



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR GLD AREA MANAGERS AND DISCLOSURE MANAGERS

FROM: Joseph R. Aceto, *Is/ Joseph R. Aceto*
Director, Governmental Liaison and Disclosure

SUBJECT: Interim Guidance on Ex Parte Court Orders (6103(i)(1))

This memorandum consolidates existing procedures and transmits interim guidance to Disclosure employees for processing ex parte court orders to ensure quality and consistency nationwide. This guidance will be published in IRM 11.3.28 at its next revision. Please disseminate this memorandum to all affected employees.

Pattern Letter Requirement:

Use the appropriate pattern letters when responding to ex parte court orders. You can find the current inventory of ex parte pattern letters on the GLD SharePoint site under Disclosure: Pattern Letters: Tab J – Court Orders. They include:

- J - 6103(i) - Spreadsheet
- M - 6103(l) - Authorization DM
- L - 6103(i)(1) - Response With Enclosures signed by Caseworker
- L - 6103(i)(1) - Response With Enclosures
- M - 6103(i) - CI SAC Approval Title 31
- L - 6103(i)(2) - Response With Enclosures
- P - 6103(i) - BSA Warning

Special Search Requirements:

To secure returns, follow the special search guidance provided in the Director, [GLD Memorandum](#) dated August 16, 2007. In summary, the guidance requires you to:

- Fax Form 2275 to the appropriate Federal Records Center (FRC) or Campus File Unit;
- Research IDRS to ensure that you are requesting the correct DLN, if you receive a response that the document requested or the block is not in file. If appropriate, prepare a new Form 2275; and,
- Follow up with your Disclosure Manager if you do not receive the requested records within three calendar days.

Your Disclosure Manager must contact the appropriate FRC/Campus File Unit Manager and send an e-mail describing the facts to Joan McClean, Headquarters Policy Analyst.

Note: Do not transmit sensitive law enforcement information or information classified for national security by e-mail, even when encrypted. This includes information related to informants or undercover activities.

Response Requirements:

You must:

- List documents provided in response letter separately for each taxpayer; and,
- Use the delivery method that makes the most sense based on your location and the location of the USA/AUSA. Allowable delivery methods include UPS, hand delivery, regular mail, and USA/AUSA provided courier.

Certification Requirements and Procedures

- Records responsive to Ex parte Court Order for AFOIA cases will NOT be certified on initial response. USA/AUSA will contact Disclosure if certifications are needed for trial. You will still provide a certification of lack of record for those instances where no filing has been determined, to provide a contemporaneous record of that activity.
- E-DIMS cases will continue to be certified on initial response.
- A certification stamp with the seal will be placed directly on the documents.

Providing Return Transcripts in Lieu of Tax Returns:

IRM 11.3.28.3 requires contact with the USA/AUSA to acknowledge receipt and to discuss alternative products that might expedite processing. To meet these IRM requirements, Disclosure Office staff must:

- Acknowledge receipt of the order by contacting the Assistant United States Attorney (AUSA) named in the order within seven workdays of receipt and confirm name and address of person to whom the response will be sent;
- Discuss alternative products with the AUSA (for example, offering a return transcript in lieu of the return); and,
- Document all actions in the electronic case management system history notes.

If original returns are requested and you receive negative responses to your special search efforts, you must contact the USA/AUSA and advise them that the original return(s) are not available, and that we will provide return transcripts in lieu of tax returns.

Case Closure:

You may only close an ex parte court order after you have provided all the requested documents, or when you have exhausted all required Special Search efforts. Before closing the file, you must notify the USA/AUSA when you can't retrieve the records, offer to provide an alternative product, and confirm this information to the USA/AUSA in writing.

Charging Time to Closed Cases:

You can charge time to a closed case when:

- You receive a previously requested return
- A return is filed after the court order was initiated, but before the order expires
- Certification of Records is needed for AFOIA cases

Before sending the documents you must contact the USA/AUSA and verify that they are still needed.

Sources of Authority:

Enhanced Disclosure Pattern Correspondence Memorandum issued by the Chief, Disclosure dated April 8, 2008; Special Search Guidance Memorandum issued by the Director, GLD dated August 16, 2007; IRM 11.3.28.3.

Effect on Other Documents: This guidance will be incorporated into IRM 11.3.28 by September 24, 2011

Contact: If you have any questions, please contact Leonard Smigelski, Senior Tax Law Specialist or Joan McClean, Senior Tax Law Specialist.

Expiration Date: This guidance will expire on September 24, 2011.

cc: www.irs.gov