

Internal Revenue Service, Treasury

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§ 301.6103(a)-2 Disclosures after December 31, 1976, by attorneys of the Department of Justice and officers and employees of the Office of the Chief Counsel for the Internal Revenue Service of returns and return information (including taxpayer return information) disclosed to such attorneys, officers, and employees by the Service before January 1, 1977, for a purpose involving tax administration.

(a) *General rule.* Except as provided by paragraph (b) of this section and subject to the requirements of this paragraph, a return or return information (including taxpayer return information), as defined in section 6103(b) (1), (2), and (3), of the Internal Revenue Code disclosed by the Internal Revenue Service before January 1, 1977, to an attorney of the Department of Justice (including a United States attorney) or to an officer or employee of the Office of the Chief Counsel for the Service for a purpose involving tax administration (as defined in section 6103(b)(4)) pursuant to the authority of section 6103 (or any order of the President under section 6103 or rules and regulations thereunder prescribed by the Secretary or his delegate and approved by the President) before amendment of such section by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1667) may be disclosed by, or on behalf of, such attorney, officer, or employee after December 31, 1976, for any purpose authorized by such section (or such order or rules and regulations) before such amendment.

(b) *Exception.* Notwithstanding the provisions of paragraph (a) of this section, a return or return information (including taxpayer return information) disclosed before January 1, 1977, by the Service to an attorney of the Department of Justice or to an officer or employee of the Office of the Chief Counsel for the Service for a purpose related to tax administration as described in paragraph (a) may, after December 31, 1976, be disclosed by, or on behalf of, such attorney, officer, or employee in an administrative or judicial proceeding only if such proceeding is one described in section 6103(h)(4) of

the Code and if the requirements of section 6103 (h)(4) have first been met.

(Secs. 6103 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1667, 68A Stat. 917; 26 U.S.C. 6103 and 7805))

[T.D. 7723, 45 FR 65567, Oct. 3, 1980]

§ 301.6103(c)-1 Disclosure of returns and return information to designee of taxpayer.

(a) *Overview.* Subject to such requirements and conditions as the Secretary may prescribe by regulation, section 6103(c) of the Internal Revenue Code authorizes the Internal Revenue Service to disclose a taxpayer's return or return information 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 the taxpayer's request to such other person for information or assistance. This regulation contains the requirements that must be met before, and the conditions under which, the Internal Revenue Service may make such disclosures. Paragraph (b) of this section provides the requirements that are generally applicable to designate a third party to receive the taxpayer's returns and return information. Paragraph (c) of this section provides requirements under which the Internal Revenue Service may disclose information in connection with a taxpayer's written or nonwritten request for a third party to provide information or assistance with regard to a tax matter, for example, a Congressional inquiry. Paragraph (d) of this section provides the parameters for disclosure consents connected with electronic return filing programs and combined Federal-State filing. Finally, paragraph (e) of this section provides definitions and general rules related to requests for or consents to disclosure.

(b) *Disclosure of returns and return information to person or persons designated in a written request or consent—(1) General requirements.* Pursuant to section 6103(c) of the Internal Revenue Code, the Internal Revenue Service (or an agent or contractor of the Internal Revenue Service) may disclose a taxpayer's return or return information (in written or nonwritten form) to such person or persons as the taxpayer may

designate in a request for or consent to such disclosure. A request for or consent to disclosure under this paragraph (b) must be in the form of a separate written document pertaining solely to the authorized disclosure. (For the meaning of separate written document, see paragraph (e)(1) of this section.) The separate written document must be signed (see paragraph (e)(2) of this section) and dated by the taxpayer who filed the return or to whom the return information relates. At the time it is signed and dated by the taxpayer, the written document must also indicate—

- (i) The taxpayer's taxpayer identity information described in section 6103(b)(6);
- (ii) The identity of the person or persons to whom the disclosure is to be made;
- (iii) The type of return (or specified portion of the return) or return information (and the particular data) that is to be disclosed; and
- (iv) The taxable year or years covered by the return or return information.

(2) *Requirement that request or consent be received within sixty days of when signed and dated.* The disclosure of a return or return information authorized by a written request for or written consent to the disclosure shall not be made unless the request or consent is received by the Internal Revenue Service (or an agent or contractor of the Internal Revenue Service) within 60 days following the date upon which the request or consent was signed and dated by the taxpayer.

(c) *Disclosure of returns and return information to designee of taxpayer to comply with a taxpayer's request for information or assistance.* If a taxpayer makes a written or nonwritten request, directly to another person or to the Internal Revenue Service, that such other person (for example, a member of Congress, friend, or relative of the taxpayer) provide information or assistance relating to the taxpayer's return or to a transaction or other contact between the taxpayer and the Internal Revenue Service, the Internal Revenue Service (or an agent or contractor of the Internal Revenue Service or a Federal government agency performing a Federal tax administration function)

may disclose returns or return information (in written or nonwritten form) to such other person under the circumstances set forth in paragraphs (c)(1) through (3) of this section.

(1) *Written request for information or assistance.* (i) The taxpayer's request for information or assistance may be in the form of a letter or other written document, which must be signed (see paragraph (e)(2) of this section) and dated by the taxpayer. The taxpayer must also indicate in the written request—

(A) The taxpayer's taxpayer identity information described in section 6103(b)(6);

(B) The identity of the person or persons to whom disclosure is to be made; and

(C) Sufficient facts underlying the request for information or assistance to enable the Internal Revenue Service to determine the nature and extent of the information or assistance requested and the returns or return information to be disclosed in order to comply with the taxpayer's request.

(ii) A person who receives a copy of a taxpayer's written request for information or assistance but who is not the addressee of the request, such as a member of Congress who is provided with a courtesy copy of a taxpayer's letter to another member of Congress or to the Internal Revenue Service, cannot receive returns or return information under paragraph (c)(1) of this section.

(2) *Nonwritten request or consent.* (i) A request for information or assistance may also be nonwritten. Disclosure of returns and return information to a designee pursuant to a taxpayer's nonwritten request will be made only after the Internal Revenue Service has—

(A) Obtained from the taxpayer sufficient facts underlying the request for information or assistance to enable the Internal Revenue Service to determine the nature and extent of the information or assistance requested and the return or return information to be disclosed in order to comply with the taxpayer's request;

(B) Confirmed the identity of the taxpayer and the designee; and

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(C) Confirmed the date, the nature, and the extent of the information or assistance requested.

(ii) Examples of disclosures pursuant to nonwritten requests for information or assistance under this paragraph (c)(2) include, but are not limited to, disclosures to a friend, relative, or other person whom the taxpayer brings to an interview or meeting with Internal Revenue Service officials, and disclosures to a person whom the taxpayer wishes to involve in a telephone conversation with Internal Revenue Service officials.

(iii) As long as the requirements of this paragraph (c)(2) are met, the taxpayer does not need to be present, either in person or as part of a telephone conversation, for disclosures of returns and return information to be made to the other person.

(3) *Rules applicable to written and nonwritten requests for information or assistance.* A return or return information will be disclosed to the taxpayer's designee as provided by this paragraph only to the extent considered necessary by the Internal Revenue Service to comply with the taxpayer's request or consent. Such disclosures shall not be made unless the request or consent is received by the Internal Revenue Service, its agent or contractor, or a Federal government agency performing a Federal tax administration function in connection with a request for advice or assistance relating to such function. This paragraph (c) does not apply to disclosures to a taxpayer's representative in connection with practice before the Internal Revenue Service (as defined in Treasury Department Circular No. 230, 31 CFR part 10). For disclosures in these cases, see section 6103(e)(6) and §§ 601.501 through 601.508 of this chapter.

(d) *Acknowledgments of electronically filed returns and other documents; combined filing programs with State tax agencies.* The requirements of paragraphs (b) and (c) of this section do not apply to this paragraph (d).

(1) *Acknowledgment of, and notices regarding, electronically filed returns and other documents.* When a taxpayer files returns or other documents or information with the Internal Revenue Service electronically, the taxpayer may con-

sent to the disclosure of return information to the transmitter or other third party, such as the taxpayer's financial institution, necessary to acknowledge that the electronic transmission was received and either accepted or rejected by the Internal Revenue Service, the reason for any rejection, and such other information as the Internal Revenue Service determines is necessary to the operation of the electronic filing program. The consent must inform the taxpayer of the return information that will be transmitted and to whom disclosure will be made.

(2) *Combined return filing programs with State tax agencies.* (i) A taxpayer's participation in a combined return filing program between the Internal Revenue Service and a State agency, body, or commission (State agency) described in section 6103(d)(1) constitutes a consent to the disclosure by the Internal Revenue Service, to the State agency, of taxpayer identity information, signature, and items of common data contained on the return. For purposes of this paragraph, common data means information reflected on the Federal return required by State law to be attached to or included on the State return. Instructions accompanying the forms or published procedures involved in such program must indicate that by participating in the program, the taxpayer is consenting to the Internal Revenue Service's disclosure to the State agency of the taxpayer identity information, signature, and items of common data, and that such information will be treated by the State agency as if it had been directly filed with the State agency. Such instructions or procedures must also describe any verification that takes place before the taxpayer identity information, signature and common data is transmitted by the Internal Revenue Service to the State agency.

(ii) No disclosures may be made under this paragraph (d)(2) unless there are provisions of State law protecting the confidentiality of such items of common data.

(e) *Definitions and rules applicable to this section—*(1) *Separate written document.* (i) For the purposes of paragraph (b) of this section, *separate written document* means—

(A) Text appearing on one or more sheets of 8½ -inch by 11-inch or larger paper, each of which pertains solely to the authorized disclosure, so long as such sheet or sheets, taken together, contain all the elements described in paragraph (b)(1) of this section;

(B) Text appearing on one or more computer screens, each of which pertains solely to the authorized disclosure, so long as such screen or, taken together, such screens—

(1) Contain all the elements described in paragraph (b)(1) of this section,

(2) Can be signed (see paragraph (e)(2) of this section) and dated by the taxpayer, and

(3) Can be reproduced, if necessary; or

(C) A consent on the record in an administrative or judicial proceeding, or a transcript of such proceeding recording such consent, containing the information required under paragraph (b)(1) of this section.

(ii) A provision included in a taxpayer's application for a loan or other benefit authorizing the grantor of the loan or other benefit to obtain any financial information, including returns or return information, from any source as the grantor may request for purposes of verifying information supplied on the application, does not meet the requirements of paragraph (b)(1) of this section because the provision is not a separate written document relating solely to the disclosure of returns and return information. In addition, the provision does not contain the other information specified in paragraph (b)(1) of this section.

(2) *Method of signing.* A request for or consent to disclosure may be signed by any method of signing the Secretary has prescribed pursuant to § 301.6061-1(b) in forms, instructions, or other appropriate guidance.

(3) *Permissible designees and public forums.* Permissible designees under this section include individuals; trusts; estates; corporations; partnerships; Federal, State, local and foreign government agencies or subunits of such

agencies; or the general public. When disclosures are to be made in a public forum, such as in a courtroom or congressional hearing, the request for or consent to disclosure must describe the circumstances surrounding the public disclosure, *e.g.*, congressional hearing, judicial proceeding, media, and the date or dates of the disclosure. When a designee is an individual, this section does not authorize disclosures to other individuals associated with such individual, such as employees of such individual or members of such individual's staff.

(4) *Authority to execute a request for or consent to disclosure.* Any person who may obtain returns under section 6103(e)(1) through (5), except section 6103(e)(1)(D)(iii), may execute a request for or consent to disclose a return or return information to third parties. For taxpayers that are legal entities, such as corporations and municipal bond issuers, any officer of the entity with authority under applicable State law to legally bind the entity may execute a request for or consent to disclosure. A person described in section 6103(e)(6) (a taxpayer's representative or individual holding a power of attorney) may not execute a request for or consent to disclosure unless the designation of representation or power of attorney specifically delegates such authority. A designee pursuant to this section does not have authority to execute a request for or consent to disclosure permitting the Internal Revenue Service to disclose returns or return information to another person.

(5) *No disclosure of return information if impairment.* A disclosure of return information shall not be made under this section if the Internal Revenue Service determines that the disclosure would seriously impair Federal tax administration (as defined in section 6103(b)(4) of the Internal Revenue Code).

(f) *Effective date.* This section is applicable on April 29, 2003.

[68 FR 22598, Apr. 29, 2003]