4) **Restriction on disclosure to certain employees.**—Disclosure of returns and return information under this subsection shall not be made to any employee whose annual rate of basic pay is less than the annual rate of basic pay specified for positions subject to section 5316 of title 5, United States Code.

(5) **Reporting requirements.**—Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests. The President shall not be required to

report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

(h) **Disclosure to certain Federal officers and employees for purposes of tax administration, etc.**—

(1) **Department of the Treasury.**—Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

(2) **Department of Justice.**—In a matter involving tax administration, a return or return information shall be open to inspection by or disclosure to officers and employees of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, any proceeding before a Federal grand jury or preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court, but only if—

(A) the taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title;

(B) the treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding or investigation; or

(C) such return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer which affects, or may affect, the resolution of an issue in such proceeding or investigation.

(3) **Form of request.**—In any case in which the Secretary is authorized to disclose a return or return information to the Department of Justice pursuant to the provisions of this subsection—

(A) if the Secretary has referred the case to the Department of Justice, or if the proceeding is authorized by subchapter B of chapter 76, the Secretary may make such disclosure on his own motion, or

(B) if the Secretary receives a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General for a return of, or return information relating to, a person named in such request and setting forth the need for the disclosure, the Secretary shall disclose return or return information so requested.

(4) **Disclosure in judicial and administrative tax proceedings.**—A return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—

(A) if the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability, in respect of any tax imposed under this title;

(B) if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;

(C) if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or

(D) to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

However, such return or return information shall not be disclosed as provided in subparagraph (A), (B), or (C) if the Secretary determines that such disclosure would

identify a confidential informant or seriously impair a civil or criminal tax investigation.

(5) **Withholding of tax from social security benefits.**—Upon written request of the payor agency, the Secretary may disclose available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board (whichever is appropriate) for purposes of carrying out its responsibilities for withholding tax under section 1441 from social security benefits (as defined in section 86(d)).

(6) **Internal Revenue Service Oversight Board.**—

(A) **In general.**—Notwithstanding paragraph (1), and except as provided in subparagraph (B), no return or return information may be disclosed to any member of the Oversight Board described in subparagraph (A) or (D) of section 7802(b)(1) or to any employee or detailee of such Board by reason of their service with the Board. Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by any such individual to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary, the Treasury Inspector General for Tax Administration, and the Joint Committee on Taxation.

(B) **Exception for reports to the Board.**—If—

(i) the Commissioner or the Treasury Inspector General for Tax Administration prepares any report or other matter for the Oversight Board in order to assist the Board in carrying out its duties; and

(ii) the Commissioner or such Inspector General determines it is necessary to include any return or return information in such report or other matter to enable the Board to carry out such duties,

such return or return information (other than information regarding taxpayer identity) may be disclosed to members, employees, or detailees of the Board solely for the purpose of carrying out such duties.

(i) **Disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration.**—

(1) **Disclosure of returns and return information for use in criminal investigations.**—

(A) **In general.**—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party,

(ii) any investigation which may result in such a proceeding, or

(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party,

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) **Application for order.**—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

(2) **Disclosure of return information other than taxpayer return information for use in criminal investigations.**—

(A) **In general.**—Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

(ii) any investigation which may result in such a proceeding, or

(iii) any grand jury proceeding described in paragraph (1)(A)(iii), solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) **Requirements.**—A request meets the requirements of this subparagraph if the request is in writing and sets forth—

(i) the name and address of the taxpayer with respect to whom the requested return information relates;

(ii) the taxable period or periods to which such return information relates;

(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

(C) **Taxpayer identity.**—For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

(3) **Disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances.**—

(A) **Possible violations of Federal criminal law.**—

(i) **In general.**—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

(ii) **Taxpayer identity.**—If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

(B) **Emergency circumstances.**—

(i) **Danger of death or physical injury.**—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to

apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

(ii) **Flight from Federal prosecution.**—Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

(4) **Use of certain disclosed returns and return information in judicial or administrative proceedings.**—

(A) **Returns and taxpayer return information.**—Except as provided in subparagraph (C), any return or taxpayer return information obtained under paragraph (1) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure.

(B) **Return information (other than taxpayer return information).**—Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), or (3)(A) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

(C) **Confidential informant; impairment of investigations.**—No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(D) **Consideration of confidentiality policy.**—In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

(E) **Reversible error.**—The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

(5) **Disclosure to locate fugitives from justice.**—

(A) **In general.**—Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

(B) **Application for order.**—Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate for an order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice.

(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

(6) **Confidential informants; impairment of investigations.**—The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A), (5), or (7) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(7) **Comptroller General.**—

(A) **Returns available for inspection.**—Except as provided in subparagraph (C), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—

(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 713 of title 31, United States Code, or

(ii) any audit authorized by subsection (p)(6),

except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(B) **Audits of other agencies.**—

(i) **In general.**—Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) or by a Trustee as defined in the District of Columbia Retirement Protection Act of 1977 for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

(ii) **Information from Secretary.**—If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (1) or (m) to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

(iii) **Requirement of notification upon completion of audit.**—Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

(I) a description of the use of the returns and return information by the Federal agency involved,

(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

(iv) **Certain restrictions made applicable.**—The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph.

(C) **Disapproval by Joint Committee on Taxation.**—Returns and return information shall not be open to inspection or disclosed under subparagraph (A) or (B) with respect to an audit—

(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

[(S) Repealed. Pub.L. 104-168, Title XII, § 1206(b)(1), July 30, 1996, 110 Stat. 1472]

(j) **Statistical use.**—

(1) **Department of Commerce.**—Upon request in writing by the Secretary of Commerce, the Secretary shall furnish—

(A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and

(B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis,

as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

(2) **Federal Trade Commission.**—Upon request in writing by the Chairman of the Federal Trade Commission, the Secretary shall furnish such return information reflected on any return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Division of Financial Statistics of the Bureau of Economics of such commission as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, administration by such division of legally authorized economic surveys of corporations.

(3) **Department of Treasury.**—Returns and return information shall be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, preparing economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities. Such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Department of the Treasury requesting the inspection or disclosure.

(4) **Anonymous form.**—No person who receives a return or return information under this subsection shall disclose such return or return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(5) **Department of agriculture.**—Upon request in writing by the Secretary of Agriculture, the Secretary shall furnish such returns, or return information reflected thereon, as the Secretary may prescribe by regulation to officers and employees of the Department of Agriculture whose official duties require access to such returns or information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the census of agriculture pursuant to the Census of Agriculture Act of 1997 (Public Law 105-113).

(k) **Disclosure of certain returns and return information for tax administration purposes.**—

(1) **Disclosure of accepted offers-in-compromise.**—Return information shall be disclosed to members of the general public to the extent necessary to permit

inspection of any accepted offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

(2) **Disclosure of amount of outstanding lien.**—If a notice of lien has been filed pursuant to section 6323(f), the amount of the outstanding obligation secured by such lien may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.

(3) **Disclosure of return information to correct misstatements of fact.**—The Secretary may, but only following approval by the Joint Committee on Taxation, disclose such return information or any other information with respect to any specific taxpayer to the extent necessary for tax administration purposes to correct a misstatement of fact published or disclosed with respect to such taxpayer's return or any transaction of the taxpayer with the Internal Revenue Service.

(4) **Disclosure to competent authority under tax convention.**—A return or return information may be disclosed to a competent authority of a foreign government which has an income tax or gift and estate tax convention, or other convention or bilateral agreement relating to the exchange of tax information, with the United States but only to the extent provided in, and subject to the terms and conditions of, such convention or bilateral agreement.

(5) **State agencies regulating tax return preparers.**—Taxpayer identity information with respect to any income tax return preparer, and information as to whether or not any penalty has been assessed against such income tax return preparer under section 6694, 6695, or 7216, may be furnished to any agency, body, or commission lawfully charged under any State or local law with the licensing, registration, or regulation of income tax return preparers. Such information may be furnished only upon written request by the head of such agency, body, or commission designating the officers or employees to whom such information is to be furnished. Information may be furnished and used under this paragraph only for purposes of the licensing, registration, or regulation of income tax return preparers.

(6) **Disclosure by internal revenue officers and employees for investigative purposes.**—An internal revenue officer or employee may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under the internal revenue laws, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this title. Such disclosures shall be made only in such situations and under such conditions as the Secretary may prescribe by regulation.

(7) **Disclosure of excise tax registration information.**—To the extent the Secretary determines that disclosure is necessary to permit the effective administration of subtitle D, the Secretary may disclose—

(A) the name, address, and registration number of each person who is registered under any provision of subtitle D (and, in the case of a registered terminal operator, the address of each terminal operated by such operator), and

(B) the registration status of any person.

(8) **Levies on certain government payments.**—

(A) **Disclosure of return information in levies on financial management service.**—In serving a notice of levy, or release of such levy, with respect to any applicable government payment, the Secretary may disclose to officers and employees of the Financial Management Service—

(i) return information, including taxpayer identity information,

(ii) the amount of any unpaid liability under this title (including penalties and interest), and

(iii) the type of tax and tax period to which such unpaid liability relates.

(B) **Restriction on use of disclosed information.**—Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof,

notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

(C) **Applicable government payment.**—For purposes of this paragraph, the term “applicable government payment” means—

(i) any Federal payment (other than a payment for which eligibility is based on the income or assets (or both) of a payee) certified to the Financial Management Service for disbursement, and

(ii) any other payment which is certified to the Financial Management Service for disbursement and which the Secretary designates by published notice.

(9) **Disclosure of information to administer section 6311.**—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(I) **Disclosure of returns and return information for purposes other than tax administration.**—

(1) **Disclosure of certain returns and return information to Social Security Administration and Railroad Retirement Board.**—The Secretary may, upon written request, disclose returns and return information with respect to—

(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057(d); and

(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

(2) **Disclosure of returns and return information to the Department of Labor and Pension Benefit Guaranty Corporation.**—The Secretary may, upon written request, furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

(3) **Disclosure that applicant for Federal loan has tax delinquent account.**—

(A) **In general.**—Upon written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

(B) **Restriction on disclosure.**—Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question.

(C) **Included Federal loan program defined.**—For purposes of this paragraph, the term “included Federal loan program” means any program under which the United States or a Federal agency makes, guarantees, or insures loans.

(4) **Disclosure of returns and return information for use in personnel or claimant representative matters.**—The Secretary may disclose returns and return information—

(A) upon written request—

(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 330 of the title 31, United States Code,

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

(5) **Social Security Administration.**—Upon written request by the Commissioner of Social Security, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of—

(A) carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program; or

(B) providing information regarding the mortality status of individuals for epidemiological and similar research in accordance with section 1106(d) of the Social Security Act.

(6) **Disclosure of return information to Federal, State, and local child support enforcement agencies.**—

(A) **Return information from Internal Revenue Service.**—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

(i) available return information from the master files of the Internal Revenue Service relating to the social security account number (or numbers, if the individual involved has more than one such number), address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

(B) **Disclosure to certain agents.**—The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

(i) The address and social security account number (or numbers) of such individual.

(ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.

(C) **Restriction on disclosure.**—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

(7) **Disclosure of return information to Federal, State, and local agencies administering certain programs under the Social Security Act, the Food Stamp Act of 1977 or title 38, United States Code, or certain housing assistance programs.**—

(A) **Return information from Social Security Administration.**—The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social

Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

(B) **Return information from Internal Revenue Service.**—The Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

(C) **Restriction on disclosure.**—The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

(D) **Programs to which rule applies.**—The programs to which this paragraph applies are:

(i) a State program funded under part A of title IV of the Social Security Act;

(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66);

(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

(v) unemployment compensation provided under a State law described in section 3304 of this title;

(vi) assistance provided under the Food Stamp Act of 1977;

(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66);

(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

(II) parents' dependency and indemnity compensation provided under section 1315 of title 38, United States Code;

(III) health-care services furnished under section 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B) of such title; and

(IV) compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule; and

(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs.

Only return information from returns with respect to net earnings from self-employment and wages may be disclosed under this paragraph for use with respect to any program described in clause (viii)(IV). Clause (viii) shall not apply after September 30, 2003.

(8) **Disclosure of certain return information by Social Security Administration to State and local child support enforcement agencies.**—

(A) **In general.**—Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a State or local child support enforcement agency return information from returns with respect to social

security account numbers, net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

(B) **Restriction on disclosure.**—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term "child support obligations" only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

(C) **State or local child support enforcement agency.**—For purposes of this paragraph, the term "State or local child support enforcement agency" means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B).

(9) **Disclosure of alcohol fuel producers to administrators of State alcohol laws.**—Notwithstanding any other provision of this section, the Secretary may disclose—

(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

(B) the location of any premises to be used by such person in producing alcohol for fuel,

to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws.

(10) **Disclosure of certain information to agencies requesting a reduction under subsection (c), (d), or (e) of section 6402.**—

(A) **Return information from Internal Revenue Service.**—The Secretary may, upon receiving a written request, disclose to officers and employees of any agency seeking a reduction under subsection (c), (d), or (e) of section 6402 and to officers and employees of the Department of the Treasury in connection with such reduction—

(i) taxpayer identity information with respect to the taxpayer against whom such a reduction was made or not made and with respect to any other person filing a joint return with such taxpayer,

(ii) the fact that a reduction has been made or has not been made under such subsection with respect to such taxpayer,

(iii) the amount of such reduction,

(iv) whether such taxpayer filed a joint return, and

(v) the fact that a payment was made (and the amount of the payment) to the spouse of the taxpayer on the basis of a joint return.

(B) **Restriction on use of disclosed information.**—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records, locating any person with respect to whom a reduction under subsection (c), (d), or (e) of section 6402 and to officers and employees of the Department of the Treasury in connection with such reduction is sought for purposes of collecting the debt with respect to which the reduction is sought, or in the defense of any litigation or administrative procedure ensuing from a reduction made under subsection (c) or (d) of section 6402 and to officers and employees of the Department of the Treasury in connection with such reduction.

(11) **Disclosure of return information to carry out Federal Employees' Retirement System.**—

(A) **In general.**—The Commissioner of Social Security shall, on written request, disclose to the Office of Personnel Management return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5).

(B) **Restriction on disclosure.**—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, the administration of chapters 83 and 84 of title 5, United States Code.

(12) **Disclosure of certain taxpayer identity information for verification of employment status of medicare beneficiary and spouse of medicare beneficiary.**—

(A) **Return information from Internal Revenue Service.**—The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

(B) **Return information from Social Security Administration.**—The Commissioner of Social Security shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the Administrator the following information:

(i) The name and TIN of each medicare beneficiary who is identified as having received wages (as defined in section 3401(a)), above an amount (if any) specified by the Secretary of Health and Human Services, from a qualified employer in a previous year.

(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages, above an amount (if any) specified by the Secretary of Health and Human Services, from a qualified employer in a previous year—

(I) the name and TIN of the medicare beneficiary, and

(II) the name and TIN of the spouse.

(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

(C) **Disclosure by Health Care Financing Administration.**—With respect to the information disclosed under subparagraph (B), the Administrator of the Health Care Financing Administration may disclose—

(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the "employee") for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

(D) **Special rules.**—

(i) **Restrictions on disclosure.**—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in,

determining the extent to which any medicare beneficiary is covered under any group health plan.

(ii) **Timely response to requests.**—Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

(E) **Definitions.**—For purposes of this paragraph—

(i) **Medicare beneficiary.**—The term "medicare beneficiary" means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818.

(ii) **Group health plan.**—The term "group health plan" means any group health plan (as defined in section 5000(b)(1)).

(iii) **Qualified employer.**—The term "qualified employer" means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

[F] **Repealed.** Pub.L. 105-33, Title IV, § 4631(c)(2), Aug. 5, 1997, 111 Stat. 486]

(13) **Disclosure of return information to carry out income contingent repayment of student loans.**—

(A) **In general.**—The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

(i) taxpayer identity information with respect to such taxpayer,

(ii) the filing status of such taxpayer, and

(iii) the adjusted gross income of such taxpayer.

(B) **Restriction on use of disclosed information.**—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.

(C) **Applicable student loan.**—For purposes of this paragraph, the term "applicable student loan" means—

(i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and

(ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

(D) **Termination.**—This paragraph shall not apply to any request made after September 30, 2003.

(14) **Disclosure of return information to United States Customs Service.**—The Secretary may, upon written request from the Commissioner of the United States Customs Service, disclose to officers and employees of the Department of the Treasury such return information with respect to taxes imposed by chapters 1 and 6 as the Secretary may prescribe by regulations, solely for the purpose of, and only to the extent necessary in—

(A) ascertaining the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930 (19 U.S.C. 1509), or

(B) other actions to recover any loss of revenue, or to collect duties, taxes, and fees, determined to be due and owing pursuant to such audits.

(15) **Disclosure of returns filed under section 6050I.**—The Secretary may, upon written request, disclose to officers and employees of—

(A) any Federal agency,

(B) any agency of a State or local government, or

(C) any agency of the government of a foreign country, information contained on returns filed under section 6050I. Any such disclosure shall be made

on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law.

(16) Disclosure of return information for purposes of administering the District of Columbia Retirement Protection Act of 1997.—

(A) **In general.**—Upon written request available return information (including such information disclosed to the Social Security Administration under paragraph (1) or (5) of this subsection), relating to the amount of wage income (as defined in section 3121(a) or 3401(a)), the name, address, and identifying number assigned under section 6109, of payors of wage income, taxpayer identity (as defined in subsection 6103(b)(6)), and the occupational status reflected on any return filed by, or with respect to, any individual with respect to whom eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997, is sought to be determined, shall be disclosed by the Commissioner of Social Security, or to the extent not available from the Social Security Administration, by the Secretary, to any duly authorized officer or employee of the Department of the Treasury, or a Trustee or any designated officer or employee of a Trustee (as defined in the District of Columbia Retirement Protection Act of 1997), or any actuary engaged by a Trustee under the terms of the District of Columbia Retirement Protection Act of 1997, whose official duties require such disclosure, solely for the purpose of, and to the extent necessary in, determining an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

(B) **Disclosure for use in judicial or administrative proceedings.**—Return information disclosed to any person under this paragraph may be disclosed in a judicial or administrative proceeding relating to the determination of an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

(17) Disclosure to National Archives and Records Administration.—The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsection (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.

(m) Disclosure of taxpayer identity information.—

(1) **Tax refunds.**—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

(2) Federal claims.—

(A) **In general.**—Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with sections 3711, 3717, and 3718 of title 31.

(B) **Special rule for consumer reporting agency.**—In the case of an agent of a Federal agency which is a consumer reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with sections 3711, 3717, and 3718 of title 31.

(3) **National Institute for Occupational Safety and Health.**—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to

occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

(4) Individuals who owe an overpayment of Federal Pell grants or who have defaulted on student loans administered by the Department of Education.—

(A) **In general.**—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—

(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

(ii) who has defaulted on a loan—

(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan.

(B) **Disclosure to educational institutions, etc.**—Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B or D of title IV of the Higher Education Act of 1965, or

(ii) any educational institution with which the Secretary of Education has an agreement under subpart 1 of part A, or part D or E, of title IV of such Act,

for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.

(5) Individuals who have defaulted on student loans administered by the Department of Health and Human Services.—

(A) **In general.**—Upon written request by the Secretary of Health and Human Services, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made under part C of title VII of the Public Health Service Act or under subpart II of part B of title VIII of such Act, for use only by officers, employees, or agents of the Department of Health and Human Services for purposes of locating such taxpayer for purposes of collecting such loan.

(B) **Disclosure to schools and eligible lenders.**—Any mailing address disclosed under subparagraph (A) may be disclosed by the Secretary of Health and Human Services to—

(i) any school with which the Secretary of Health and Human Services has an agreement under subpart II of part C of title VII of the Public Health Service Act or subpart II of part B of title VIII of such Act, or

(ii) any eligible lender (within the meaning of section 737(4) of such Act) participating under subpart I of part C of title VII of such Act,

for use only by officers, employees, or agents of such school or eligible lender whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such subparts for the purposes of collecting such loans.

(6) Blood Donor Locator Service.—

(A) **In general.**—Upon written request pursuant to section 1141 of the Social Security Act, the Secretary shall disclose the mailing address of taxpayers to officers and employees of the Blood Donor Locator Service in the Department of Health and Human Services.

(B) **Restriction on disclosure.**—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, assisting under the Blood Donor Locator Service authorized

persons (as defined in section 1141(h)(1) of the Social Security Act) in locating blood donors who, as indicated by donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, have or may have the virus for acquired immune deficiency syndrome, in order to inform such donors of the possible need for medical care and treatment.

(C) **Safeguards.**—The Secretary shall destroy all related blood donor records (as defined in section 1141(h)(2) of the Social Security Act) in the possession of the Department of the Treasury upon completion of their use in making the disclosure required under subparagraph (A), so as to make such records undisclosable.

(7) **Social security account statement furnished by Social Security Administration.**—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers, employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.

(n) **Certain other persons.**—Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and the providing of other services, for purposes of tax administration.

(o) **Disclosure of returns and return information with respect to certain taxes.**—

(1) **Taxes imposed by subtitle E.**—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.

(2) **Taxes imposed by chapter 35.**—Returns and return information with respect to taxes imposed by chapter 35 (relating to taxes on wagering) shall, notwithstanding any other provision of this section, be open to inspection by or disclosure only to such person or persons and for such purpose or purposes as are prescribed by section 4424.

(p) **Procedure and recordkeeping.**—

(1) **Manner, time, and place of inspections.**—Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

(2) **Procedure.**—

(A) **Reproduction of returns.**—A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.

(B) **Disclosure of return information.**—Return information disclosed to any person under the provisions of this title may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

(C) **Use of reproductions.**—Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

(3) **Records of inspection and disclosure.**—

(A) **System of recordkeeping.**—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code,

the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (f)(5), (h)(1), (3)(A), or (4), (i)(4), or (7)(A)(ii), (k)(1), (2), (6), (8), or (9), (l)(1), (4)(B), (5), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16) or (17), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

(B) **Report by the Secretary.**—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may, by record vote of a majority of the members of the joint committee, determine.

(C) **Public report on disclosures.**—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which—

(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d), (i)(3)(B)(i) or (l)(6), and the General Accounting Office the number of—

(I) requests for disclosure of returns and return information,

(II) instances in which returns and return information were disclosed pursuant to such requests or otherwise,

(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

(ii) describes the general purposes for which such requests were made,¹

(4) **Safeguards.**—Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), or (5), (j)(1) or (2), or (5), (k)(8), (l)(1), (2), (3), (5), (10), (11), (13), (14), or (17), or (o)(1), the General Accounting Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l), (6), (7), (8), (9), (12), (15), or (16), or any other person described in subsection (l)(16) shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6), (7), (8), or (9), or (16), or any other person described in subsection (l)(16), return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner,

(ii) in the case of an agency described in subsections (h)(2), (h)(5), (i)(1), (2), (3), or (5), (j)(1) or (2), (k)(8), (l)(1), (2), (3), (5), (10), (11), (12), (13), (14), (15), or (17), or (o)(1),² or the General Accounting Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise make such returns or return information undisclosable, or

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information, and

(iii) in the case of the Department of Health and Human Services for purposes of subsection (m)(6), destroy all such return information upon completion of its use in providing the notification for which the information was obtained, so as to make such information undisclosable;

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission, including an agency or any other person described in subsection (l)(16), or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency or any other person described in subsection (l)(16), or the General Accounting Office until he determines that such requirements have been or will be met. In the case of any agency which receives any mailing address under paragraph (2), (4), (6), or (7) of subsection (m) and which discloses any such mailing address to any agent or which receives any information under subsection³ paragraph (6)(A), (12)(B), or (16) of subsection (l) and which discloses any such information to any agent, or any person including an agent described in subsection (l)(16), this paragraph shall apply to such agency and each such agent or other person (except that, in the case of an agent, or any person including an agent described in subsection (l)(16), any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency). For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term "return information" includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).

(5) **Report on procedures and safeguards.**—After the close of each calendar year, the Secretary shall furnish to each committee described in subsection (f)(1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions and the General Accounting Office for ensuring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

(6) **Audit of procedures and safeguards.**—

(A) **Audit by Comptroller General.**—The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

(B) **Records of inspection and reports by the Comptroller General.**—The Comptroller General shall—

(i) maintain a permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the General Accounting Office under subsection (i)(7)(A)(ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph (A).

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).

(7) **Administrative review.**—The Secretary shall by regulations prescribe procedures which provide for administrative review of any determination under paragraph (4) that any agency, body, or commission described in subsection (d) has failed to meet the requirements of such paragraph.

(8) **State law requirements.**—

(A) **Safeguards.**—Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

(B) **Disclosure of returns or return information in State returns.**—Nothing in subparagraph (A) shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

(q) **Regulations.**—The Secretary is authorized to prescribe such other regulations as are necessary to carry out the provisions of this section.

(Aug. 16, 1954, c. 736, 68A Stat. 753; Sept. 2, 1964, Pub.L. 88-663, § 3(c), 78 Stat. 844; June 21, 1965, Pub.L. 89-44, Title VI, § 601(a), 79 Stat. 153; Nov. 2, 1966, Pub.L. 89-713, § 4(a), 80 Stat. 1109; Sept. 2, 1974, Pub.L. 93-406, Title II, § 1022(h), 88 Stat. 941; Jan. 2, 1976, Pub.L. 94-202, § 8(g), 89 Stat. 1139; Oct. 4, 1976, Pub.L. 94-455, Title XII, § 1202(a)(1), 90 Stat. 1667; Dec. 13, 1977, Pub.L. 95-210, § 5, 91 Stat. 1491; Nov. 6, 1978, Pub.L. 95-600, Title V, § 503, Title VII, § 701(b)(1)(A), (B), (2) to (5), 92 Stat. 2879, 2880, 2921 to 2923; May 26, 1980, Pub.L. 96-249, Title I, § 127(a)(1); Dec. 23, 1980, Pub.L. 96-611, § 11(a)(1), 94 Stat. 3573; July 18, 1984, Pub.L. 98-369, Title IV, § 453(b)(5), 98 Stat. 320; June 9, 1980, Pub.L. 96-265, Title IV, § 408(a)(1), (2)(A) to (C), 94 Stat. 468; Dec. 28, 1980, Pub.L. 96-611, § 11(a)(2)(A), (B)(i) to (iii), 94 Stat. 3573; Dec. 5, 1980, Pub.L. 96-499, Title III, § 302(a), 94 Stat. 2604; Dec. 24, 1980, Pub.L. 96-589, § 3(c), 94 Stat. 3401; Dec. 24, 1980, Pub.L. 96-598, § 3(a), 94 Stat. 3487; Dec. 28, 1980, Pub.L. 96-611, § 11(a)(2), 94 Stat. 3573; Aug. 13, 1981, Pub.L. 97-34, Title VII, § 701(a), 95 Stat. 340; Sept. 3, 1982, Pub.L. 97-248, Title III, § 356(a), (b)(1), 95 Stat. 340; (b), 96 Stat. 641, 645, 646, 648; Sept. 13, 1982, Pub.L. 97-258, § 3(f)(4) to (6), 96 Stat. 1064; Oct. 25, 1982, Pub.L. 97-365, § 7(a), (b), 8(a) to (c)(1), 96 Stat. 1752 to 1754; Jan. 12, 1983, Pub.L. 97-452, § 2(c)(4), 96 Stat. 2478; Apr. 20, 1983, Pub.L. 98-21, Title I, § 121(c)(3)(A), (B), 97 Stat. 83; July 18, 1984, Pub.L. 98-369, Div. A, Title IV, § 449(a), 453(a) to (b)(3), (6), Div. B, Title VI, § 2651(k), 2653(b)(3), 2653(j)(5)(E), 98 Stat. 818, 820, 1150, 1151, 1155, 1171; Aug. 16, 1984, Pub.L. 98-378, § 19(b), 21(f)(1) to (4), 98 Stat. 1322, 1325, 1326; Aug. 16, 1985, Pub.L. 99-92, § 8(h), 99 Stat. 399; June 6, 1986, Pub.L. 99-335, Title III, § 310(a), (b), 100 Stat. 607, 608; Aug. 22, 1986, Pub.L. 99-386, Title II, § 206(b), 100 Stat. 823; Oct. 22, 1986, Pub.L. 99-514, Title XIV, § 1411(b), Title XV, § 1568(a), Title XVIII, § 1899A(53), 100 Stat. 2715, 2764, 2961; Oct. 13, 1988, Pub.L. 100-485, Title VII, § 701(b)(1), (2)(A), (B), 102 Stat. 2425, 2426; Nov. 10, 1988, Pub.L. 100-647, Title I, § 1012(bb)(3)(A), (B), 1014(c)(4), Title VI, § 6251, Title VIII, § 8008(c)(1), (2)(A), 102 Stat. 3534, 3561, 3572, 3752, 3786, 3787; Nov. 18, 1988, Pub.L. 100-690, Title VII, § 7601(b)(1), (2), 7602(c), (d)(2), 102 Stat. 4501, 4508; Dec. 19, 1989, Pub.L. 101-239, Title VI, § 6202(a)(1)(A), (B), Title VII, § 7841(d)(1), 103 Stat. 2226, 2227, 2428; Nov. 5, 1990, Pub.L. 101-508, Title XI, § 4203(a)(2), 5111(b)(1), (2), 9951(a), 11101(d)(6), 11212(b)(3), 11313(a), 104 Stat. 1388-107, 1388-272, 1388-273, 1388-349, 1388-405, 1388-431, 1388-455; Oct. 29, 1992, Pub.L. 102-568, Title VI, § 602(b), 106 Stat. 4342; Aug. 10, 1993, Pub.L. 103-66, Title XIII, § 13401(a), 13402(a), (b), 13403(a), (b), 13444(a), 13561(a)(2), (e)(2)(B), 107 Stat. 563, 564, 565, 570, 593, 595; Dec. 8, 1993, Pub.L. 103-182, Title V, § 522(a), (b), 107 Stat. 2161; Aug. 15, 1994, Pub.L. 103-296, Title I, § 108(h)(6), Title III, § 311(b),

108 Stat. 1487, 1525; Apr. 26, 1996, Pub.L. 104-134, Title III, § 31001(g)(2), (i)(2), 110 Stat. 1321-363, 1321-364; July 30, 1996, Pub.L. 104-168, Title IV, § 403(a), Title IX, § 902(a), Title XII, §§ 1206(a), (b)(1) to (4), 1207, 110 Stat. 1459, 1466, 1472, 1473; Aug. 20, 1996, Pub.L. 104-188, Title I, § 1704(l)(41), 110 Stat. 1889; Aug. 22, 1996, Pub.L. 104-193, Title I, § 110(l)(2), formerly § 110(l)(3) to (5), Title III, § 316(g)(4), 110 Stat. 2173, 2219; Aug. 5, 1997, Pub.L. 105-33, Title IV, § 463(c)(2), Title V, § 5514(a), Title XI, § 11024(b)(1) to (7), 111 Stat. 486, 620, 721, 722; Aug. 5, 1997, Pub.L. 105-34, Title IX, § 976(c), Title X, §§ 1023(a), 1026(a), (b)(1), Title XII, §§ 1201(b)(2), 1205(c)(1), (3), 1283(a), (b), 111 Stat. 899, 923, 924, 925, 994, 998, 1038; Oct. 27, 1997, Pub.L. 105-65, Title V, § 542(b), 111 Stat. 1412; July 22, 1998, Pub.L. 105-206, Title I, § 1101(b), Title III, §§ 3702(a), (b), 3708(a), 3711(b), Title VI, §§ 6007(f)(4), 6009(d), 6012(b)(2), (4), 6019(c), 6023(22), 112 Stat. 696, 776, 777, 778, 810, 812, 819, 823, 826; Oct. 21, 1998, Pub.L. 105-277, Div. J, Title I, § 1006, Title IV, §§ 4002(a), (h), 4006(a), 112 Stat. 2681—, 112 Stat. 2681—.

1 So in original. Probably should be a period.

2 So in original. Second comma is probably unnecessary.

3 So in original. The word "subsection" probably should not appear.

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1989 Acts. House Report No. 101-247, House Conference Report No. 101-386, and Statement by President, see 1989 U.S. Code Cong. and Adm. News, p. 1906.

1990 Acts. House Report No. 101-881 and House Conference Report No. 101-964, see 1990 U.S. Code Cong. and Adm. News, p. 2017.

1992 Acts. House Report No. 102-753(Parts I and II), see 1992 U.S. Code Cong. and Adm. News, p. 3646.

1993 Acts. House Report No. 103-111 and House Conference Report No. 103-213, see 1993 U.S. Code Cong. and Adm. News, p. 378.

House Report No. 103-361(Parts I to III), see 1993 U.S. Code Cong. and Adm. News, p. 2552.

1994 Acts. House Report No. 103-506 and House Conference Report No. 103-670, see 1994 U.S. Code Cong. and Adm. News, p. 1494.

1996 Acts. House Report No. 104-506, see 1996 U.S. Code Cong. and Adm. News, p. 1143.

House Report No. 104-651 and House Conference Report No. 104-725, see 1996 U.S. Code Cong. and Adm. News, p. 2183.

Senate Report No. 104-281 and House Conference Report No. 104-737, see 1996 U.S. Code Cong. and Adm. News, p. 1474.

1997 Acts. House Report No. 105-149, House Conference Report No. 105-217, and Statement by President, see 1997 U.S. Code Cong. and Adm. News, p. 176.

House Report No. 105-148, Senate Report No. 105-33, House Conference Report No. 105-220, and Statement by President, see 1997 U.S. Code Cong. and Adm. News, p. 678.

House Conference Report No. 105-927, see 1997 U.S. Code Cong. and Adm. News, p. 1929.

1998 Acts. House Conference Report No. 105-599, see 1998 U.S. Code Cong. and Adm. News, p. 297.

Statement by President, see 1998 U.S. Code Cong. and Adm. News, p. 582.

References in Text

Section 976 of the Taxpayer Relief Act of 1997, referred to in subsec. (d)(5), means section 976 of that Act, Pub.L. 105-34, Title IX, Aug. 5, 1997, 111 Stat. 899, which amended this section and enacted provisions set out as a note under this section.

The District of Columbia Retirement Protection Act of 1977, referred to in subsecs. (i)(7)(B)(i) and (l)(16), is Pub.L. 105-33, Title XI, Subtitle A, Aug. 5, 1997, 111 Stat. 715, which was not classified to the Code, except for subsection (b) of section 11024, which amended this section and section 7213 of this title, and subsection (c) of section 11024 which enacted provisions codified as a note under this section.

The Census of Agriculture Act of 1997 referred to in subsec. (j)(5), is Pub.L. 105-113, Nov. 21, 1997, 111 Stat. 2274. For complete classification of this Act to the Code, see Tables.

The Social Security Act, referred to in subsecs. (l)(1)(A), (B), (5), (6)(A), (7), (8)(B), (12)(C)(ii)(1), (E)(i), (m)(7), is Act Aug. 14, 1935, c. 531, 49 Stat. 620, as amended which is classified generally to chapter 7 (section 301 et seq.) of Title 42, The Public Health and Welfare, Parts A and D of Title IV of the Social Security Act are classified generally to part A (section 601 et seq.) and part D (section 651 et seq.) of subchapter IV of chapter 7 of Title 42, Titles I, X, XIV, XVI, XVIII, and XIX of the Social Security Act are classified generally to subchapters I (section 301 et seq.), X (section 1201 et seq.), XIV (section 1351 et seq.), XVI (section 1381 et seq.), XVIII (section 1395 et seq.) and XIX (section 1396 et seq.), respectively, of chapter 7 of Title 42. Sections 232, 454, 1106, 1131, 1143, 1616, 1818, and 1862 of such Act are classified to sections 432, 654, 1306, 1320b-1, 1320b-13, 1382e, 1395i-2, and 1395y, respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Chapter 15 of Title 38, referred to in subsec. (l)(7)(D)(viii)(1), is chapter 15 (section 1501 et seq.) of Title 38, Veterans' Benefits.

The Higher Education Act of 1965, referred to in subsecs. (l)(13)(C) and (m)(4)(A)(i), (ii)(1), (B)(i), is Pub.L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Subpart 1 of part A of title IV of the Higher Education Act of 1965 is classified generally to subpart 1 (section 1070a et seq.) of part A of subchapter IV of chapter 28 of Title 20, Education. Parts B, D, and E of title IV of the Higher Education Act of 1965 are classified to part B (section 1071 et seq.), part C (section 1087a et seq.), and part D (section 1087aa et seq.) of subchapter IV of chapter 28 of Title 20, respectively. For complete classification of this Act to the Code, see Short Title note

set out under section 1001 of Title 20 and Tables.

Section 509 of the Tariff Act of 1930, referred to in subsec. (l)(14), is classified to section 1509 of Title 19, Customs Duties.

Section 3(a)(1) of the Migration and Refugee Assistance Act of 1962, referred to in subsec. (m)(4)(A)(ii)(1), is classified to section 2602(a)(1) of Title 22, Foreign Relations and Intercourse.

Codifications

The amendment by section 1023(a) of Pub.L. 105-34 was executed to the second sentence of the concluding provisions of subsec. (l)(7)(D), referring to cl. (viii) of subsec. (l)(7)(D), to reflect the probable intent of Congress notwithstanding directory language that the amendment be made to clause (viii) of subsec. (l)(7)(D).

Section 11024(b)(7)(A) of Pub.L. 105-33 purported to amend subsec. (p)(4)(F) in the matter following cl.(iii) by inserting after "any such agency, body or commission" and before "for the General Accounting Office" the words "including an agency or any other person described in subsection (l)(16)". Such amendment could not be executed literally because the text of this portion of subsec. (p)(4)(F) read "or the General Accounting Office". The amendment was executed by inserting "including an agency or any other person described in subsection (l)(16)" before "or the General Accounting Office" as the probable intent of Congress.

Amendment of matter preceding subsec. (p)(4)(A) by Pub.L. 105-33, § 11024(b)(5), which directed the striking out of "or 12" and the insertion of "(12), or (16), or any other person described in subsection (l)(16)" was executed by striking out "(12) or (15)" and inserting "(12), (15), or (16), or any other person described in subsection (l)(16)" as the probable intent of Congress. In view of the amendment to the matter preceding subsec. (p)(4)(A) by Pub.L. 104-168, § 1206(b)(3), which struck out "or (12)" and inserted "(12), or (15)".

Section 5111(b)(2) of Pub.L. 101-508 directed that the amendment of subsec. (p)(4) be made to the matter following subparagraph (f)(iii). The amendment was made to the matter following subparagraph (F)(iii) of subsection (p)(4) as the probable intent of Congress.

Section 453(b)(5) of Pub.L. 98-369 amended section 127(a)(1) of Pub.L. 96-249 by substituting "Subsection (l)" for "Subsection (i)". An identical amendment had previously been made by section 11(a)(1) of Pub.L. 96-611.

Section 453(b)(6) of Pub.L. 98-369 redesignated subsec. (l)(7) of this section, as added by section 403(a)(1) of Pub.L. 96-265, as (l)(8). An identical amendment had previously been made by section 11(a)(2)(A) of Pub.L. 96-611.

Amendments

1998 Amendments. Subsec. (d)(5). Pub.L. 105-206, § 6009(d), amended par. (5) by striking "section 967 of the Taxpayer Relief Act of 1997" and inserting "section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph." in lieu thereof.

Subsec. (e)(1)(A)(ii) to (iv). Pub.L. 105-206, § 6007(f)(4), redesignated former cls. (iii) and (iv) as (ii) and (iii), respectively, and struck out former cl. (ii), which read as follows:

"(iii) the spouse of that individual if the individual and such spouse have signified their consent to consider a gift reported on such return as made one-half by him and one-half by the spouse pursuant to the provisions of section 2513; or".

Subsec. (e)(6). Pub.L. 105-206, § 6019(c), substituted "(5), (8), or (9)" for "or (5)".

Subsec. (f)(5). Pub.L. 105-206, § 3708(a), added par. (5).

Subsec. (h)(4)(A). Pub.L. 105-206, § 6023(22), inserted "if" before "the taxpayer is a party to".

Subsec. (h)(5). Pub.L. 105-206, § 1101(b), added par. (5).

Subsec. (h)(5), (6). Pub.L. 105-277, § 4002(a), redesignated former par. (5) as (6).

Subsec. (j)(5). Pub.L. 105-277, § 4006(a)(1), added par. (5).

Subsec. (k)(8), (9). Pub.L. 105-206, § 6012(b)(2), redesignated par. (8) formerly set out second, as added by section 1205(c)(1) of Pub.L. 105-34, relating to disclosure of information to administer section 6311, as par. (9).

Subsec. (l)(10). Pub.L. 105-206, § 3711(b), in the heading of par. (10) substituted "subsection (c), (d), or (e) of section 6402" for "section 6402(c) or 6402(d)", and in text substituted "(c), (d), or (e)" for "(c) or (d)" wherever appearing.

Subsec. (l)(13)(D). Pub.L. 105-277, § 1006, substituted "September 30, 2003" for "September 30, 1998".

Subsec. (l)(17). Pub.L. 105-206, § 3702(a), added par. (17).

Subsec. (p)(3)(A). Pub.L. 105-277, § 4002(h), inserted "(f)(5)".

Pub.L. 105-206, § 3702(b)(1), struck out "or (16)" and inserted "(16), or (17)" in lieu thereof.

Pub.L. 105-206, § 6012(b)(4), amended directory language of section 1205(c)(3) of Pub.L. 105-34, resulting in substitution of "(8), or (9)" for "or (8)". See 1997 Amendments note set out under this section.

Subsec. (p)(4). Pub.L. 105-277, § 4006(a)(2), twice substituted "(j)(1), (2), or (6)" for "(j)(1) or (2)".

Pub.L. 105-206, § 3702(b)(2), in provisions preceding subpar. (A), struck out "or (14)" and inserted ", (14), or (17)" in lieu thereof.

Subsec. (p)(4)(F)(ii). Pub.L. 105-206, § 3702(b)(3), struck out "or (15)" and inserted ", (15), or (17)" in lieu thereof.

1997 Amendments. Subsec. (a)(3). Pub.L. 105-33, § 11024(b)(2), substituted "(6), (12), or (16)" for "(6) or (12)".

Subsec. (d)(5). Pub.L. 105-34, § 976(c), added par. (5).

Subsec. (e)(1)(A)(iv). Pub.L. 105-34, § 1201(b)(2), struck out "or 59(j)" at the end.

Subsec. (h)(5), (6). Pub.L. 105-34, § 1283(a), struck out former par. (6) and redesignated par. (6) as (5). Prior to repeal, former par. (5) read:

"(5) Prospective jurors.—In connection with any judicial proceeding described in paragraph (4) to which the United States is a party, the Secretary shall respond to a written inquiry from an attorney of the Department of Justice (including a United States attorney) involved in such proceeding or any person (or his legal representative) who is a party to such proceeding as to whether an individual who is a prospective juror in such proceeding has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service. The Secretary shall limit such response to an affirmative or negative reply to such inquiry."

Subsec. (i)(7)(B)(i). Pub.L. 105-33, § 11024(b)(3), inserted "or by a Trustee as defined in the District of Columbia Retirement Protection Act of 1997" after "(other than an agency referred to in subparagraph (A))".

Subsec. (k)(8). Pub.L. 105-34, § 1026(a), added par. (8) [first version].

Pub.L. 105-34, § 1205(c)(1), added par. (8) [second version].

Subsec. (l)(7)(D). Pub.L. 105-65, § 542(b), struck out the last sentence, which provided that: "Clause (ix) shall not apply after September 30, 1998."

Subsec. (l)(7)(D)(i). Pub.L. 105-33, § 5514(a)(2), provided that par. (3) of Pub.L. 104-193, § 110(l), which amended subsec. (l)(7)(D)(ii), be redesignated as par. (2).

Subsec. (l)(7)(D)(viii). Pub.L. 105-34, § 1023(a), substituted "2003" for "1998".

Subsec. (l)(10). Pub.L. 105-33, § 5514(a)(1), provided that par. (4) of Pub.L. 104-193, § 110(l), which amended subsec. (l)(10), be struck out.

Subsec. (l)(12)(F). Pub.L. 105-33, § 4631(c)(2), struck out subpar. (F), which read: "(F) Termination.—Subparagraphs (A) and (B) shall not apply to—

"(i) any request made after September 30, 1998, and

"(ii) any request made before such date for information relating to—

"(I) 1997 or thereafter in the case of subparagraph (A), or

"(II) 1998 or thereafter in the case of subparagraph (B)."

Subsec. (l)(16). Pub.L. 105-33, § 11024(b)(1), added par. (16).

Subsec. (p)(3)(A). Pub.L. 105-33, § 11024(b)(4), substituted "(15), or (16)" for "or (15)".

Pub.L. 105-34, § 1026(b)(1)(A), substituted "(2), (6), or (8)" for "(2), or (6)".

Pub.L. 105-34, § 1205(c)(3), as amended Pub.L. 105-206, § 6012(b)(4), substituted "(8), or (9)" for "or (8)". Prior to amendment of directory language by Pub.L. 105-206, section 1205(c)(3) of Pub.L. 105-34 had directed the striking of "or (6)" and inserting of "or (6), or (8)", which had required no change in text in view of prior amendment by section 1026(b)(1)(A) of Pub.L. 105-34 which had struck "(2), or (6)" and inserted "(2), (6), or (8)".

Subsec. (p)(4). Pub.L. 105-33, § 5514(a)(1), provided that par. (5) of Pub.L. 104-193,

§ 110(l), which amended subsec. (p)(4), be struck out.

Subsec. (p)(4). Pub.L. 105-33, § 11024(b)(5), in the introductory matter preceding subpar. (A), substituted "(12), or (16), or any other person described in subsection (l)(16)" for "or (12)".

Pub.L. 105-34, § 1026(b)(1)(B), inserted "(k)(8)" after "(j)(1) or (2)" where appearing.

Pub.L. 105-34, § 1283(b), substituted "(h)(5)" for "(h)(6)" where appearing.

Subsec. (p)(4)(F). Pub.L. 105-33, § 11024(b)(7), in the portion following cl. (iii), in the second sentence, inserted ", including an agency or any other person described in subsection (l)(16)", immediately after "any such agency, body or commission" and immediately before "or the General Accounting Office", substituted "to such agency, body, or commission, including an agency or any other person described in subsection (l)(16)", for "to such agency, body, or commission", in the third sentence, substituted ", (12)(B), or (16)" for "or (12)(B)", inserted "or any person including an agent described in subsection (l)(16)", immediately after "any agent," and immediately before "this paragraph shall", inserted "or other person" immediately after "such agent" and immediately before "(except that", and inserted "or any person including an agent described in subsection (l)(16)" immediately after "an agent" and immediately before "any report".

Subsec. (p)(4)(F)(i). Pub.L. 105-33, § 11024(b)(6), substituted "(9), or (16), or any other person described in subsection (l)(16)" for "or (9)".

1996 Amendments. Subsec. (a)(3). Pub.L. 104-193, § 316(g)(4)(B)(i), substituted "paragraph (6) or (12) of subsection (l)" for "(l)(12)".

Subsec. (c). Pub.L. 104-168, § 1207, substituted "request for or consent to such disclosure" for "written request for or consent to such disclosure".

Subsec. (e)(1)(A)(iv). Pub.L. 104-188, § 1704(l)(41), substituted "section 1(g) or 59(j)" for identical wording, requiring no change in text. See 1990 Amendments note set out under this section.

Subsec. (e)(8). Pub.L. 104-168, § 403(a), added par. (8).

Subsec. (e)(9). Pub.L. 104-168, § 902(a), added par. (9).

Subsec. (i)(8). Pub.L. 104-168, § 1206(b)(1), struck out par. (8) which read as follows:

"(8) Disclosure of returns filed under section 60501.—The Secretary may, upon written request, disclose returns filed under section 60501 to officers and employees of any Federal agency whose official duties require such disclosure for the administration of Federal criminal statutes not related to tax administration."

Subsec. (l)(3)(C). Pub.L. 104-134, § 31001(i)(2), amended subpar. (C) generally. Prior to amendment subpar. (C) read as follows: "Included Federal loan program defined.—For purposes of this paragraph, the term 'included Federal loan program' means any program—

"(i) under which the United States or a Federal agency makes, guarantees, or insures loans, and

"(ii) with respect to which there is in effect a determination by the Director of the Office of Management and Budget (which has been published in the Federal Register) that the application of this paragraph to such program will substantially prevent or reduce future delinquencies under such program."

Subsec. (l)(6)(B). Pub.L. 104-193, § 316(g)(4)(A), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (l)(6)(C). Pub.L. 104-193, § 316(g)(4)(A), redesignated former subpar. (B) as (C).

Pub.L. 104-193, § 316(g)(4)(B)(ii), substituted "Information may be disclosed under this paragraph" for "The Secretary shall disclose return information under subparagraph (A)".

Subsec. (l)(7)(D)(i). Pub.L. 104-193, § 110(l)(2) [formerly § 110(l)(3)], substituted "a State program funded" for "aid to families with dependent children provided under a State plan approved". For redesignation of par. (3) as par. (2) of Pub.L. 104-193, § 110(l), see 1997 Amendments note regarding Pub.L. 105-33, § 5514(a).

Subsec. (l)(7)(D)(i). Pub.L. 104-193, § 110(l)(3), substituted "a State program funded" for "aid to families with dependent children provided under a State plan approved".

Subsec. (l)(10). Pub.L. 104-193, § 110(l)(4), substituted "(c), (d), or (e)" for "(c) or (d)" wherever appearing and added a new sentence: "Any return information disclosed with respect to section 6402(e) shall only be disclosed to officers and employees of the State agency requesting such information." at the end of subpar. (B). For elimination of par. (4) of Pub.L. 104-193, § 110(l), see 1997 Amendments note regarding Pub.L. 105-33, § 5514(a).

Pub.L. 104-134, § 31001(g)(2), inserted "and to officers and employees of the Department of the Treasury in connection with such reduction" following "6402" wherever appearing.

Subsec. (l)(15). Pub.L. 104-168, § 1206(a), added par. (15).

Subsec. (p)(3)(A). Pub.L. 104-168, § 1206(b)(2), substituted "or (7)(A)(ii)" for "(7)(A)(ii), or (8)" and "(14), or (15)" for "or (14)".

Subsec. (p)(4). Pub.L. 104-193, § 110(l)(5), provided that in the matter preceding subpar. (A) "(6)" be substituted for "(5), (10)" and "(9), (10), or (12)" be substituted for "(9), or (12)". For elimination of par. (5) of Pub.L. 104-193, § 110(l), see 1997 Amendments note regarding Pub.L. 105-33, § 5514(a).

Pub.L. 104-193, § 316(g)(4)(B)(iii), in the provisions following par. (F), substituted "paragraph (6)(A) or (12)(B) of subsection (l)" for "subsection (l)(12)(B)".

Pub.L. 104-168, § 1206(b)(3), substituted "or (5)" for "(5), or (8)", "(i)(3)(B)(i)" for "(i)(3)(B)(i), or (8)", and "(12), or (15)" for "or (12)".

Subsec. (p)(4)(F)(ii). Pub.L. 104-168, § 1206(b)(4), substituted "or (5)" for "(5), or (8)" and "(14), or (15)" for "or (14)".

1994 Amendments. Subsec. (l)(5). Pub.L. 103-296, § 108(h)(6), substituted, in the heading, "Social Security Administration" for "Depart-

ment of Health and Human Services", and, in text, "Commissioner of Social Security" for "Secretary of Health and Human Services".

Pub.L. 103-296, § 311(b)(1) to (4), substituted "for the purpose of—" for "for the purpose of", designated existing provision as subpar. (A), substituted therein "program; or" for "program," and added subpar. (B), respectively.

1993 Amendments. Subsec. (d)(4). Pub.L. 103-66, § 1344(a), added par. (4).

Subsec. (l)(7). Pub.L. 103-66, § 13403(b), in par. heading, added ", or certain housing assistance programs" following "Code".

Subsec. (l)(7)(D). Pub.L. 103-66, § 13403(a)(4), added provisions directing that cl. (ix) should not apply after Sept. 30, 1998.

Pub.L. 103-66, § 13401(a), directed that cl. (viii) should not apply after Sept. 30, 1998, rather than Sept. 30, 1997.

Subsec. (l)(7)(D)(ix). Pub.L. 103-66, § 13403(a)(1)-(3), added cl. (ix).

Subsec. (l)(12)(B)(i). Pub.L. 103-66, § 13561(a)(2)(A), inserted ", above an amount (if any) specified by the Secretary of Health and Human Services,".

Subsec. (l)(12)(B)(ii). Pub.L. 103-66, § 13561(a)(2)(B), inserted ", above an amount (if any) specified by the Secretary of Health and Human Services,".

Subsec. (l)(12)(E)(ii). Pub.L. 103-66, § 13561(e)(2)(B), eliminated large group health plans as defined in section 5000(b)(2) of this title from the definition.

Subsec. (l)(12)(F)(i). Pub.L. 103-66, § 13561(a)(2)(C)(i), substituted "1998" for "1995".

Subsec. (l)(12)(F)(ii)(I). Pub.L. 103-66, § 13561(a)(2)(C)(ii), substituted "1997" for "1994".

Subsec. (l)(12)(F)(ii)(II). Pub.L. 103-66, § 13561(a)(2)(C)(iii), substituted "1998" for "1995".

Subsec. (l)(13). Pub.L. 103-66, § 13402(a), added par. (13).

Subsec. (l)(14). Pub.L. 103-182, § 522(a), added par. (14).

Subsec. (m)(4). Pub.L. 103-66, § 13402(b)(1), in par. heading, substituted "Individuals who owe an overpayment of Federal Pell grants or who have defaulted on student loans administered by the Department of Education" for "Individuals who have defaulted on student loans administered by the Department of Education".

Subsec. (m)(4)(A). Pub.L. 103-66, § 13402(b)(1), added references to individuals who owe an overpayment of a grant awarded under subpart 1 of part A of title IV of the Higher Education Act of 1965 and to individuals who have defaulted on a loan made under part D of title IV of such Act.

Subsec. (m)(4)(B)(i). Pub.L. 103-66, § 13402(b)(2)(A), substituted "under part B or D of title IV of the Higher Education Act of 1965" for "under part B of title IV of the Higher Education Act of 1965".

Subsec. (m)(4)(B)(ii). Pub.L. 103-66, § 13402(b)(2)(B), substituted "under subpart 1

of part A, or part D or E of title IV of such Act" for "under part E of title IV of such Act".

Subsec. (p)(3)(A). Pub.L. 103-182, § 522(b), substituted "(13), or (14)" for "or (13)".

Pub.L. 103-66, § 13402(b)(3)(A), substituted "(11), (12), or (13), (m)" for "(11), or (12), (m)".

Subsec. (p)(4). Pub.L. 103-182, § 522(b), substituted "(13), or (14)" for "or (13)".

Pub.L. 103-66, § 13402(b)(3)(B)(i), substituted "(10), (11), or (13)," for "(10), or (11),".

Subsec. (p)(4)(F)(ii). Pub.L. 103-66, § 13402(b)(3)(B)(ii), substituted "(11), (12), or (13)," for "(11), or (12),".

1992 Amendments. Subsec. (l)(7)(D). Pub.L. 102-568, § 602(b)(1), substituted "1997" for "1992".

Subsec. (l)(7)(D)(viii)(II). Pub.L. 102-568, § 602(b)(2)(A), substituted "1315" for "415".

Subsec. (l)(7)(D)(viii)(III). Pub.L. 102-568, § 602(b)(2)(B), substituted "1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)" for "610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)".

1990 Amendments. Subsec. (e)(1)(A). Pub.L. 101-508, § 11101(d)(6), which directed the substitution of "section 1(g)" for "section 1(j)", was executed by making the substitution for "section 1(i)" to reflect the probable intent of Congress and amendment by section 1014(c)(4) of Pub.L. 100-647. See 1988 Amendments note set out under this section.

Subsec. (k)(7). Pub.L. 101-508, § 11212(b)(3), added par. (7).

Subsec. (l)(7). Pub.L. 101-508, § 8051(a), inserted reference to Title 38, United States Code, in the paragraph heading, and added cl. (viii) of subpar. (D) and new provisions for subpar. (D) following cl. (viii).

Subsec. (l)(12)(F)(i). Pub.L. 101-508, § 4203(a)(2)(A), substituted "September 30, 1995" for "September 30, 1991".

Subsec. (l)(12)(F)(ii)(I). Pub.L. 101-508, § 4203(a)(2)(B), substituted "1994" for "1990".

Subsec. (l)(12)(F)(ii)(II). Pub.L. 101-508, § 4203(a)(2)(C), substituted "1995" for "1991".

Subsec. (m)(7). Pub.L. 101-508, § 5111(b)(1), added par. (7).

Subsec. (n). Pub.L. 101-508, § 11313(a), substituted "the programming" for "and the programming" and inserted "and the providing of other services," after "of equipment".

Subsec. (p)(4). Pub.L. 101-508, § 5111(b)(2), in provision following subpar. (F)(iii) substituted "paragraph (2), (4), (6), or (7) of subsection (m)" for "subsection (m)(2), (4), or (6)".

1989 Amendments. Subsec. (a)(3). Pub.L. 101-239, § 6202(a)(1)(B)(i), inserted "(l)(12)," following "subsection (e)(1)(D)(iii)".

Subsec. (d)(1). Pub.L. 101-239, § 7841(d)(1), struck out reference to chapter 45.

Subsec. (l)(12). Pub.L. 101-239, § 6202(a)(1)(A), added par. (12).

Subsec. (p)(3)(A). Pub.L. 101-239, § 6202(a)(1)(B)(ii), in sentence beginning "Notwithstanding the provisions" substituted "(11), or (12)" for "or (11)".

Subsec. (p)(4). Pub.L. 101-239, § 6202(a)(1)(B)(iii), made safeguards applicable

to agencies, bodies, or commissions described in subsec. (l)(12) of this section.

Pub.L. 101-239, § 6202(a)(1)(B)(v), in sentence beginning "In the case of" inserted "or which receives any information under subsection (l)(12)(B) and which discloses any such information to any agent".

Subsec. (p)(4)(F)(ii). Pub.L. 101-239, § 6202(a)(1)(B)(iv), substituted "(11), or (12)" for "or (11)".

Effective Dates

1998 Acts. Section 4006(a)(3) of Pub.L. 105-277 provided that: "The amendments made by this subsection [amending subsecs. (j) and (p) of this section] shall apply to requests made on or after the date of the enactment of this Act [Oct. 21, 1998]."

Amendment by section 4002 of Pub.L. 105-277 effective as if included in the provisions of the 1998 Act [Internal Revenue Restructuring and Reform Act, Pub.L. 105-206, July 22, 1998, 112 Stat. 685] to which they relate, see section 4002(k) of Pub.L. 105-277 set out as a note under section 1 of this title.

Amendment by section 1101(b) of Pub.L. 105-206 effective July 22, 1998, see section 1101(d) of Pub.L. 105-206 set out as a note under section 7802 of this title.

Section 3702(c) of Pub.L. 105-206 provided that: "The amendments made by this section [amending subsecs. (l) and (p) of this section] shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act [July 22, 1998]."

Section 3708(b) of Pub.L. 105-206 provided that: "The amendment made by this section [enacting subsec. (f)(5) of this section] shall take effect on the date of the enactment of this Act [July 22, 1998]."

Section 3711(d) of Pub.L. 105-206 provided that: "The amendments made by this section [amending this section and section 6402 of this title] (other than subsection (d) [enacting this note]) shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 [section 6402 of this title] after December 31, 1999."

Section 6019(d) of Pub.L. 105-206 provided that: "The amendments made by this section [amending this section and section 6104 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998]."

Amendment by section 6023(22) of Pub.L. 105-206 effective July 22, 1998, see section 6023(32) of Pub.L. 106-206, set out as a note under section 34 of this title.

Amendments by Title VI (sections 6001 to 6024) of Pub.L. 105-206, except as otherwise provided in such title, shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997, Pub.L. 105-34, Aug. 5, 1997, 111 Stat. 788, to which they relate, see section 6024 of Pub.L. 105-206, set out as a note under section 1 of this title.

1997 Acts. Section 1023(b) of Pub.L. 105-34 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997]."

Section 1023(c) of Pub.L. 105-34 provided that: "The amendments made by this section [amending this section and section 552a of Title 5, Government Organization and Employees] shall apply to levies issued after the date of the enactment of this Act [Aug. 5, 1997]."

Amendments by section 1201 of Pub.L. 105-34 applicable to taxable years beginning after Dec. 31, 1997, see section 1201(c) of Pub.L. 105-34, set out as a note under section 59 of this title.

Section 1205(d) of Pub.L. 105-34 provided that: "The amendments made by this section [amending this section and sections 6311 and 7431 of this title] shall take effect on the day 9 months after the date of the enactment of this Act [Aug. 5, 1997]."

Section 1283(c) of Pub.L. 105-34 provided that: "The amendments made by this section [amending this section] shall apply to judicial proceedings commenced after the date of the enactment of this Act [Aug. 5, 1997]."

Amendments by section 5514(a) of Pub.L. 105-33 effective as if included in section 110 of Pub.L. 104-193 at the time such section 110 became law, see section 5518(c) of Pub.L. 105-33, set out as a note under section 51 of this title.

Amendments by section 11024 of Pub.L. 105-33 [amending this section] effective on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet certain requirements, see section 11721 of Pub.L. 105-33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedures.

1996 Acts. Amendments by section 110(l) of Pub.L. 104-193, effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub.L. 104-193, set out as a note under section 601 of Title 42, The Public Health and Welfare.

For effective date of Title III of Pub.L. 104-193, see section 395(a) to (c) of Pub.L. 104-193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

Section 403(b) of Pub.L. 104-168 provided that: "The amendment made by this section [amending this section] shall apply to requests made after the date of the enactment of this Act [July 30, 1996]."

Section 902(b) of Pub.L. 104-168 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996]."

Section 1203(c) of Pub.L. 104-168 provided that: "The amendments made by this section [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [July 30, 1996]."

Amendment by Pub.L. 104-134 effective Apr. 26, 1996, see section 31001(a)(2)(A) of Pub.L. 104-134, set out as a note under section 3322 of Title 31, Money and Finance.

1994 Acts. Amendment by section 108(h)(6) of Pub.L. 103-296 effective Mar. 31, 1995, see section 110 of Pub.L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

Section 311(c) of Pub.L. 103-296 provided that: "The amendments made by this section [amending this section and section 1306 of Title 42, The Public Health and Welfare] shall apply with respect to requests for information made after the date of the enactment of this Act [Aug. 15, 1994]."

1993 Acts. Section 522(c) of Pub.L. 103-182 provided that:

"(1) In general.—The amendments made by this section [amending this section] shall take effect on the date the Agreement enters into force with respect to the United States.

"(2) Regulations.—Not later than 90 days after the date of the enactment of this Act [Dec. 8, 1993], the Secretary of the Treasury or his delegate shall issue temporary regulations to carry out section 6103(l)(14) of the Internal Revenue Code of 1986, as added by this section [subsec. (l)(14) of this section]."

Section 13401(b) of Pub.L. 103-66 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 1993]."

Section 13402(c) of Pub.L. 103-66 provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 1993]."

Section 13403(c) of Pub.L. 103-66 provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 1993]."

Section 13444(b) of Pub.L. 103-66 provided that:

"(1) In general.—Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall take effect on the date one year after the date of the enactment of this Act [Aug. 10, 1993]."

"(2) Special rule.—The amendment made by subsection (a) [amending this section] shall take effect on the date 2 years after the date of the enactment of this Act [Aug. 10, 1993] in the case of any State if it is established to the satisfaction of the Secretary of the Treasury that—

"(A) under the law of such State as in effect on the date of the enactment of this Act [Aug. 10, 1993], it is impossible for such State to enter into an agreement meeting the requirements of section 6103(d)(4)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)) [subsec. (d)(4)(B) of this section], and

"(B) it is likely that such State will enter into such an agreement during the extension period under this paragraph."

1990 Acts. Section 4203(d) of Pub.L. 101-508, as amended Pub.L. 103-432, Title I, § 151(c)(8), Oct. 31, 1994, 108 Stat. 4436 provided that: "The amendments made [sic] this section [amending this section and section 1395y of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under section 1395y of Title 42] shall take effect on the date of the enactment of this Act [Nov. 5, 1990] and the amendment made by subsection (a)(2)(B) [amending this section] shall apply to requests made on or after such date [Nov. 5, 1990]."

[Pub.L. 103-432, Title I, § 151(c)(8), Oct. 31, 1994, 108 Stat. 4436, provided in part that amendment by section 151(c)(8) is effective as if included in the enactment of Pub.L. 101-508, 104 Stat. 1388, which was approved Nov. 5, 1990.]

Amendment by Pub.L. 101-508, § 11101(d)(6) applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub.L. 101-508, set out as a note under section 1 of this title.

Amendment by section 11212(b)(3) of Pub.L. 101-508 effective Dec. 1, 1990, see section 11212(f) of Pub.L. 101-508, set out as a note under section 4081 of this title.

Section 11313(b) of Pub.L. 101-508 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990]."

1989 Acts. Section 6202(a)(1)(D) of Pub.L. 101-239 provided that: "The amendments made by this paragraph [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Dec. 19, 1989]."

Amendment by section 7721 of Pub.L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub.L. 101-239, set out as a note under section 461 of this title.

1988 Acts. Section 7601(b)(3) of Pub.L. 100-690 amended Pub.L. 101-647, Title XXXI-11, § 3302(a), Nov. 29, 1990, 104 Stat. 4917, provided that: "The amendments made by this subsection [amending this section] shall apply to requests made on or after the date of the enactment of this Act [Nov. 18, 1988], but disclosures may be made pursuant to such amendments only during the 4-year period beginning on such date."

1984 Acts. Amendment by section 2653 of Pub.L. 98-369 applicable to refunds payable under section 6402 of this title after December 31, 1985, see section 2653(c) of Pub.L. 98-369, as amended, set out as a note under section 6402 of this title.

Procedures for Authorizing Disclosure Electronically

Pub.L. 105-206, Title II, § 2003(e), July 22, 1998, 112 Stat. 725, provided that: "The Secretary shall establish procedures for any taxpayer to authorize, on an electronically filed return, the Secretary to disclose information under section 6103(c) of the Internal Revenue Code of 1986 [subsec. (c) of this section] to the preparer of the return."

[Provisions of this note, enacted by section 2003 of Pub.L. 105-206, effective July 22, 1998, see section 2003(f) of Pub.L. 105-206, set out as an Effective Date of 1996 Acts note under section 6061 of this title.]

Access to Account Information

Pub.L. 105-206, Title II, § 2005, July 22, 1998, 112 Stat. 726, provided that:

"(a) In general.—Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically (and their designees under section 6103(c) of the Internal Revenue Code of 1986) [subsec. (c) of this section] would be able to review the taxpayer's account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

"(b) Report.—Not later than December 31, 2003, the Secretary of the Treasury shall report on the progress the Secretary is making on the development of procedures under subsection (a) [of this note] to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate."

Confidentiality of Tax Return Information

Pub.L. 105-206, Title III, § 3802, July 22, 1998, 112 Stat. 782, provided that: "The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as the Committee or the Secretary deems appropriate, to the Congress not later than 18 months after the date of the enactment of this Act [July 22, 1998]. Such study shall examine—

"(1) the present protections for taxpayer privacy;

"(2) any need for third parties to use tax return information;

"(3) whether greater levels of voluntary compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns;

"(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code of 1986 [this title] with such provisions in other Federal law, including section 552a of title 5, United States Code (commonly known as the 'Freedom of Information Act');

"(5) the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of State and local tax laws other than income tax laws, and including the impact on the taxpayer privacy intended to be protected at the Federal, State, and local levels under Public Law 105-35, the Taxpayer Browsing Protection Act of 1997 [Pub.L. 105-35, Aug. 5, 1997, 111 Stat. 1104; for complete classification of this Act to the Code, see section 1 of Pub.L. 105-35, set out as a Short Title of 1997 Amendments note under section 1 of this title and Tables]; and

"(6) whether the public interest would be served by greater disclosure of information relating to tax exempt organizations described

in section 501 of the Internal Revenue Code of 1986 [section 501 of this title]."

Combined Employment Tax Reporting Demonstration Project

Section 976(a), (b) of Pub.L. 105-34 provided that:

"(a) In general.—The Secretary of the Treasury shall provide for a demonstration project to assess the feasibility and desirability of expanding combined Federal and State tax reporting.

"(b) Description of demonstration project.—The demonstration project under subsection (a) shall be—

"(1) carried out between the Internal Revenue Service and the State of Montana for a period ending with the date which is 5 years after the date of the enactment of this Act [Aug. 5, 1997].

"(2) limited to the reporting of employment taxes, and

"(3) limited to the disclosure of the taxpayer identity (as defined in section 6103(b)(6) of such Code [subsec. (b)(6) of this section]) and the signature of the taxpayer."

Confidentiality of Federal Information

Section 11024(c) of Pub.L. 105-33 provided that: "The Secretary may issue regulations governing the confidentiality of the information obtained pursuant to subsection (a) and the provisions of law amended by subsection (b) [amending this section and section 7213 of this title]."

[Provisions of section 11024(c) of Pub.L. 105-33 effective the later of Oct. 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet certain requirements, see section 11721 of Pub.L. 105-33, set out as a note under section 4246 of Title 18.]

Confidentiality of Tax Return Information

Pub.L. 101-647, Title XXXIII, § 3304, Nov. 29, 1990, 104 Stat. 4918, provided that:

"(a) In general.—Notwithstanding any other provision of this Act [Pub.L. 101-647], no commission established by this Act shall have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code of 1986 [this section].

"(b) Definitions.—For purposes of this section, the terms 'return' and 'return information' have the respective meanings given such terms by section 6103(b) of the Internal Revenue Code of 1986 [subsec. (b) of this section]."

Deadline for Initial Request for Return Information From Internal Revenue Service

For provisions requiring the Commissioner of Social Security to first transmit to the Secretary of the Treasury information under section 1395y(b)(5)(A)(i) of Title 42, The Public Health and Welfare, and request from the Secretary disclosure of information described in subsec. (4)(12)(A) of this section by not later than 14 days after Dec. 19, 1989, see section 6202(a)(2)(B) of Pub.L. 101-239, set out as a note under section 1395y of Title 42.

Implementation of Regulations

Requirement that the Secretary of Housing and Urban Development issue regulations necessary to implement the amendments made by Pub.L. 105-65, Title V, Subtitle C [sections 541 to 564 of Pub.L. 105-65, amending this section], see Pub.L. 105-65, § 541, set out as a note under section 1735f-14 of Title 12.

Individuals Exposed to Occupational Hazards During Military Service; Procedures Applicable for Locating

Pub.L. 96-123, Title V, § 502, Nov. 28, 1979, 93 Stat. 987, as amended by Pub.L. 96-466, Title VII, § 702, Oct. 17, 1980, 94 Stat. 2216; Pub.L. 102-54, § 14(g)(3), June 13, 1991, 105 Stat. 288; Pub.L. 102-83, § 6(e), Aug. 6, 1991, 105 Stat. 407, provided that: "In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code of 1986 [subsec. (m)(3) of this section] regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Secretary of Veterans Affairs (or the head of any other Federal department, agency, or instrumentality), shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Secretary (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air service (as defined in section 101(24) of title 38, United States Code) [section 101(24) of Title 38, Veterans' Benefits], and (2) provide such addresses to such Secretary (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Department of Veterans Affairs (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards. Disclosures of information made under this section shall for all purposes be deemed to be disclosures authorized in the Internal Revenue Code of 1986 [this title]."

Procedures and Policies to Safeguard the Confidentiality of Taxpayer Information

Pub.L. 105-277, Div. A, § 101(h) [Title I, § 105], Oct. 21, 1998, 111 Stat. 2681—, provided that: "The Internal Revenue Service shall institute and enforce policies and procedures which will safeguard the confidentiality of taxpayer information."

Similar provisions were contained in the following prior Appropriation Acts:

Pub.L. 105-61, Title I, § 105, Oct. 10, 1997, 111 Stat. 1282.

Pub.L. 104-208, Div. A, Title I, § 101(f) [Title I, § 114], Sept. 30, 1996, 110 Stat. 3009-325.

Pub.L. 104-52, Title I, § 105, Nov. 19, 1995, 109 Stat. 476.

Pub.L. 103-329, Title I, § 108, Sept. 30, 1994, 108 Stat. 2390.

Pub.L. 103-123, Title I, § 107, Oct. 28, 1993, 107 Stat. 1234.

CROSS REFERENCES

Access to classified information and requests by authorized investigative agencies, see 50 USCA § 436.

Definitions, as in this section, have same meaning for purposes of, the exchange of data concerning the Rehabilitation Services Administration or the Social Security Administration, see 29 USCA § 753a.

Federal case registry of child support orders and restrictions on disclosure and use, see 42 USCA § 653.

Federal direct student loan program, loan terms and conditions, income contingent repay-

Taxpayer Identifying Number; Persons Applying For Loans Under Federal Loan Programs Required to Furnish

Pub.L. 97-365, § 4, Oct. 25, 1982, 96 Stat. 1751, which required that each Federal agency administering an included Federal loan program require persons applying for loans to furnish their taxpayer identifying number, was repealed by Pub.L. 103-272, § 7(b), July 5, 1994, 108 Stat. 1379. See section 7701 of Title 31, Money and Finance.

ment, information and procedures, etc., see 20 USCA § 1087e.

Housing and Urban Development programs, information and records access, etc., protections, penalties, etc., see 42 USCA § 3544.

SSI eligibility restrictions and exchange of information, see 42 USCA § 1382.

State case registry and information comparisons and other disclosures of information, see 42 USCA § 654a.

Temporary assistance to needy families and automated data processing information integrity and security including training and information, see 42 USCA § 654a.

AMERICAN LAW REPORTS

Discovery and inspection of income tax returns in actions between private individuals. 70 ALR2d 240.

Validity, construction, and effect of state laws requiring public officials to protect confidentiality of income tax returns or information. 1 ALR4th 959.

LIBRARY REFERENCES

Public information requirement, exemptions, see West's Federal Practice Manual § 68.

Encyclopedias

33 Am Jur 2d, Federal Taxation (1995) ¶¶ 1058, 1725.

33 Am Jur 2d, Federal Taxation (1996) ¶¶ 1058, 1725.

34 Am Jur 2d, Federal Taxation (1995) ¶¶ 70004, 70814, 70978.

34 Am Jur 2d, Federal Taxation (1996) ¶¶ 70004, 70814, 70980.

Forms

11 Fed Procedural Forms, L Ed, Internal Revenue §§ 43-371 et seq.

11A Am Jur Pl & Pr Forms (Rev), Federal Taxation, Form 31.

Law Review and Journal Commentaries

Extra-judicial discussion of taxpayer information: The IRS bully is still on the block. Michael G. Little, 43 Fla.L.Rev. 1041 (1992).

How the new taxpayer Bill of Rights affects attorneys. Sidney Kess, 216 N.Y.L.J. 3 (Aug. 5, 1996).

Privacy vs. convenience: Benefits and drawbacks of tax system modernization. E. Maria Grace, 47 Fed.Comm.L.J. 409 (1994).

Section 6103 and the use of third party tax return information in tax litigation. John A. Townsend, 47 Tax Law. 923 (1993).

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What constitutes privileged communications with preparer of federal tax returns so as to render communication inadmissible in federal tax prosecution. 36 ALR Fed 686.

Striking back at the IRS: Using Internal Revenue Code provisions to redress unauthorized disclosures of tax returns or return information. Allan Karnes and Roger Lirely, 23 Seton Hall L.Rev. 924 (1993).

Suing the IRS and its employees for damages: David and Goliath. Ridgeley A. Scott, 20 S.Ill. U.L.J. 507 (Spring 1996).

Texts and Treatises

Privilege on inspection of tax returns, see Wright & Miller, Federal Practice and Procedure: Civil § 2019.

12 Fed Proc L Ed, Evidence § 33:305.

8 Fed Proc L Ed, Criminal Procedure § 22:422.

15 Fed Proc L Ed, Freedom of Information §§ 38:70, 88, 99, 124, 183, 189, 206, 285.

20 Fed Proc L Ed, Internal Revenue §§ 48:237 et seq.

2A Soc Sec LP, Applications and Payments §§ 35:20, 22.

4 Soc Sec LP, Representation §§ 48:7 et seq.

3 Employment Coord, Health, Life, and Disability Benefits ¶ B-12,209.

2 Benefits Coord, Health Care; Disability ¶ 11,255.

23 Fed Tax Coord 2d ¶¶ S-8000-8212.

5 Estate Plan & Tax Coord, Trusts ¶¶ 85,068, 85,090.

5 Estate Plan & Tax Coord, Practice and Procedure ¶¶ 87,035, 87,058.

5 Fed Tax Coord 2d ¶¶ C-9720, 9815.

24 Fed Tax Coord 2d ¶¶ T-10300-10314.

NOTES OF DECISIONS

I. GENERALLY

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2. Constitutionality

Federal tax statute permitting disclosure of federal income tax information to state taxing authorities did not unconstitutionally imperil concept of federalism; even if statute enhanced state's ability to collect tax revenues, it did not infringe on state's sovereignty or compel federal and state officials to collaborate or conspire together to violate individual citizens' rights. Taylor v. U.S., C.A.8 (Iowa) 1997, 106 F.3d 833.

2. Construction with Constitutional provisions

Government's limitation of audit history information of prospective jurors to six years was arbitrary and in violation of statute giving defendants charged with tax offenses absolute right to information concerning whether prospective jurors had been audited or otherwise investigated by IRS; statute providing for disclosure of audit history information had no time limitation. U.S. v. Sinigaglio, C.A.9 (Wash.) 1991, 942 F.2d 581, amended on denial of rehearing.

In view of supremacy clause, one percent shareholder was entitled to disclosure of corporation's consolidated tax return under Freedom of Information Act (FOIA) and Internal Revenue Code, despite corporation's claim that disclosure violated its right of privacy in State Constitution. Yorkshire v. I.R.S., C.D.Cal.1993, 829 F.Supp. 1198, affirmed 26 F.3d 942, certiorari denied 115 S.Ct. 487, 513 U.S. 989, 130 L.Ed.2d 399.

3. Construction with other laws—Generally

Validity of disclosures of tax return information necessary to effect levies for tax collection purposes was not affected by validity of underlying levies. Venen v. U.S., C.A.3 (Pa.) 1994, 38 F.3d 100.

4. — Freedom of Information Act

Church of Scientology of California v. I.R.S., U.S.Dist.Col.1987, 108 S.Ct. 271, [main volume] 484 U.S. 9, 98 L.Ed.2d 228.

Apart from taxpayer-specific information, legal analysis contained in field service advice memoranda, issued by the Office of Chief Counsel for the IRS in response to requests from field personnel for legal guidance, was not protected from disclosure under the Internal Revenue Code as "return information" and, thus, did

not come within Freedom of Information Act (FOIA) exemption for matters specifically exempted from disclosure by statute. Tax Analysts v. I.R.S., C.A.D.C.1997, 117 F.3d 607, 326 U.S.App.D.C. 53, on remand.

Statute which prohibits disclosure of return or return information by any employee or officer of the United States, except to persons authorized to inspect tax returns if Secretary determines that such disclosure would not seriously impair federal tax administration, brings such records within exemption from disclosure under Freedom of Information Act. Fritz v. I.R.S., W.D.Wis.1994, 862 F.Supp. 234.

Fact that provision of Internal Revenue Code gave Internal Revenue Service (IRS) discretion with respect to disclosure of taxpayer information in case of unclaimed refunds did not mean that, if discretion was not exercised to disclose information, code's blanket prohibition against disclosure of return information remained in effect and information could not be obtained under Freedom of Information Act. Aronson v. I.R.S., D.Mass.1991, 767 F.Supp. 378, affirmed in part, reversed in part 973 F.2d 962.

4a. Construction with Privacy Act

Internal Revenue Service's (IRS) disclosure of federal tax information to state taxing authority fell within Privacy Act exception for routine use of records, where IRS published necessary notices for its record systems. Taylor v. U.S., C.A.8 (Iowa) 1997, 106 F.3d 833.

5. Construction with Federal Rules of Criminal Procedure

U.S. v. Robertson, E.D.Cal.1986, 634 F.Supp. 1020, affirmed 815 F.2d 714, [main volume] certiorari denied 108 S.Ct. 258, 484 U.S. 912, 98 L.Ed.2d 215.

6. Purpose

Church of Scientology of California v. I.R.S., U.S.Dist.Col.1987, 108 S.Ct. 271, [main volume] 484 U.S. 9, 98 L.Ed.2d 228.

Purpose of Internal Revenue Code provision requiring early disclosure of juror information to defendant in criminal tax prosecution was to eliminate prior informational advantage enjoyed by government regarding potential jurors' tax history. U.S. v. Callahan, C.A.11 (Fla.) 1993, 981 F.2d 491, certiorari denied 113 S.Ct. 2972, 508 U.S. 976, 125 L.Ed.2d 671.

Purpose of statute allowing government and taxpayer in civil and criminal tax cases to discover whether prospective juror had ever been subject of tax audit is to enable questions of potential jurors who were audited to determine whether they harbor resentment toward Internal Revenue Service (IRS) which might affect their ability to be unbiased decision makers. U.S. v. Schandl, C.A.11 (Fla.) 1991, 947 F.2d 462, certiorari denied 112 S.Ct. 2946, 504 U.S. 975, 119 L.Ed.2d 569.

General prohibition of disclosure of tax return information except for purposes enumerated by statute furthers Internal Revenue Code policy of assuring taxpayers of privacy and confidentiality of tax return information by restricting access to such information to persons who are deemed to

have material interest in them; however, statute clearly permits disclosure of return information for purposes of tax administration. *Egbert v. U.S.*, D.Wyo.1990, 752 F.Supp. 1010, affirmed 940 F.2d 1539, certiorari denied 112 S.Ct. 666, 502 U.S. 1016, 116 L.Ed.2d 756.

7. Law governing

Agreement on coordination of tax administration, which had been entered into between Internal Revenue Service (IRS) and Texas comptroller's office, fulfilled written request requirement of statute governing disclosure of federal tax return information, and its legal effect was not contingent upon compliance with Texas implementation agreement. *McQueen v. U.S.*, S.D.Tex.1998, 5 F.Supp.2d 473.

8. Self-incrimination

Revenue agents did not have affirmative duty to inform taxpayer that civil audit might lead to criminal charges, in absence of direct question from taxpayer. *U.S. v. Peters*, N.D.Ill.1996, 944 F.Supp. 646.

9. Taxpayers protected from disclosure

Alleged disclosure by Internal Revenue Service (IRS) agents of tax preparer's name in his capacity as tax preparer or accountant for his clients, not in his capacity as taxpayer, did not violate statute prohibiting unauthorized disclosure of tax return information. *Moldenhauer v. U.S.*, C.D.Ill.1996, 958 F.Supp. 394.

Organizations's tax-exempt status did not deprive it of protection under Internal Revenue Code from disclosure of confidential returns and return information. *Lehrfeld v. Richardson*, D.D.C.1996, 954 F.Supp. 9, affirmed 132 F.3d 1463, 328 U.S.App.D.C. 117.

10. Persons or entities prohibited from disclosing—Generally

Taxpayer's employer was not "other person" who had access to tax returns or return information and, thus, employer's compliance with Internal Revenue Service (IRS) summons was not illegal disclosure of tax return information; statute prohibiting disclosure of tax returns or return information was intended to establish comprehensive scheme for controlling release by IRS of information received from taxpayers. *Ungaro v. Desert Palace, Inc.*, D.Nev.1989, 732 F.Supp. 1522.

Any disclosures of tax return information made by Internal Revenue Service (IRS) in connection with its levies were authorized by statute and did not subject IRS to liability for willful disclosure of tax return information, where there was no evidence, and taxpayers did not even allege, that confidential information was disclosed in any context other than that described in statute and regulation. *Quillen v. U.S.*, W.D.Va.1993, 160 B.R. 776.

10a. — IRS disclosure

In order for there to be violation of statute generally prohibiting disclosure of return information by Internal Revenue Service (IRS), source of disclosed information must have been the IRS. *Baskin v. U.S.*, C.A.5 (Tex.) 1998, 135 F.3d 333.

Internal Revenue Service's (IRS) disclosure of taxpayer's federal tax return information to assistant United States attorney satisfied statutory requirements for disclosure of federal tax return information to Department of Justice (DOJ); information was disclosed for purpose of helping the IRS obtain search warrant pursuant to administrative investigation of possible criminal violation of tax code, IRS agent was investigating whether taxpayer committed criminal violation when he made disclosure, and IRS had referred the case to the DOJ. *McQueen v. U.S.*, S.D.Tex.1998, 5 F.Supp.2d 473.

11. — Taxpayer's own disclosure

Internal Revenue Service (IRS) agent unlawfully disclosed "return information" when he notified confidential informant of impending search of taxpayer's premises for evidence of alleged violations of motor fuel excise tax laws, without taxpayer's consent or investigation of disclosure statutes. *Jones v. U.S.*, C.A.8 (Neb.) 1996, 97 F.3d 1121, on remand 954 F.Supp. 191.

13. Filing of return—Generally

Stokwitz v. U.S., C.A.9 (Cal.) 1987, 831 F.2d 893, (main volume) certiorari denied 108 S.Ct. 1592, 485 U.S. 1033, 99 L.Ed.2d 907.

16. Impairment of tax administration

Internal Revenue Service (IRS) District Director's determination that disclosure of income tax return information, which taxpayers sought to subpoena in action against accountants for alleged wrongful disclosure of information to IRS and alleged embezzlement, would seriously impair tax administration was not arbitrary or capricious, where materials sought by taxpayers went to heart of ongoing IRS criminal investigation of taxpayers and where disclosure of materials raised risk of witness intimidation. *Branch Intern. Services, Inc. v. U.S.*, E.D.Mich.1995, 905 F.Supp. 434.

19. — Civil litigation

Statute governing confidentiality of tax returns does not block access, through pretrial discovery or otherwise, to copies of tax returns in possession of litigants; all it prevents is sharing by Internal Revenue Service (IRS) of tax returns with other government agencies. *Commodity Futures Trading Com'n v. Collins*, C.A.7 (Ill.) 1993, 997 F.2d 1230.

A defendant charged with criminal tax violations did not have an absolute right to know whether any potential juror had or had not ever been audited or investigated by the Internal Revenue Service (IRS). *U.S. v. Spine*, C.A.6 (Ohio) 1991, 945 F.2d 143.

Civil forfeiture proceeding in which disclosure of tax return information was sought was not "judicial proceeding pertaining to enforcement of specifically designated federal criminal statute," nor was it part of "investigation which may result in such a proceeding," within meaning of statutory exception to rule against disclosure of tax return information. *U.S. v. \$57,303.00 in U.S. Currency*, C.D.Ill.1990, 737 F.Supp. 1041.

20. — Criminal investigations, proceedings, or liability

Figur v. U.S., N.D.Cal.1987, 662 F.Supp. 515, (main volume) affirmed 854 F.2d 335, certiorari denied 109 S.Ct. 1931, 490 U.S. 1034, 104 L.Ed.2d 403.

District court was not required, in prosecution for conspiracy to defraud United States by making false income tax return, to ascertain whether defendant had requested or received information as to whether potential jurors had been audited or investigated by Internal Revenue Service (IRS), absent timely request for such information by the defendant. *U.S. v. Knapp*, C.A.7 (Wis.) 1994, 25 F.3d 451, certiorari denied 115 S.Ct. 493, 513 U.S. 992, 130 L.Ed.2d 404.

Where government claims that defendant caused false returns to be filed and offers testimony of taxpayers to support its view that falsity was responsibility of preparer, statutory injunction to consider confidentiality when ordering disclosure of tax returns is limited to remedies such as redacting portions that are plainly immaterial and especially sensitive. *U.S. v. Lloyd*, C.A.D.C.1993, 992 F.2d 348, 301 U.S.App.D.C. 186, opinion after remand 71 F.3d 408, 315 U.S.App.D.C. 149, rehearing and suggestion for rehearing in banc denied.

Although Internal Revenue Service (IRS) agent did not have to identify himself as member of criminal investigation division to possible sources of information about taxpayer's income, such action resulted from IRS' erroneous but good-faith interpretation of statute to authorize such disclosure, and IRS could not be held civilly liable to taxpayer for unlawfully disclosing return information; while IRS unnecessarily instructed agents to disclose their affiliation with criminal investigation division, elsewhere in its manual it warned agents against committing unnecessary disclosures and emphasized that unwarranted embarrassment to taxpayer and other damaging collateral consequences could result from nonjudicious use of form letters to possible sources of information. *Diamond v. U.S.*, C.A.8 (Iowa) 1991, 944 F.2d 431, rehearing denied.

Defendant in prosecution for tax evasion was entitled to continuance to obtain information from Secretary of Treasury whether prospective jurors were subject of audit or tax investigation by Internal Revenue Service (IRS). *U.S. v. Masat*, C.A.5 (Tex.) 1990, 896 F.2d 88.

Statute making juror tax information available upon written inquiry applies to criminal tax prosecutions. *U.S. v. Hashimoto*, C.A.9 (Hawaii) 1989, 878 F.2d 1126, rehearing denied.

Letters mailed by Internal Revenue Service (IRS) special agent to customers of partnership owned by taxpayers disclosed that taxpayers were under criminal investigation within meaning of federal tax provision regarding disclosure of tax return information, where letters were issued on preprinted letterhead to which identifier "Criminal Investigation Division" was typed and where body of letters stated that IRS was conducting investigation of tax liabilities of taxpayers. *Schachter v. U.S.*, N.D.Cal.1994, 866 F.Supp. 1273, affirmed 77 F.3d 490.

Government would be required to provide information as to whether members of jury hearing case against defendant charged with failure to file tax return had been subject of tax audit only for years 1964 to present, even though court could require production of such information from 1960 to present; manual review of files would be required to obtain information from 1960 through 1964, and slight benefit to be gained from that information was outweighed by effort required to obtain it. *U.S. v. Pottorf*, D.Kan.1991, 769 F.Supp. 1176.

After defendant charged with tax offenses failed to file timely motion for audit history information of prospective jurors, court would question jurors during voir dire to determine if they had ever been audited or investigated by the Internal Revenue Service (IRS), and would permit defendant to strike juror for cause if juror's answers in voir dire were contradicted by audit information subsequently provided by Secretary of Treasury. *U.S. v. Johnson*, C.D.Cal. 1991, 762 F.Supp. 275, reversed 991 F.2d 669.

Internal Revenue Code section prohibiting government and those persons who have access to federal tax returns from disclosing or divulging any tax return or information contained thereon did not prohibit defendants' accountant from producing defendants' federal tax returns in compliance with grand jury subpoena. *People v. Merrick Utility Associates, Inc.*, N.Y.Co. Ct.1991, 575 N.Y.S.2d 634, 152 Misc.2d 301.

22. — Tax administration

For purposes of statute providing that return information may be disclosed in federal or state judicial proceeding pertaining to tax administration if treatment of item reflected on such return is directly related to resolution of issue in the proceeding, term "tax proceeding" was broad enough to encompass potential civil contempt proceeding against taxpayer's husband in connection with enforcement proceeding concerning tax exempt status of husband's church. *Tavery v. U.S.*, C.A.10 (Colo.) 1994, 32 F.3d 1423.

Government could not be held liable for wrongful disclosure of tax information after disclosing such information to county recorder, where disclosure was necessary in course of filing notices of tax liens. *Vote v. U.S.*, D.Nev. 1990, 753 F.Supp. 866, affirmed 930 F.2d 31.

Enforcement of New York's Abandoned Property Law with respect to federal tax refunds came within federal statutory requirement that disclosure of tax return records be for tax administration purposes as defined under federal law; thus, order directing Secretary of Treasury to grant access freely to New York Attorney General to all appropriate tax return records was valid. *Abrams v. Brady*, N.Y.Sup.1989, 540 N.Y.S.2d 145, 143 Misc.2d 233, affirmed as modified on other grounds 556 N.Y.S.2d 925, 163 A.D.2d 94, affirmed 573 N.E.2d 556, 570 N.Y.S.2d 468, 77 N.Y.2d 741.

23. — Tax collection or investigation

U.S. v. Barrett, C.A.5 (Tex.) 1986, 804 F.2d 1376, rehearing granted 812 F.2d 936, on [main volume] rehearing 837 F.2d 1341, certiorari denied 109 S.Ct. 3264, 492 U.S. 926, 106 L.Ed.2d

609, rehearing denied 110 S.Ct. 223, 493 U.S. 883, 107 L.Ed.2d 176.

District court strayed beyond parameters of statute protecting the confidentiality of tax returns and return information when it sought to determine Internal Revenue Service (IRS) agent's subjective intent regarding circular letters sent to corporate taxpayer's customers and when it concluded that insufficient justification was shown to warrant delving into whether cash payments were made; inquiry misperceived function of "safe harbor" section of statute, which was to limit disclosures to those necessary to obtain information sought. *DiAndre v. U.S.*, C.A.10 (Colo.) 1992, 968 F.2d 1049, certiorari denied 113 S.Ct. 1843, 507 U.S. 1029, 123 L.Ed.2d 468.

Internal Revenue Service (IRS) could disclose return information used to secure tax liens and levies against taxpayers' property and wages, where disclosure was made in connection with its collection activities and in accordance with exceptions established in code and treasury regulations. *Maisano v. U.S.*, C.A.9 (Nev.) 1990, 908 F.2d 408.

Failure of Internal Revenue Service (IRS) to exercise reasonable diligence in attempting to ascertain taxpayer's correct address amounted to negligent failure to comply with required notification procedures, making IRS' collection activities unauthorized and disclosures of any return information a violation of statute prohibiting disclosure of return information. *Gille v. U.S.*, N.D.Okla.1993, 838 F.Supp. 521, clarified, reversed 33 F.3d 46, certiorari denied 115 S.Ct. 1690, 514 U.S. 1063, 131 L.Ed.2d 555.

24. Necessity of information—Generally

Internal Revenue Service (IRS) agent's disclosure, in context of criminal tax investigation, of tax return information in body of form letter sent to third-party recipient is "necessary" when it is one which agent would reasonably believe will elicit desired information from reasonable recipient of letter, but cannot reasonably be read as intending to provide more information than is sufficient for that purpose. *Rhodes v. U.S.*, M.D.Pa.1995, 903 F.Supp. 819.

Given what Internal Revenue Service (IRS) agent knew at time he disclosed to confidential informant that search warrant was going to be executed on taxpayer, reasonable agent could have believed that disclosure was "necessary" to protect future information from informants in light of law as it existed at time of disclosure, for purposes of determining whether good faith, but erroneous, interpretation of tax return disclosure statute barred liability for unlawful disclosure, where meaning of word "necessary" under investigatory disclosure provision was unclear, where it was not uncommon for special agents to divulge information about search warrant to protect confidential informant's safety, and where there were reasonable grounds to believe that taxpayer might retaliate against informant. *Jones v. U.S.*, D.Neb.1995, 898 F.Supp. 1360, affirmed in part, reversed in part 97 F.3d 1121, on remand 954 F.Supp. 191.

Records of taxpayer's income and expense sought by Internal Revenue Service (IRS) auditor to determine taxpayer's civil tax liability

were not otherwise reasonably available and, therefore, auditor could disclose tax return information, such as taxpayer's name, his tax identification number and fact that he was under investigation, in letters of inquiry sent to taxpayer's former employer and customers and banks with whom auditor believed taxpayer had contact; if information from taxpayer were to come at all, and taxpayer's position in litigation suggested otherwise, it showed no promise either of being timely or of avoiding disruption of auditor's duties and there was no dispute that taxpayer's customers were best and perhaps only source of information about his cash transactions. *Fostvedt v. U.S.*, I.R.S., D.Colo.1993, 824 F.Supp. 978, affirmed 16 F.3d 416.

Tax information regarding taxpayer disclosed by the IRS in enforcement proceeding brought against tax exempt religious organization, challenging exemption, directly related to discovery issue before magistrate, and thus, disclosure was authorized under Internal Revenue Code provision permitting disclosure of matters directly related to resolution of issue in proceeding; exempt organization sought to make showing that IRS initiated examination in bad faith as part of nationwide conspiracy, and information disclosed raised question as to whether taxpayer's contributions to organization were for business purposes. *Lebaron v. U.S.*, C.D.Cal.1992, 794 F.Supp. 947.

25. — Direct effect on resolution of guilt

Taxpayer's income and tax refunds were relevant to issue of eligibility of taxpayer's husband as indigent for appointment of counsel under Criminal Justice Act in potential civil contempt proceeding and eligibility of taxpayer's husband as indigent was made an "issue in the proceeding" by district judge's order for government brief to address the issue and, thus, government's disclosure of taxpayer's return information fell within statute providing that return information may be disclosed in federal or state judicial proceeding pertaining to tax administration if treatment of item reflected on such return is directly related to resolution of "issue in the proceeding." *Tavery v. U.S.*, C.A.10 (Colo.) 1994, 32 F.3d 1423.

Internal Revenue Code section prohibiting disclosure of returns and return information did not bar discovery of information relating to other taxpayers' sales of stock of newspaper owner in estate's tax refund suit involving valuation of estate's shares in newspaper owner; statute permitted disclosure of information directly related to issue in lawsuit. *Beresford v. U.S.*, E.D.Mich.1988, 123 F.R.D. 232.

30. Waiver of right to nondisclosure—Generally

Taxpayer's prior disclosure of her return information, including debating merits of jeopardy assessment with Internal Revenue Service (IRS) employees while on radio talk show, did not waive confidentiality of taxpayer's return information. *Ward v. U.S.*, D.Colo.1997, 973 F.Supp. 996.

34a. Informants

Internal Revenue Service (IRS) has no duty to inform taxpayer that audit was prompted by

information item. *U.S. v. Peters*, N.D.Ill.1996, 944 F.Supp. 646.

37. In camera inspection

Option to submit disputed IRS documents to the bankruptcy court for in camera inspection removed any possible merit to government's privacy/privilege objection based on the Internal Revenue Code provision governing confidentiality and disclosure of returns, even if the court's prior ruling, that documents were not protected by government's vague and unspecified references to "other taxpayers," was determined on appeal to be erroneous. *In re Williams, Blrcty.* D.R.I.1995, 188 B.R. 716.

39. Remedy for violation

In order to state a cause of action under section of Internal Revenue Code establishing private cause of action for damages against any person who discloses any return or return information with respect to a taxpayer in violation of applicable Code section, a plaintiff must plead facts sufficient to establish a "disclosure" of return information in violation of applicable Code section, and bad faith on the part of the defendant. *Hrubec v. National R.R. Passenger Corp.*, N.D.Ill.1991, 778 F.Supp. 1431, reversed in part 981 F.2d 962, on remand 829 F.Supp. 1502.

Illinois Department of Revenue employee who was discharged after Internal Revenue Service (IRS) official made unauthorized disclosure of his federal income tax return information to his employer was entitled to only \$1,000 in statutory damages for the disclosure, rather than \$1,000 in damages for each year for which disclosure was made. *Smith v. U.S.*, C.D.Ill.1990, 730 F.Supp. 948, reversed on other grounds 964 F.2d 630, rehearing denied, certiorari denied 113 S.Ct. 1015, 506 U.S. 1067, 122 L.Ed.2d 162.

Alleged violation of statute limiting disclosure of taxpayer's returns and return information did not warrant suppression of handwriting expert's testimony in prosecution of defendant for mailing threatening communication to IRS agent; statute provided criminal and civil penalties for unauthorized disclosure of such information, thereby rendering additional judicial remedy of suppression inappropriate. *U.S. v. Sumpter*, D.Neb.1990, 133 F.R.D. 580, issued 134 F.R.D. 268.

40. Liability of federal agents

Internal Revenue agents were entitled to qualified immunity in taxpayers' *Bivens* action which alleged that in wrongfully disclosing tax return information, agents injured taxpayers' personal and professional reputations, their business and physical and mental health; reputation alone, which action sought to vindicate, was not protected liberty interest and thus, there was no violation of clearly established constitutional right of taxpayers. *Morales v. Haynes*, C.A.5 (Tex.) 1989, 890 F.2d 708.

Government failed to establish that IRS agent acted in good faith in misinterpreting authority to disclose return information for investigative purpose to permit his disclosure to confidential informant that search warrant was going to be executed and that informant should report any threats from taxpayer to agent, where agent did

not check to see whether his impression that disclosure was authorized conformed to law, justify his failure to do so, or follow normal practice by seeking authorization from agent-in-charge, and government did not present evidence specifically showing why reasonable agent would have thought disclosure was authorized. *Jones v. U.S.*, D.Neb.1997, 954 F.Supp. 191.

Internal Revenue Service (IRS) public affairs officer and IRS special agent were negligent in issuing unauthorized press releases which contained confidential tax matters not in public record regarding taxpayer's plea of guilty to tax charge and that conduct was proximate cause of taxpayer's injury; issuance of press releases violated statute prohibiting disclosure of tax returns and return information and rendered useless entirely proper plea bargain, and issuance resulted in taxpayer's being fired from his job. *Johnson v. Sawyer*, S.D.Tex.1991, 760 F.Supp. 1216, affirmed in part, modified in part and remanded 980 F.2d 1490, modified on rehearing 4 F.3d 369, rehearing en banc granted, rehearing denied, opinion vacated on rehearing en banc 47 F.3d 716, on remand.

41. Levy on property

Republication of tax return information, including taxpayers' names and address, legal description of property, and reason for seizure, which was made matter of public record in accordance with provisions of Internal Revenue Code authorizing filing of federal tax lien notice was not subject to Code's confidentiality provisions. *Rowley v. U.S.*, C.A.6 (Mich.) 1996, 76 F.3d 796.

Disclosures of confidential return information to taxpayers' employers in levy notices fell within exemption to statute prohibiting disclosure of such information, despite any defects in Internal Revenue Service (IRS) collection procedures underlying levy notices. *Huff v. U.S.*, C.A.9 (Cal.) 1993, 10 F.3d 1440, certiorari denied 114 S.Ct. 2706, 512 U.S. 1219, 129 L.Ed.2d 834.

Actions taken by Internal Revenue Service (IRS) in levying upon taxpayers' property did not violate statute which provides scheme to control disclosure of information by IRS and creates specific exceptions to general rule of confidentiality of return information; assessments against taxpayers were presumably valid and liens arose after IRS sent its notice and demand. *Christensen v. U.S.*, D.N.J.1990, 733 F.Supp. 844, affirmed 925 F.2d 416.

42. Jury panel list

Motion for disclosure of whether Internal Revenue Service (IRS) had investigated or audited potential jurors filed two weeks before trial was timely regardless of whether request was made early enough to obtain information not contained in IRS computer, where government informed court that it could have reports to defense within eight days if court would order clerk's office to identify panel of 75 potential jurors and to send information to IRS. *U.S. v. Hobbs*, C.A.9 (Cal.) 1993, 991 F.2d 569.

Error in denying request of defendant charged with tax violations for list of jury panelists did not require reversal where voir dire provided defendant with the same information

he would have obtained if he had been given a jury list in order to determine which jurors had been subject to investigation or audit by the Internal Revenue Service. *U.S. v. Holden*, C.A.8 (Mo.) 1992, 963 F.2d 1114, certiorari denied 113 S.Ct. 419, 606 U.S. 958, 121 L.Ed.2d 342.

District court acted reasonably to ensure that defendant was afforded his rights under statute dealing with defendant's right to tax audit histories of prospective jurors where court directed jury clerk to produce for defendant requested jury panel lists, court twice postponed jury selection in effort to afford defendant reasonable period of time to receive Treasury Department's response, and court conducted adequate voir dire which included questioning potential jurors as to whether they had ever been audited. *U.S. v. Droge*, C.A.2 (N.Y.) 1992, 961 F.2d 1030, certiorari denied 113 S.Ct. 609, 506 U.S. 1003, 121 L.Ed.2d 544.

Presumption of prejudice requiring reversal of conviction in tax prosecution is created when party is denied access during voir dire to information about whether prospective jurors have ever been subject of Internal Revenue Service (IRS) tax audit, but presumption may be overcome if voir dire questioning elicits similar information. *U.S. v. Schandi*, C.A.11 (Fla.) 1991, 947 F.2d 462, certiorari denied 112 S.Ct. 2946, 504 U.S. 975, 119 L.Ed.2d 569.

Trial court adequately complied with statute entitling defendant in tax case to information regarding whether prospective jurors have been subject of audit or tax investigation, by asking each prospective juror, as he or she was empaneled, whether he or she had ever been subject of audit or investigation by directing prosecutor to verify empaneled jurors' negative answers by obtaining information about them from Internal Revenue Service (IRS), and by obtaining such verification before jury was sworn; governing statute did not require that defendant receive names of venire a month or more in advance of trial. *U.S. v. Lussier*, C.A.1 (R.I.) 1991, 929 F.2d 25.

Defendant charged with failing to file income tax return was entitled to early release of jury panel list so he could make written request for juror tax information prior to voir dire. *U.S. v. Hashimoto*, C.A.9 (Hawaii) 1989, 878 F.2d 1126, rehearing denied.

42a. Exceptions

Internal Revenue Service (IRS) agent acted in good faith reliance on statutory disclosure authority available in administrative proceeding pertaining to tax administration when he disclosed tax return information in audit reports during initial stage of internal appeals process, and thus government was not liable for such disclosure, in light of uncertainty as to whether audit qualified as administrative proceeding and IRS regulation describing appeals as proceedings. *McDonald v. U.S.*, C.A.9 (Cal.) 1996, 102 F.3d 1009.

Disclosures of "return information" in revenue agent reports (RARs) sent to investors by Internal Revenue Service (IRS) describing financing scheme of taxpayers-investment counselors were not authorized under exception to prohibition

against disclosures in case of "administrative proceedings pertaining to tax administration," where disclosure did not occur in judicial or administrative tax proceeding pertaining to tax administration and disclosed information about investment counselors did not directly relate to transactional relationship between party to proceeding and counselors. *Mallas v. U.S.*, C.A.4 (N.C.) 1993, 993 F.2d 1111.

43. Review

Under statute that exempts documents from Freedom of Information Act (FOIA) disclosure when such disclosure would "seriously impair federal tax administration," district court's review of Internal Revenue Service's (IRS) determination of impairment is de novo; court must satisfy itself, on basis of detailed and nonconclusory affidavits, that IRS is correct in finding that disclosure would impair collection, assessment, or enforcement of tax laws. *Church of Scientology Intern. v. I.R.S.*, C.D.Cal.1993, 845 F.Supp. 714.

Judicial review of Internal Revenue Service (IRS) decision to withhold information under its own exempting statute is not merely deferential. *Aronson v. I.R.S.*, D.Mass.1991, 767 F.Supp. 378, affirmed in part, reversed in part 973 F.2d 962.

44. Federal judicial proceedings

Applications for and execution of search warrants in connection with criminal tax investigations were "federal judicial proceedings arising out of or in connection with" determination of taxpayers' civil or criminal tax liability, for purposes of determining whether federal officials were authorized to disclose income tax return information of those persons and entities under investigation; accordingly, such disclosures were not "unauthorized" and, therefore, did not give rise to any liability for unauthorized disclosure of tax return information. *Jones v. U.S.*, D.Neb. 1994, 869 F.Supp. 747.

45. Disclosure

Inclusion of taxpayer's middle initial, age, home address, and occupation in IRS press release about taxpayer's criminal conviction amounted to wrongful disclosure of return information, even if such information was included in court record, where immediate source of such information was taxpayer's return. *Johnson v. Sawyer*, C.A.5 (Tex.) 1997, 120 F.3d 1307.

Internal Revenue Service (IRS) makes "disclosure" of taxpayer's "return information" by imparting, to a witness who does not first contact the IRS, information to the effect that a particular taxpayer is under investigation for possible tax law violations. *Jones v. U.S.*, D.Neb.1994, 869 F.Supp. 747.

46. Instructions

Instruction directing jury that, as matter of law, IRS press release about taxpayer's criminal conviction improperly disclosed tax return information, without indicating that charge and penalty portions of press release were not return information, improperly guided jury on issue of whether improperly disclosed information caused taxpayer to lose his job, and affected outcome of taxpayer's suit, in light of complexity and intricacy of issues presented, as well as

conduct of taxpayer's counsel in focusing on press release as whole, referring to charge and penalty information, and attacking criminal prosecution. *Johnson v. Sawyer*, C.A.5 (Tex.) 1997, 120 F.3d 1307.

II. PERSONS SEEKING DISCLOSURE

Media 63a

Persons having material interest

Shareholders 66a

Shareholders, persons having material interest 66a

62. Department of Justice

District court could not order disclosure of tax return information pursuant to criminal defendants' motion where United States attorney had not submitted application for order seeking disclosure. *U.S. v. Recognition Equipment Inc.*, D.D.C.1989, 720 F.Supp. 13.

63a. Media

Internal Revenue Service (IRS) was not justified in refusing to release, under code provision creating exception from nondisclosure for press and "other media," taxpayer information pertaining to unclaimed refunds to individual whose business was to locate unclaimed property for others while at same time releasing such information to general news media, notwithstanding IRS's contention that individual did not qualify as "other media." *Aronson v. I.R.S.*, D.Mass. 1991, 767 F.Supp. 378, affirmed in part, reversed in part 973 F.2d 962.

66. — Heirs

Where widow had brought several unsuccessful actions against petitioner estate to overturn prenuptial agreement and will; petitioner moved for protective order to prevent Commissioner from disclosing its confidential financial information obtained in pretrial discovery; and Commissioner objected to motion on ground that widow had material interest in return information under subsec. (e)(1)(E) of this section, and decision whether to disclose rested within Commissioner's sole discretion, Court determined information constituted return information; furthermore, Court had authority to condition and restrict use of its own discovery procedures, and Court accordingly ordered Commissioner not to disclose confidential information received from petitioner to widow or her representatives without petitioner's explicit agreement, since Commissioner's interest was relatively slight, while benefits to petitioner in avoiding harassment of spurious litigation were disproportionately great. *Estate of Yaeger v. C.I.R.*, U.S.Tax Ct.1989, 92 T.C. 180.

66a. — Shareholders

One percent shareholder was entitled to disclosure of corporation's consolidated tax return, even though disclosure had effect of disclosing other confidential tax returns of every other member of affiliated group filing consolidated returns; parent corporation's decision to file consolidated tax returns was made for its own convenience and financial benefit and shareholder's right to disclosure of subsidiary's return was not sacrificed thereby. *Yorkshire v. U.S.*

I.R.S., C.A.9 (Cal.) 1994, 26 F.3d 942, certiorari denied 115 S.Ct. 487, 513 U.S. 989, 130 L.Ed.2d 399.

One percent shareholder was entitled to disclosure of corporation's consolidated tax return, despite parent corporation's claim that commingling of corporation's tax information with tax information of parent corporation precluded shareholder from seeing any part of consolidated returns, in absence of statutory or congressional intent that shareholder is not entitled to disclosure when corporation files consolidated return, and in absence of evidence that shareholder sought disclosure for improper purpose. *Yorkshire v. I.R.S.*, C.D.Cal.1993, 829 F.Supp. 1198, affirmed 26 F.3d 942, certiorari denied 115 S.Ct. 487, 513 U.S. 989, 130 L.Ed.2d 399.

67. State or local agencies

Agreement on coordination of tax administration and three federal-state implementing agreements between Internal Revenue Service (IRS) and state taxing authority were sufficient written requests to justify IRS disclosure of taxpayer's tax information; statute did not require written request in individual cases, and allowing agreements to operate as standing requests for disclosure did not totally eviscerate tax information privacy statute. *Taylor v. U.S.*, C.A.8 (Iowa) 1997, 106 F.3d 833.

Standard agreements on coordination of tax information entered into between IRS and various states satisfied requirement that IRS permit disclosure of tax information to state agencies only upon "written request"; such request did not have to be individualized for each taxpayer whose information was shared. *Long v. U.S.*, C.A.10 (Colo.) 1992, 972 F.2d 1174, rehearing denied.

Coordinating agreement between the Internal Revenue Service (IRS) and the Illinois Department of Revenue (IDR) regarding tax administration fulfilled requirement of Internal Revenue Code for written request by head of state agency for disclosure of federal tax information, even though agreement was limited by implementing agreement, and thus, disclosure by IRS to IDR that IDR employee, who acted as liaison between IDR and IRS, had not filed tax returns did not violate statutory prohibition against disclosure; implementing agreement did not provide exclusive method for making disclosures, but set forth routine, internal procedures for exchanging tax return information. *Smith v. U.S.*, C.A.7 (Ill.) 1992, 964 F.2d 630, rehearing denied, certiorari denied 113 S.Ct. 1015, 506 U.S. 1067, 122 L.Ed.2d 162.

Oral disclosure of tax return information by Internal Revenue Service (IRS) that occurred in response to oral request by state department of revenue prior to any written request for information did not violate prohibition against unnecessary disclosure of tax return information where there was standing written request agreement between the state and the IRS. *Taylor v. U.S.*, I.R.S., N.D.Iowa 1995, 186 B.R. 441, affirmed 106 F.3d 833.

III. ITEMS CONSIDERED RETURNS AND RETURN INFORMATION

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91. Generally

Mallas v. Kolak, M.D.N.C.1989, 721 F.Supp. 748, [main volume] vacated in part on other grounds 993 F.2d 1111.

To be "return information", within meaning of statute proscribing disclosure of return information by Internal Revenue Service (IRS), information need not be filed; statute requires only that data be "received by, recorded by, prepared by, furnished to, or collected by" IRS with respect to legislatively prescribed purposes. *Baskin v. U.S.*, C.A.5 (Tex.) 1998, 135 F.3d 338.

To same effect as paragraph in main volume, see *Mallas v. Kolak*, M.D.N.C.1989, 721 F.Supp. 748, vacated in part 993 F.2d 1111.

For purposes of statute prohibiting unnecessary disclosure of tax return information, "return information" includes taxpayer's identity; nature, source or amount of taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, tax deficiencies, overassessment or tax payments; whether taxpayer's return was, is or will be examined or subject to other investigation; or any other data received by, prepared by or furnished to or collected by Secretary of the Treasury with respect to tax returns or determination of existence or possible existence of liability for any tax, penalty, interest, fine or forfeiture. *Taylor v. U.S.* I.R.S., N.D.Iowa 1995, 186 B.R. 441, affirmed 106 F.3d 833.

93. Source of data

Affiant's statement that he was not given access by Internal Revenue Service (IRS) to any tax return information of taxpayer, even if contradicted, did not establish that tax information disclosed by affiant was not return information within meaning of internal revenue statute prohibiting disclosure of return information so as to support summary judgment for the government in action brought by taxpayer alleging violation of this statute. *Tavery v. U.S.*, C.A.10 (Colo.) 1994, 32 F.3d 1423.

Statutory provision according confidentiality to tax-return information comes into play only when immediate source of information is a return, or some internal document based on a return, and not when immediate source is public document lawfully prepared by agency that is separate from Internal Revenue Service and has lawful access to tax returns. *Thomas v. U.S.*, C.A.7 (Wis.) 1989, 890 F.2d 18.

94. Identification of taxpayer—Generally

Even after deletion of taxpayer identifying information, Internal Revenue Service check sheets were "return information" exempt from

INTERNAL REVENUE CODE

disclosure; check sheets included taxpayer's identity, financial information reported on his taxes, and possibly other information regarding audits. *Long v. I.R.S.*, C.A.9 1989, 891 F.2d 222.

Disclosure of names and last known mailing addresses of taxpayers whose refunds remained unclaimed to individual who claimed to be in business of locating unclaimed property for others would not constitute clearly unwarranted invasion of personal privacy so as to justify nondisclosure; although such disclosure implicated privacy interests, there was considerable public interest in payment of refunds and general oversight of Internal Revenue Service's (IRS's) activities. *Aronson v. I.R.S.*, D.Mass. 1991, 767 F.Supp. 378, affirmed in part, reversed in part 973 F.2d 962.

95. — Deletion or redaction

Church of Scientology of California v. I.R.S., U.S.Dist.Col.1987, 108 S.Ct. 271, [main volume] 484 U.S. 9, 98 L.Ed.2d 228.

The United States was required to redact identity of taxpayer and protected information when complying with the discovery order in federal income tax dispute requiring disclosure of other circumstances in which government waived or abandoned erroneous refund claims. *U.S. v. Brooks*, D.Or.1995, 163 F.R.D. 601.

96a. — Social security numbers

Disclosure of social security numbers of taxpayers whose refunds remained unclaimed to individual who claimed to be in business of locating unclaimed property for others would constitute clearly unwarranted invasion of personal privacy in view of wide variety of private data that could be made available with access to social security number. *Aronson v. I.R.S.*, D.Mass.1991, 767 F.Supp. 378, affirmed in part, reversed in part 973 F.2d 962.

97a. Data pertaining to audit criteria

Violation of Internal Revenue Code provision requiring early access disclosure of juror information to defendant in criminal tax prosecution does not require reversal, but establishes presumption of reversal that may be overcome where voir dire questioning elicits information similar to that accessible under provision. *U.S. v. Callahan*, C.A.11 (Fla.) 1993, 981 F.2d 491, certiorari denied 113 S.Ct. 2972, 508 U.S. 976, 125 L.Ed.2d 671.

Denial of taxpayer defendant's request for continuance to obtain additional juror information, pursuant to statute providing for discovery from Secretary of Treasury whether prospective jurors have been audited or investigated by IRS, was not reversible, as district court conducted appropriate voir dire; court asked jurors whether they had been audited or investigated, and several admitted that they had. *U.S. v. Axmear*, C.A.8 (Minn.) 1992, 964 F.2d 792, certiorari denied 113 S.Ct. 963, 506 U.S. 1048, 122 L.Ed.2d 120.

In prosecution for willfully failing to file income tax returns, any harm from noncompliance with statute requiring Internal Revenue Service's tax liability, which was drawn from Tax Court opinion, was not an unauthorized disclosure regarding whether prospective jurors had

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ever been audited was cured by trial court's extensive questioning of those jurors, couched in statutory terms. *U.S. v. Hardy*, C.A.9 (Hawaii) 1991, 941 F.2d 893.

Under Economic Recovery Tax Act, Internal Revenue Service was not required to release tapes containing data used to develop discriminant function formulas for determining standards for selecting returns for audit; district court found that partial disclosure of that data could easily allow educated insight into formulas sufficient to risk serious harm to enforcement mechanisms. *Long v. I.R.S.*, C.A.9 1989, 891 F.2d 222.

Defendant charged with willfully failing to file income tax returns was entitled to all information as to whether any prospective juror had been subject of audit or investigation by Internal Revenue Service (IRS) that could feasibly be obtained prior to trial date; therefore, defendant was entitled to information obtained from complete search of all IRS's computerized records for all prospective jurors going back to 1988 and information obtained from manual records search of IRS regional service center for prospective jurors who lived in four-state region covered by service center going back to 1964. *U.S. v. Pottorf*, D.Kan.1993, 828 F.Supp. 1489, stay denied 828 F.Supp. 1501.

Taxpayer's discriminant function (DIF) scores, which were used by Internal Revenue Service (IRS) for selection of returns for audit, were exempt from disclosure under Freedom of Information Act (FOIA) as matters specifically exempted from disclosure by statute and as investigatory records compiled for law enforcement purposes; if the DIF scores were made public, taxpayers could impede in IRS' investigative standards for determining which taxpayers should be audited and circumvent the law by developing strategies to avoid audits. *Small v. I.R.S.*, D.N.J.1992, 820 F.Supp. 163.

In tax refund case brought by owners and operators of commercial fishing vessels, federal Government was entitled to protection from interrogatories which explored past IRS practices in determining, through specific audits over eight to ten-year period, that crew members of "scallop" were subject to income tax because normal size of crew was not fewer than ten; those discovery requests ran afoul of statute preventing disclosure of tax return information, including audit information. *Flamingo Fishing Corp. v. U.S.*, Cl.Ct.1991, 22 Cl.Ct. 625.

100. Guilty pleas

Peinado v. U.S., N.D.Cal.1987, 669 F.Supp. 953, [main volume] affirmed 854 F.2d 335, certiorari denied 109 S.Ct. 1931, 490 U.S. 1034, 104 L.Ed.2d 403.

101. Judicial decisions

Thomas v. U.S., E.D.Wis.1987, 671 F.Supp. 15, [main volume] affirmed 890 F.2d 18.

Internal Revenue Service's issuance of press release that contained information about taxpayer's tax liability, which was drawn from Tax Court opinion, was not an unauthorized disclosure of tax-return information which would expose Government to liability for damages under

Internal Revenue Code. *Thomas v. U.S.*, C.A.7 (Wis.) 1989, 890 F.2d 18.

101a. Jurors' audit history

Statute requiring disclosure of whether prospective juror in tax prosecution has been subject to audit or other tax investigation requires only that investigation into tax records of potential jurors meet standard of reasonableness; specifically, upon timely request by defendant, district court must grant reasonable period of time for the Internal Revenue Service (IRS) to complete search of potential jurors' tax records for time period requested by defendant, and if district court allows only enough time for search of computerized records, grant of time will be reasonable as long as computer search is made and court elicits on voir dire information about jurors' tax histories for period of time not covered by the investigation. *U.S. v. Copple*, C.A.3 (Pa.) 1994, 24 F.3d 535, certiorari denied 115 S.Ct. 488, 513 U.S. 989, 130 L.Ed.2d 400.

Prosecution for money laundering was proceeding "pertaining to tax administration," within meaning of statute entitling defendant to disclosure of Internal Revenue Service audits or investigations of potential jurors, where money laundering counts described conduct among overt acts charged in separate count for conspiracy to defraud Internal Revenue Service. *U.S. v. Hobbs*, C.A.9 (Cal.) 1993, 991 F.2d 569.

Statute requiring Secretary of the Treasury to disclose to Department of Justice attorneys whether any prospective jurors in certain tax cases were subject of audits or tax investigations by Internal Revenue Service (IRS) did not impose duty to provide information about prospective jurors on district court and did not give defendant charged with attempting to evade and defeat federal income tax an absolute right not to proceed to trial without IRS record information about prospective jurors; nothing in statute or its legislative history suggested that Congress intended statute to override district court's authority to control its docket or its public duty to offer prompt and efficient administration of justice. *U.S. v. Huguenin*, C.A.1 (R.I.) 1991, 950 F.2d 23, rehearing denied.

Defendant charged with willfully failing to file income tax returns was entitled to all information as to whether any prospective juror had been subject of audit or investigation by Internal Revenue Service (IRS) that could feasibly be obtained prior to trial date; therefore, defendant was entitled to information obtained from complete search of all IRS's computerized records for all prospective jurors going back to 1988 and information obtained from manual records search of IRS regional service center for prospective jurors who lived in four-state region covered by service center going back to 1964. *U.S. v. Pottorf*, D.Kan.1993, 828 F.Supp. 1489, stay denied 828 F.Supp. 1501.

Defendant is entitled to reasonable period of time in which to receive from Treasury Department information as to whether prospective jurors have been subject of IRS audit; if information is not received within reasonable period of time or is incomplete, court should ascertain that government is not in possession of any of the requested information that the defendant



U.S. Department of Justice

Office of Legal Counsel

Office of the Deputy Assistant Attorney General

Washington, D.C. 20530

January 7, 2000

VIA FACSIMILE

Mr. Michael O'Connor
Associate Counsel to the President
Room 126.5
Old Executive Office Building
Washington, D.C. 20502

Dear Mr. O'Connor:

This letter responds to your request of January 5, 2000, for the Department of Justice's preliminary views on the proposed recommendation of Congress's Joint Committee on Taxation that the Congress repeal section 6103(g) of the Internal Revenue Code (26 U.S.C. § 6103(g)). Section 6103(g) permits the President, upon a written request signed by him personally, to gain access to the returns and return information of any taxpayer. It also permits the Executive Office of the President or the head of any Federal agency to gain access to certain return information concerning individuals who are under consideration for appointment to a position in the executive or judicial branch of the Government. Because, according to the Joint Committee, section 6103(g) has never been used, the Committee is considering recommending to the Congress that the Congress repeal the exception as "deadwood."

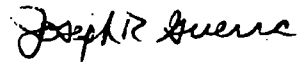
We forwarded your request to the Department's Tax Division, its Criminal Division, and the Federal Bureau of Investigation -- the Department components we believed most likely to be affected by the proposed repeal. These components raised no objections to the proposal, although the FBI did articulate one policy consideration weighing against repeal. The FBI's comment is attached.

We also have no objection to the proposed repeal. We note, however, that, while we do not believe that legislation repealing section 6103(g) would raise constitutional concerns, a situation conceivably could arise in which the President would need the authority to obtain and review tax information in order to discharge his constitutional duties. The authority to do so in such a case could, we believe, be inferred from the President's constitutional responsibilities and thus would exist quite apart from the explicit congressional grant of authority contained in section 6103(g). Because of this, repeal of section 6103(g) could not deprive the President of the power to obtain and review tax information where doing so is necessary to the discharge of his

constitutional duties, and any legislation effecting a repeal should not be understood as an attempt to do so. Ideally, the legislative history of the repeal provision would reflect this point.

Please let us know if we may be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph R. Guerra".

Joseph R. Guerra
Deputy Assistant Attorney General

Attachment

01/07/00 17:46 202 514 0539 FAX

January 7, 2000

Mr. Gary G. Grindler
Principal Associate Deputy Attorney General
U.S. Department of Justice
(202) 514-9368

Dear Mr. Grindler:

This is in response to your memo of yesterday asking for the FBI's legal and policy views on the proposal to repeal 26 U.S.C. § 6103(g). I am aware of no legal basis to object to the proposal. Moreover, as best as I was able to determine in a quick survey of relevant divisions, § 6103(g) has had no impact on FBI operations; as a policy matter, therefore, the proposed repeal will not adversely impact the FBI.

However, there is arguably at least one policy consideration weighing against the repeal, at least of subsection 6103(g)(1). While I have not had time to research the legislative history behind that provision, I assume it was enacted to provide the President with an expedited method to obtain tax return information in appropriate cases, without having to go through one of the other, more time-consuming mechanisms set forth in § 6103. Presumably the need for such expedited access would arise only in extremely unusual cases, implicating significant national interests. If that is the purpose behind the provision, then the fact that it has never been used seems an insufficient reason to repeal it; an occasion may arise in the future where it would be in the national interest for a President to be able to use the provision. Moreover, the reporting requirements of § 6103(g)(5) provide a safeguard against abuse, and will enable Congress to take corrective action, including repealing the provision, if such abuse is ever found to occur. This strikes me as a reason not to repeal § 6103(g)(1).

If you have any further questions about this, please call me at 324-8089.

Sincerely,


Charles M. Steele
Deputy General Counsel
Federal Bureau of Investigation

COPIES TO:

Mr. Joseph Guerra
Deputy Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
(202) 514-0539

Larry R. Parkinson
General Counsel
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TOTAL P.01



**Department Of The Treasury
Office of Tax Legislative Counsel
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220**

January 12, 2000

To: Mike O'Connor
White House Counsel's Office

Phone: 456-5079

Fax: 456-1647

Number of pages (including this coversheet): ~~20~~ 5

From: Elizabeth P. Askey

Tel: 202/622-0224

Fax: 202/622-9260

E-Mail: Elizabeth.Askey@do.treas.gov

Comment: Some bullet points ~~plus~~ additional background provided by the IRS today. Please call me if you would like to ~~discuss~~ further.

NOTE: THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND/OR RESTRICTED AS TO OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. If the recipient of this message is not the addressee (i.e. the intended recipient), you are hereby notified that you should not read this document and that any dissemination, distribution, or copying of this communication, except insofar as is necessary to deliver this document to the intended recipient, is strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone, and you will be provided further instructions about the return or destruction of this document. Thank you.

UNCLASSIFIED

January 12, 2000

§6103 Study – §6103(g) Disclosures to the President/Tax Checks**Explanation of §6103(g)**

- Section 6103(a) of the Internal Revenue Code (Code or I.R.C.) prohibits the disclosure of tax information unless specifically authorized in the Code.
- Section 6103(g) specifically provides for two types of disclosures to the White House:
 - The first permits disclosure of returns or return information to the President or to such employee or employees of the White House Office as the President may designate by name, upon written request of the President, signed by the President personally. I.R.C. §6103(g)(1). The request must state 1) the name and address of the taxpayer, 2) the kind of return or return information to be disclosed, 3) the taxable periods covered, and 4) the specific reason why the inspection or disclosure is requested.
 - The second type of disclosure provided for in section 6103(g) is for purposes of performing a "tax check." I.R.C. §6103(g)(2). Information regarding an individual under consideration for appointment to a position in the executive or judicial branch may be disclosed to the Executive Office of the President or the head of any Federal agency (or the FBI, on the President's or agency head's behalf), upon written request by the President or the head of the agency.
 - The return information that can be disclosed under section 6103(g)(2) is limited to whether the individual: (1) has filed income tax returns for the preceding three years; (2) has failed to pay any tax after notice and demand or been assessed the negligence penalty¹ in the current or preceding three years; (3) has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of such investigation; and (4) has been assessed the fraud penalty. Further, the IRS is required to inform individuals about whom it has received a "tax check" request of that request.
 - Permissible recipients under both types of disclosures under subsection (g) are limited to employees whose annual basic rate of pay is subject to 5 U.S.C. 5316, generally Level V executive employees. I.R.C. §6103(g)(4). Further, redisclosure by such recipients cannot be made without the written direction of the President or the head of the agency. I.R.C. §6103(g)(3).
 - Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting information under subsection (g) are required to file a report

¹ The negligence penalty of former section 6653 has been made a part of the accuracy-related penalty in section 6662. I.R.C. § 6103(g) has not been amended to reflect this change.

with the Joint Committee on Taxation concerning any requests for disclosure made during the quarter. I.R.C. §6103(g)(5). The President is not required to file a report if the individual with respect to whom the request was made was an executive branch officer or employee at the time of the request. In addition, any disclosures made by the IRS under section 6103(g) are subject to the accounting requirements in section 6103(p)(3)(A) and must be included in the annual report made by the IRS to the Joint Committee on Taxation under section 6103(p)(3)(B), unless the President makes a request with respect to a person who, at the time of the request, was an officer or employee of the Executive branch of the federal government.

Use of §6103(c) Consents to Perform Tax Checks

- Section 6103(c) permits the disclosure of returns or return information to such person or persons as a taxpayer may designate in a request for or consent to such disclosure.
- According to the annual reports made to the Joint Committee on Taxation, since at least 1980, no requests have been received from, nor have any disclosures been made to, the President or persons designated in writing by the President, pursuant to section 6103(g)(1). The annual reports for the same time periods reveal that no requests have been received from, nor have any disclosures been made to, the President, the White House, or any Federal agency for tax checks under section 6103(g)(2). At least for the past 20 years, all requests for, and disclosures in connection with, tax checks have been made pursuant to the written consent of the taxpayer under section 6103(c).
- The IRS provided the following explanation of why 6103(g)(2) tax checks are accomplished using 6103(c) consents:

The section 6103(g)(2) tax check procedure largely codified procedures implemented under President Ford. The election of President Carter in November 1976 exposed certain deficiencies in the tax check provisions of the new statute. In attempting to assemble a new administration, President-elect Carter could not access or authorize access to tax information to perform tax checks on new appointees. By its terms, section 6103(g) only authorizes disclosure to the President--not to the President-elect. Further, with the exception of information concerning criminal investigations, the statute only authorizes a "yes" or "no" answer for the other three items of information. Thus, even though the prospective appointee could proffer a reasonable explanation with respect to the IRS' response to any question, the explanation could not be verified by the IRS, nor could the IRS on its own offer additional explanatory information.

As an alternative to relying on section 6103(g)(2), the Carter transition team instituted the practice of conducting tax checks through the use of the taxpayer's written consent, under section 6103(c). This practice continued for tax checks after President Carter's inauguration and through all successive administrations,

and the consent form developed after the inauguration has, in major respects, remained the same.

- Among the implications of making tax check disclosures under section 6103(c) rather than section 6103(g) are that section 6103(c) disclosures are not subject to the following requirements: 1) the requirement in section 6103(g)(5) that the President and agency heads report disclosures under section 6103(g) on a quarterly basis to the Joint Committee, 2) the limitation on redisclosure in section 6103(g)(3), 3) the recordkeeping requirements imposed upon the IRS by section 6103(p)(3)(A) and 4) the requirement in section 6103(p)(3)(B) that the IRS report annually to the Joint Committee certain disclosures (including (g) disclosures).
- With respect to the first requirement, the Department of Justice Office of Legal Counsel opined in an August 22, 1977, memorandum to the Counsel to the President, that tax check disclosures should be reported to the Joint Committee pursuant to section 6103(g)(5) even if made pursuant to section 6103(c). (A similar opinion was provided to the FBI.) With respect to the final requirement, the IRS has a policy of including tax check disclosures in its annual report to the Joint Committee even though they are made under section 6103(c).

Preliminary Conclusions:

- When Congress overhauled section 6103 in 1976, it defined with a fair degree of specificity the terms of disclosures to the President and disclosures to the Executive Office or heads of federal agencies for purposes of tax checks. Section 6103(g)(1) should be retained insofar as it is the only provision specifically addressing the President's authority personally to obtain tax information (without a taxpayer's consent) when a need for such information is demonstrated, e.g., in connection with matters involving national security. The fact that such a need has not yet arisen does not mean the provision is unnecessary.
- Nonuse of section 6103(g)(2) similarly does not automatically suggest it should be repealed. A decision as to whether to repeal section 6103(g)(2) and rely on section 6103(c) consents for tax checks must take into account the following considerations:
 - Is this an appropriate use of section 6103(c), particularly in light of the specific statutory authorization for disclosure, or is it another example of using section 6103(c) as a catchall?
 - Is the use of section 6103(c) consents in connection with tax checks *preferable* from a policy standpoint? Arguably the use of consents avoids the appearance of abuse of power, particularly by the Executive Office, which partly motivated the enactment of section 6103 in the first place (and about which concerns have resurfaced in recent years). At the same time, as discussed in the 1977 DOJ opinion, the consent process itself could be abused.

- If there are valid policy reasons for retaining aspects of section 6103(g)(2), Congress should amend section 6103 to make this provision useable (e.g., expand the information that can be disclosed, permit disclosures to designees of agency heads, etc.). It may also be appropriate to codify the current hybrid practice of including tax check disclosures pursuant to consents in the annual reports by the IRS. Finally, some consideration should be given to whether tax checks made pursuant to consents should be subject to the quarterly reporting requirements of section 6103(g)(5) to prevent appearances of possible abuses of the consent process.
- WH/Treasury will be happy to discuss this further with JCT.



**Department Of The Treasury
Office of Tax Legislative Counsel
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220**

January 12, 2000

To: Mike O'Connor
White House Counsel's Office

Phone: 456-5079

Fax: 456-1647

Number of pages (including this coversheet): 20

From: Elizabeth P. Askey

Tel: 202/622-0224

Fax: 202/622-9260

E-Mail: Elizabeth.Askey@do.treas.gov

Comment: Some bullet points plus additional background provided by the IRS today. Please call me if you would like to discuss further.

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Congress could continue to meet these disclosure rules than those pro-

ment the Committee on Ways and Means, and the Joint Committee on Internal Revenue Taxation. The Chief of Staff is available or useful information to any duly authorized subcommittees) but less the returns and return information or that taxpayer consented in writing to the disclosure of the tax information.

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designated and duly authorized subcommittees and return information in 1) a committee action approving returns, (2) an authorizing resolution in case may be, and (3) the written resolution of the appropriate committee on behalf of the committee of such committee) for disclosure of the returns or return information. The resolution of the appropriate committee on behalf of the committee of such committee) for disclosure of the returns or return information. The resolution of the appropriate committee on behalf of the committee of such committee) for disclosure of the returns or return information.

and submit relevant tax information may be. The nontax-writing committee to the Senate or House sitting in closed executive session would not be required or if the identified taxpayer re of his identity.

Revenue Taxation could submit in Ways and Means or to the Committee on Internal Revenue Taxation (thereof) sitting in closed executive session would not be required or if the identified taxpayer re of his identity.

321

c. White House (and other Federal Agencies)

Present law

The Internal Revenue Code does not provide specifically for disclosure to the President. However, the Code generally provides that disclosure can be made as authorized in rules and regulations established by the President. (Sec. 6103(a).) Under this provision the President could issue a "rule or regulation" providing for his access, and that of White House employees, to tax information. Additionally, in a previous administration, the then-Chief Counsel of the IRS informed the Commissioner in a legal opinion that, as a constitutional matter, there are no restrictions on the Commissioner disclosing tax information to the President. This interpretation was based on that part of the Constitution which vests executive power in the President and, on this basis it was contended that he was entitled to all information relative to his control of the Executive Branch.

President Ford, by executive order, has established rules that govern the disclosure of tax information to the White House. (Executive Order 11805, September 20, 1974.) Under this order, tax returns are available for inspection by the President. Requests for inspection are to be in writing and signed by the President personally. Requests are to state the name and address of the taxpayer in question, the kind of returns which are to be inspected, and the taxable periods covered by the returns.

Under this executive order, other White House employees also may obtain tax information. The order provides that the President may designate, by name, employees of the White House who may receive tax information. This is limited to employees with an annual rate of basic pay at least equal to that prescribed by 5 U.S.C. § 5316 (\$37,800 per year, as of October 1, 1975). No further disclosure (except to the President) may be made by such employees without the written direction of the President.

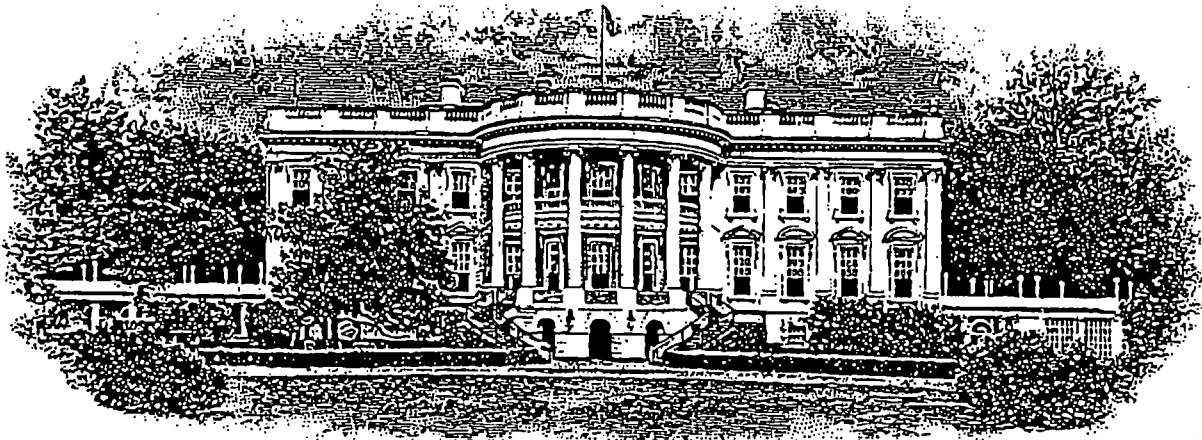
IRS employees who receive a request for tax information from the White House have been instructed to promptly communicate that fact to the Commissioner, through channels. The Commissioner will evaluate the request, and only the Commissioner (or, in his absence, his deputy) is to make the tax information available to the White House. This procedure also applies to "tax checks" on potential Presidential appointees. (IRS Information Notice 74-28, August 9, 1974.)

Generally, there have been three types of tax information provided to the White House. In some cases, tax returns, parts of tax returns, or analyses of tax information with respect to specific individuals have been provided the White House. The White House also receives

^a For example, John J. Canfield testified that, while employed at the White House, he received tax information concerning Billy Graham, John Wayne, a number of individuals in the entertainment industry who were "politically active," and an individual working in the re-election campaign of former President Nixon. (Testimony of John J. Canfield before the Senate Select Committee on Presidential Campaign Activities, March 28, 1974.) Additionally, Clark Mollenhoff, while a White House employee, received tax information relating to the 1968 Presidential campaign of Governor George Wallace and to income received by his brother, Gerald Wallace. (Affidavit of Clark R. Mollenhoff before the House Committee on the Judiciary, dated June 9, 1974.) Also, Carmine Bellino, formerly special consultant to President Kennedy, received tax returns in 1961 while conducting investigations for the White House (and simultaneously the Justice Department and the Senate Permanent Subcommittee on Investigations of the Government Operations Committee). (Congressional Record, April 18, 1976.)

CHIEF
COUNSEL
OPINION

THE WHITE HOUSE



OFFICE OF COUNSEL TO THE PRESIDENT

FACSIMILE TRANSMISSION COVER SHEET

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The vesting of the executive power in the President was essentially a grant of the power to execute the laws. But the President alone and unaided could not execute the laws. He must execute them by the assistance of subordinates. This view has since been repeatedly affirmed by this Court.

"The highest and most important duties which his subordinates perform are those in which they act for him. In such cases they are exercising not their own but his discretion." 272 U.S. 52 at 117, 182.

It is also clear that even in the case of one who has no power to delegate, he may, without delegation exercise his authority through persons he appoints.

For example, *Shreveport Engraving Co., Inc. v. United States*, 143 F. 2d 228 (5th Cir., 1944), citing *Mechem on Agency*, Vol. I, Section 804.

It would be noted that even in the case of heads of departments and other officers of the Government, of lesser stature than the President, they may authorize inspection of returns by their subordinates acting for them. See, for example, Regulations Sec. 301.6103(a)-1(f). The President would seem to have a lesser authority.

It would further seem quite clear that the President may relay any lawful order to you through his subordinates and that you have no choice but to comply therewith. It is common knowledge that orders to military and civilian personnel are frequently stated as being "By the direction of the President," though signed by his subordinates, and it has long been settled that such orders may be presumed to be of the same lawful effect as if delivered by the President in person. See, for example, Opinion of the Attorney General, 7 O.A.G. 63 (1855). It seems quite apparent from the statute that Congress intends that income tax returns be disclosed "upon order of the President" as he may direct.

It should be noted that Section 6103(a) (1) provides that income tax returns be open to inspection "upon order of the President" and "under rules and regulations prescribed by the Secretary or his delegate and approved by the President." It has been suggested that the President himself can only require that returns be made available for inspection by complying with the "rules and regulations" referred to in this section. If this were so, the words in the statute "upon order of the President" would become meaningless since he obviously could provide by such "rules and regulations" for inspection by anyone. It is inconceivable that the President should be bound by such rules and regulations in prescribing the circumstances or manner in which returns are to be disclosed to a member of his staff for his use. Since any such rules and regulations are subject to revision or modification by the Secretary at any time with the approval of the President, and the Secretary is the subordinate of the President appointed to serve at the pleasure of the President, it cannot be believed that he should be limited by the requirements of any such rules and regulations or that Congress so intended.

You have furnished us a copy of a legal opinion dated April 9, 1970, to Mr. Lawrence F. O'Brian, Chairman, Democratic National Committee, by Mortimer M. Caplin (former Commissioner of Internal Revenue); Sheldon S. Cohen (former Chief Counsel and later Commissioner of Internal Revenue) and Mitchell Rogovin (formerly Assistant to the Commissioner and later Chief Counsel of the Internal Revenue Service). In their opinion they state that "a presidential request would presumably have to comply with the various requirements of the 'regulations'—and specifically with Regulations Sec. 301.6103(a)-1(f). Such regulations provide for inspection of returns upon the application of the head of an executive department—specifically making such inspection dependent upon the discretion of the Secretary of the Treasury or the Commissioner of Internal Revenue or the delegate of either." To assume that a "presidential request" must comply with such regulations assumes that the Secretary of the Treasury or the Commissioner of Internal Revenue could frustrate a request of the President for returns—in the face of the fact that the statutory provision says that they should be open for inspection on his order.

The statute as I interpret it, and as interpreted by my predecessors, is not the source of the right of the President to inspect returns, but merely sets forth the manner in which returns may be made available to other persons without Presidential order.

The opinion letter of Messrs. Caplin, Cohen, and Rogovin previously referred to states that: "It has been suggested that since the employee in question acts as agent for the President in matters of investigation, no written request by the



memorandum

to: Randolph W. Thrower
Commissioner

April 14, 1970

from: K. Martin Worthy KMW
Chief Counsel

subject: Disclosure of Income Tax Returns to the President

You have requested my opinion with respect to whether you have authority to disclose income tax returns to a member of the President's immediate staff.

Section 6103(a)(1) of the Internal Revenue Code of 1954 provides:

"(a) PUBLIC RECORD AND INSPECTION. --

"(1) Returns made with respect to taxes imposed by chapters 1, 2, 3, and 6 upon which the tax has been determined by the Secretary or his delegate shall constitute public records; but, except as hereinafter provided in this section, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President."

It would seem quite clear that under this statute you are fully authorized to disclose any return "made with respect to taxes imposed by Chapter 1, " relating to income taxes, "upon order of the President." In fact, by virtue of the provisions of Section 2 of Article II of the Constitution, which provides that "the President *** may require the Opinion, in writing, of the principal Officer of each of the executive Departments, upon any Subject relating to the duties of their respective Offices, ***," it would seem quite evident that as an officer of the Executive Branch of the Government, you may be required by the President to disclose to him any matter coming to your attention (or to

Internal Revenue Service

-2-

that of your subordinates) in the performance of your official duties.

Section 1 of Article II of the Constitution provides that "the Executive power shall be vested in a President of the United States of America," and Section 3 of the same Article provides that " *** he shall take Care that the Laws be faithfully executed ***." It is quite apparent that the President cannot carry out these responsibilities in a nation of this size, or a Government of this size, entirely on his own, but must call upon others duly appointed to the Executive Branch to assist him in carrying out these duties. As early as Marbury v. Madison, 1 Cranch 137, 5 U.S. 60 (1803), the Supreme Court said:

"By the Constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his Country and his political character and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority, and in conformity with his orders.

"In such cases, their acts are his acts: and whatever opinion may be entertained of the manner in which Executive discretion may be used, still there exists, and can exist, no power to control that discretion." 1 Cranch 137 at 165-166, 5 U.S. 60 at 70.

Numerous opinions of the Supreme Court have repeatedly enunciated this same proposition.

It would accordingly seem quite clear that the President may relay any lawful order to you through his subordinates and that you have no choice but to comply therewith. It further seems quite apparent from the statute that Congress intends that income tax returns be disclosed "upon order of the President" as he may direct.

-3-

It should perhaps be noted that Section 6103(a)(1) provides that income tax returns be open to inspection

"upon order of the President," and

"under rules and regulations prescribed by the Secretary or his delegate and approved by the President."

It is inconceivable that the President should be bound by administrative rules and regulations in prescribing the circumstances or manner in which returns are to be disclosed to a member of his staff for his use. Since any such rules and regulations are subject to revision or modification by the Secretary at any time with the approval of the President, and the Secretary is a subordinate of the President appointed to serve at the pleasure of the President, it cannot be believed that he should be limited by the requirements of any such rules or regulations or that Congress so intended.

The statute as I interpret it, and as interpreted by my predecessors, is not the source of the right of the President to inspect returns, but merely sets forth the manner in which returns may be made available to other persons without Presidential order.

Thus, as indicated, there is no question about the President's right of access to these returns through a designated member of his Staff. While there is no legal requirement that such requests for returns be in writing, we believe this is procedurally preferable.

A more detailed opinion relating to this matter is in process of preparation.

K. Martin Worthy
K. MARTIN WORTHY
Chief Counsel

[COMMITTEE PRINT]

**POLITICAL INTELLIGENCE IN THE
INTERNAL REVENUE SERVICE:
THE SPECIAL SERVICE STAFF**

**A DOCUMENTARY ANALYSIS PREPARED
BY THE STAFF**

**OF THE
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS
OF THE**

**COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-THIRD CONGRESS
SECOND SESSION**



DECEMBER 1974

Printed for the use of the Committee on the Judiciary

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WASHINGTON, 1974

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APRIL 22, 1970.

Memorandum to: Randolph W. Thrower, Commissioner
 From: E. Martin Worthy, Chief Counsel
 Subject: Disclosure of Income Tax Returns to the President

Further reference is made to your request for my opinion with respect to whether you have authority to disclose income tax returns to a member of the President's immediate staff. Under date of April 14, 1970, I furnished you with a brief summary opinion to the effect that there is no question about the President's right of access to income tax returns through a designated member of his staff. I then advised you that a more detailed opinion was in process of preparation.

The specific background concerns the disclosure by the Service of federal income tax returns to the Honorable Clark E. Mollenhoff, Deputy Counsel to the President, pursuant to the procedures and understanding outlined in your memorandum to Mr. Mollenhoff, dated September 18, 1969 (copy of which is attached as Exhibit A). You have advised me that at the time Mr. Mollenhoff discussed with you his access to designated federal income tax returns he indicated to you that he was acting under authority of the President.

Our more detailed study fully confirms my conclusion that there is no question that Mr. Mollenhoff acting on behalf of the President lawfully had the right of and was lawfully given, access to federal income tax returns and related data.

Section 6108(a) (1) of the Internal Revenue Code of 1954 provides:

"(a) PUBLIC RECORD AND INSPECTION

"(1) Returns made with respect to taxes imposed by chapters 1, 2, 3, and 8 upon which the tax has been determined by the Secretary or his delegate shall constitute public records; but, except as hereinafter provided in this section, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President."

It would seem quite clear that under this statute you are fully authorized to disclose any return "made with respect to taxes imposed by" Chapter 1, relating to income taxes, "upon order of the President." In fact, by virtue of the provisions of Section 2 of Article II of the Constitution, which provides that "the President . . . may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, . . .," it would seem quite evident that as an Officer of the Executive Branch of the Government, you may be required by the President to disclose to him any matter coming to your attention (or to that of your subordinates) in the performance of your official duties. " . . . [I]n contemplation of law under our theory of Government, all the records of the executive departments are under the control of the President of the United States . . ." H. Rept. 141, 45th Cong., 3 (1879).

Section 1 of Article II of the Constitution provides that "[t]he executive Power shall be vested in a President of the United States of America," and Section 3 of the same Article provides that " . . . he shall take Care that the Laws be faithfully executed" It is quite apparent that the President cannot carry out these responsibilities in a nation of this size, or a Government of this size, entirely on his own, but must call upon others duly appointed to the Executive Branch to assist him in carrying out these duties. As early as *Marbury v. Madison*, 1 Cranch 137, 5 U.S. 60 (1803), the Supreme Court said:

"By the constitution of the United States, the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority, and in conformity with his orders.

"In such cases, their acts are his acts; and whatever opinion may be entertained of the manner in which executive discretion may be used, still there exists, and can exist, no power to control that discretion." 1 Cranch 137 at 165. 5 U.S. 60 at 70.

This proposition has been repeatedly enunciated by the courts. See, e.g., *Myers v. United States*, 272 U.S. 62 (1926):

President is required. We are unaware of any theory of law which would support such an argument."

Although cases have not frequently arisen where disclosure to the President or someone acting for him was questioned, the Office of Chief Counsel has clearly and repeatedly taken the position that neither the statute nor the regulations limit such disclosure.

Prior to 1961 this office had apparently never addressed the problem. In 1961 the question first formally arose regarding disclosure to a special consultant to the President. While no opinion of Chief Counsel was written on the question, access to the returns by Mr. Bellino as Special Consultant to the President was clearly approved by various representatives of the Office of Chief Counsel. In a memorandum of March 28, 1961, to the General Counsel of the Treasury from Commissioner Caplin the following statement concerning the inspection of returns and the legality thereof was stated:

"On January 28 Mr. Bellino, Special Consultant to the President, called at my office and requested permission to inspect our files on — — — — and others. Although we had no precedent to guide us, we decided that Mr. Bellino, in his capacity as a representative of the President, could inspect our files without a written request. This reflects the view that Section 6108 of the Code specifically provides that returns shall be open to inspection upon order of the President, and since Mr. Bellino's official capacity constitutes him the representative of the President, the action taken is regarded as conforming to law. Based on this decision, we permitted Mr. Bellino to inspect the files relating to — — — —. Since that time we have also permitted him to inspect tax returns and related documents pertaining to other persons."

Our files show that this memorandum was reviewed by the Director of the Enforcement Division in this office (then responsible for disclosure matters) and an Assistant Chief Counsel before being sent by the Commissioner to the General Counsel. It is our understanding that Mr. Bellino inspected files without written request at various times after the position was taken that he could have access to the returns under pertinent law. (See memorandum of May 28, 1961 to Robert H. Knight, General Counsel of the Treasury, from Mortimer Caplin, Commissioner, re: "Inspection of Returns by Congressional Committees," copy of which is attached as Exhibit B.)

Eighteen months later, in 1962, then Chief Counsel Hauser furnished an opinion to Commissioner Caplin, at his request, dealing with both the question of whether the President was limited by statute in his power to disclose to committees of Congress certain information required to be filed by exempt organizations with the Internal Revenue Service, and the further question of whether the President, in exercising such power, could act through a subordinate. After careful analysis of various authorities bearing on the questions, the opinion concluded that "the vesting of executive power in the President under the Constitution requires that he be entitled to all information relative to his control over the executive branch," and also that:

"... an official in the Executive Branch when acting in line of duty acts for the President and actually exercises the President's discretion for him. His acts are considered to be the acts of the President, as he is and must be the President's alter ego in the matters of the Executive Branch where the President is required by law to exercise authority."

(See memorandum dated November 19, 1962, from Chief Counsel Hauser to Commissioner Caplin, and Memorandum of Law referred to therein and forwarded therewith, dated November 1, 1962, a copy of which is attached as Exhibit C.)

In January 1964, this office was again called upon for an opinion with respect to disclosure of returns to the President or someone acting for the President. President Johnson had issued Executive Order 11130 establishing a commission.

* The opinion of Messrs. Caplin, Cohen and Rogovin, dated April 9, 1970, previously referred to, suggests that disclosure of returns in response to a presidential request, other than in accordance with Regulations Sec. 301.6103(a)-1(f), constitutes a misdemeanor under Sec. 7218 of the Internal Revenue Code (Title 26) and 1805 of the Criminal Code (Title 18). It may be noted that the opinion to Commissioner Caplin of November 19, 1962, referred to above, specifically concluded in this connection that, "As the President is the Chief in the chain of command in the Executive Branch of Government, it is clear that Section 1008, Title 18 United States Code, and Section 7218, Title 26 United States Code, are inapplicable to disclosures made to him."

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with Chief Justice Warren as chairman, to investigate and report on the assassination of President Kennedy; the Executive Order contained no reference to disclosure or non-disclosure of tax information but merely indicated that all agencies and departments should furnish the Commission with such facilities, service and cooperation as might be requested. The opinion of this office, prepared in the Enforcement Division of this Office on January 6, 1964, concluded (1) that the executive order constituted authority for the Commission to examine the returns and (2) that, in any event, the Commission "acting as an 'arm' of the President," "in the President's stead," and "for the President" had full authority to examine the returns without regard to the regulations and without the necessity of any further Presidential order. The opinion states in pertinent part:

"... the provision in Sec. 8103(a)(1) for prescription of rules and regulations by the Secretary or his delegate is merely an authorization for facile implementation of a Presidential order rather than a restriction on Presidential authority.

"... there can be no congressional restriction on the authority of the Commissioner to release information to the President.

"... it is axiomatic that in the exercise of power of his office the President is not required to personally take care of day to day details but may, in his discretion, delegate certain functions to others. ... Manifestly, Sec. 8103(a)(1) could not have been designed to require the Secretary or his delegate and the President to prescribe and approve rules and regulations regarding a personal inspection of returns by the President. Such construction should apply to an inspection by the Commission acting for the President.

"The President, by virtue of his office, is the head of all executive departments and the inspection of returns by the head of the department is not in any real sense a disclosure. The same is true with respect to the President's delegate."

(See memorandum to General Counsel Bellin from Acting Chief Counsel Hertzog, dated January 6, 1964, a copy of which is attached as Exhibit D.)

It is of interest to note that no attempt was thereafter made to comply with the requirements of Regulation Sec. 8103(a)-1(f) in that no request was received from Chief Justice Warren as head of the Commission but that requests were accepted from the General Counsel of the Commission. Your files indicate that on several occasions, thereafter during 1964 various returns were furnished the Commission (presumably on the basis of the foregoing opinion) under the signature of Mr. Rogovin as Assistant to the Commissioner.

Thereafter a question arose as to whether the returns disclosed to the Warren Commission could be published by the Commission. This resulted in a request by Sheldon Cohen (who had meanwhile become Chief Counsel) to the Director, Legislation & Regulations Division of this Office, for its opinion as to whether the Commission had authority to inspect returns. The Legislation & Regulations Division advised Mr. Cohen by opinion on September 24, 1964, that it concurred in the January 6, 1964, opinion of the Enforcement Division, reiterating that:

"... the Commission is the 'alter ego' of the President, and since there is no restriction on the President's authority to inspect tax returns, likewise there is no restriction on the right of the Commission as his 'alter ego', to inspect tax returns within the scope of the Executive order."

(See memorandum to Chief Counsel Cohen from the Director, Legislation & Regulations Division, dated September 24, 1964, attached as Exhibit E.)

These prior opinions of my predecessors, insofar as they relate to the present question, seem to me to be correct as a matter of law. Thus, there would seem to be no question about the President's right of access to these returns through a designated member of his staff. While as I indicated in my earlier summary opinion, there is no legal requirement that such requests be written, the procedure you have followed requiring that all requests be detailed in writing is procedurally preferable to accepting oral requests.

Very truly yours,

K. MARTIN WORTHY,
Chief Counsel.

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August 1, 1957.

MEMORANDUM ON INSPECTION OF TAX RETURNS AND DISCLOSURE OF RELATED TAX DATA TO CONGRESSIONAL COMMITTEES

1. Congressional committees not authorized to inspect tax returns under Section 6103(d) or Section 6023 derive the privilege of inspection from Section 6103(a).¹ Under subsection (a), returns "shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President."

The President may impose reasonable conditions upon the inspection of such returns under subsection (a). He discloses returns² to Congressional committees if he considers that such disclosure would be in the public interest.

2. The President may also refuse to disclose tax returns to committees authorized under Sections 6103(d) and 6023 to inspect tax returns if he considers that such inspection would be contrary to the public interest. Though such refusal is contrary to the express terms of Sections 6103(d) and 6023, it is justified by the doctrine of separation of powers and the right and obligation of the President as Head of the Executive Department not to disclose confidential information of that Department if the disclosure would be contrary to the public interest.

3. Since the year 1863 the President has issued approximately fifty Executive Orders opening returns to inspection under Section 6103(a), or its predecessor statutes including Section 55(a) of the 1898 Code. Each of these Executive Orders has provided in substantially identical language that the returns covered thereby should "be open to inspection" by the committee in question subject to the "conditions and restrictions" of an accompanying Treasury Decision also approved by the President. Since 1848 each of such Treasury Decisions has contained substantially identical language as follows:

"Such data shall be furnished, or such return shall be made available for inspection, in an office of the Internal Revenue Service. Any information thus obtained by such committee or subcommittee shall be held confidential: *Provided, however*, That any portion thereof relevant or pertinent to the purpose of the investigation may be submitted by the investigating committee to the appropriate house of the Congress."

4. The uniform practice has been to permit inspection of tax returns and related data to Congressional committees (indicating a desire for returns under Section 6103(a)) only in accordance with an applicable Executive Order and Treasury Decision of the type above noted.

For example, Commissioner Harrington's letter to Senator McClellan dated May 18, 1957, states that permission to inspect returns is given "pursuant to authority contained in Executive Order 10708 and Treasury Decisions 6132 and 6133." Treasury Decisions 6132 and 6133 (relating respectively to the 1864 Code and the 1898 Code) both contain the language quoted in paragraph 3 above. Moreover, Commissioner Harrington's current instructions relating to inspection of returns by Senator McClellan's Select Committee require that any Service employees state (before exhibiting returns and related data) that they are made available only for the purposes authorized in Executive Order 10708 and Treasury Decisions 6132 and 6133.

5. Congress itself has recognized that if a Congressional committee deriving its authority from Section 6103(d)—or its predecessor statutes—desires to make public the contents of a tax return or related data, Congressional action specially authorizing such public disclosure is required. In 1897 S.J. Res. 155 (75th Cong.), 50 Stat. 258, which established the Joint Committee on Tax Evasion and Avoidance provided in part as follows:

"Sec. 8. . . .

"(b) (1) The Secretary of the Treasury and any officer or employee of the Treasury Department, upon request from the joint committee, shall furnish such committee (at a public hearing or otherwise, as the joint committee or a subcommittee thereof consisting of two or more members, may determine) with any data of any character contained in or shown by any return of income, estate, or gift tax." (Emphasis added)

¹ Section 6103(d) relates only to the Senate Finance Committee, the House Ways and Means Committee, the Joint Committee, and select committees specially authorized to investigate returns by a resolution of the Senate or House. Section 6023 relates only to the Joint Committee.

² For convenience, the term "tax return," as used herein, includes information return.

The reasons for this provision in section 3(b)(1) were stated by Senator Harrison, as follows:

"* * * There is no question about the holding of public hearings by the joint committee. However, under the present law relating to income-tax returns, those returns can be submitted by the Treasury or Treasury officials only to the Ways and Means Committee of the House, the Finance Committee of the Senate, the Joint Committee on Internal Revenue Taxation, or some special committee appointed by Congress with powers to investigate income-tax returns sitting in executive session.

"Therefore we had to incorporate in the joint resolution a change in the present law in order to make public the income-tax returns. * * * (Emphatic added), 85 Cong. Rec. 5620.

6. No Executive Order or Treasury Decision conferring on a Congressional committee the authority to inspect tax returns and related tax data has ever sought to permit the making public of such returns and data to a greater degree than would be permitted by a committee deriving its authority from Section 6103(d) or the predecessor statutes. The undeviating practice to date has been in aid of the statutory policy of protecting the secrecy of returns and has, therefore, limited inspection and disclosure to precisely the same areas as are permitted to Congressional committees operating under Section 6103(d).

7. If a Congressional committee were to permit returns to be inspected at a public hearing or otherwise publicly disclose related tax data taken from such returns or furnished by the Internal Revenue Service, such action (i) would violate the Executive Order (such as Order No. 10708) under which inspection is permitted and (ii) would involve the committee's staff members (though not the committee because of their Congressional immunity) in illegal conduct under Section 7213 of the Code.

As to whether employees of the Service would be guilty of a criminal conspiracy if with knowledge of such intended use they nevertheless permitted such inspection or furnished such data, a difficult question is presented and no opinion is here expressed. Normally employees of the Service are entitled to rely on the presumption that data furnished in accordance with established procedures will be properly used; but this presumption can hardly be relied on in the face of clear evidence to the contrary. In any case, the danger of such a charge by resourceful, outraged witnesses should not be ignored.

8. If a select committee desiring to inspect returns and to receive tax data under Section 6103(a) is not granted an empowering Executive Order or if an outstanding Executive Order is revoked, it may nevertheless qualify for the right to inspect such returns and receive such data under Section 6103(d). But in the latter case, being only a select committee of the Senate or House, it would require special authorization to investigate returns by a resolution of the Senate or House. And its use of tax returns or any related tax data would be limited to such use "in executive session" or to submission of such data to the Senate or House, or both, as the case may be—unless an appropriate enactment (see paragraph 5 above) specifically authorized public disclosure. The Congress could by legislation also authorize a standing committee to inspect returns to any extent it deemed appropriate.

The term "executive session" is clearly understood as barring the public, and involving only "confidential" use of information, within the meaning of the term "confidential" in a typical Treasury Decision on this subject. See, for example,

* Section 7213 provides in part as follows:

Sec. 7213. Unauthorized Disclosure of Information.

(a) Income Returns.

(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for any officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any person committing an offense against the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

Senate Manual, 84th Congress, 1st Session, page 51, "Executive Sessions", and page 60, "Committee Procedure".

9. The present Executive policy against permitting photostatic copies of tax returns and tax data to be furnished to a committee under Section 8103(a) is expressed in a letter from the President to the Chairman of the House Committee on Government Operations, dated September 20, 1954. This letter reads in part as follows:

"The use of photostatic copies endangers the secrecy of the returns involved to a greater extent than other methods of inspection. While the use of photostatic copies might be advantageous to your Committee, it would not appear to be essential to the discharge of the Committee's functions. These considerations seem to outweigh the fact that the unavailability of photostatic copies of the returns will impose some additional expense on your Committee. For these reasons, it would be difficult to justify permitting your Committee to make and use photostatic copies of returns, particularly since no other congressional committee enjoys such a privilege. Accordingly, I am constrained by the spirit of the law limiting the availability of returns for inspection to accede only to your request for extension of your Committee's previous authority to include returns for 1958."

10. With respect to the meaning of the phrase "any data relating to or contained in any such return" (T.D. 8182 and T.D. 8183), the Commissioner, by long standing administrative practice, has exercised his discretion to divide these data into two parts: (A) Material submitted by or directed to the taxpayer of which the taxpayer, therefore, is presumed to have knowledge; (B) all other material in the administrative file relating to the taxpayer. Normally included within (A) are the return, schedules, protests, briefs, claims, waivers, examiners' reports (if previously furnished to the taxpayer) and other statements or documents designed to be supplemental to or to become part of the return.¹

The statutory authority for the Commissioner's discretion in this regard is found in section 8103(a) itself. Pursuant to section 8103(a), inspection and disclosure are permitted "only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President." Under Treasury Decisions 8132 and 8183, approved by the President, the Secretary has in fact authorized the Commissioner to exercise reasonable discretion in permitting such inspection and disclosure. Appropriate classification of data to be so inspected and disclosed is a necessary part of such discretion.

¹ "An executive session is one from which the public is excluded and at which only such selected persons as the Board may invite are permitted to be present." *Blum v. Board of Zoning and Appeals*, 149 N.Y.S. 2d 5, at p. 9, 1956.

² The foregoing applies only to nonfraud cases; in open cases involving fraud or criminal prosecutions which are either pending or have been referred to the Department of Justice, no inspection of documents other than the bare return is in general permitted.

APR 22 1970

Dear Senator Long:

Chief Counsel Martin Kortny has today supplied me with his opinion on the legality of disclosure by the IRS of income tax returns to the President and I am enclosing a copy for your attention. This is set forth as a legal opinion to me with relevant attachments including earlier opinions of the Chief Counsel's office dealing with this same subject matter.

This opinion replaces and reaffirms the preliminary opinion given the Chief Counsel dated April 14, 1970 which was given to you during the consideration of this subject in Executive Session on that day.

Copies are also being sent to the members of the Joint Committee and the Chief of Staff.

Sincerely yours,

(Signed) Randolph W. Throver

Randolph W. Throver
Commissioner

Honorable Russell B. Long
Chairman, Joint Committee on
Internal Revenue Matters
United States Senate
Washington, D. C. 20510

Enclosure