

Privacy and Confidentiality

—*A Public Trust*



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Privacy and Confidentiality – A Public Trust

Introduction

The Internal Revenue Service (IRS) sponsors the VITA (Volunteer Income Tax Assistance) and the TICE (Tax Counseling for the Elderly) programs that provide free tax return preparation for low to moderate income and elderly taxpayers. Details governing the operation of these two programs are covered in various materials; however, one of the foundational principles for both programs is that the confidentiality of the information provided is guaranteed so that the public trust is protected. This document addresses areas where diligence to detail is needed.

Internal Revenue C 7216 and related provision of the code, section 6713, which provide penalties against tax return preparers who make unauthorized use or disclosure of tax return information, were updated for the first time in more than 30 years. Treasury Reg. 301.7216-1(b)(2) strengthens taxpayers' ability to control their tax return information by requiring that tax return preparers give taxpayers specific information, including who will receive the tax return information and the particular items of tax return information that will be disclosed or used, to allow taxpayers to make knowing, informed, and voluntary decisions over the disclosure or use of their tax information by their tax return preparer. A tax return preparer is defined in this code section as "...any person who prepares tax returns or assists in preparing tax returns, ...whether or not the person charges a fee for tax return preparation services." The regulations apply to disclosures or uses of tax return information occurring on or after January 1, 2009.

Background

Partners and volunteers are not subject to all of the regulations to which IRS employees are held accountable. Information provided by individual taxpayers to a VITA or TICE volunteer is not considered "return information" protected by 26 U.S.C. Section 6103 until it is received, recorded, or collected by the IRS. However, TICE volunteers are subject to the criminal penalty provisions of 18 U.S.C. § 1905 for any improper disclosures of this information. It is critical to the programs' success to ensure volunteers and their partnering organizations safeguard taxpayer information AND understand their responsibilities in this respect.

Taxpayers utilizing volunteer program services provide personal information to the volunteers, such as names, addresses, social security numbers, birth dates, and bank account information. This type of information is a prime target for identity theft. Therefore, partners and volunteers must keep the information confidential and protect it from unauthorized individuals and misuse.

Protection against Legal Action

The Volunteer Protection Act of 1997, Public Law 105-19, protects volunteers from liability for negligent acts they perform within the scope of their responsibilities in the organization for who they volunteer. The Act excludes conduct that is willful or criminal, grossly negligent, or reckless, or that constitutes a conscious, vagrant indifference to the rights or safety of the individual potentially harmed by the volunteer.

Penalty for Unauthorized Disclosures or Uses

Section 7216(a) of Internal Revenue Code imposes criminal penalties on the tax return preparers who knowingly or recklessly make unauthorized disclosures or uses of information furnished in connection with the preparation of an income tax return. A violation of section 7216 is a misdemeanor, with a maximum penalty of up to one year imprisonment or a fine of not more than \$ 1,000, or both together with the cost of prosecution.

Privacy and Confidentiality – Key Principles

Key principles have been identified below that can ensure the integrity of and continued public trust in the volunteer tax preparation programs.

- Partners and volunteers must keep confidential the information provided for tax return preparation.
- Partners and volunteers must protect physical and electronic data gathered for tax return preparation both during and after filing season.
- Partners using or disclosing taxpayer data for purposes other than current, prior, or subsequent year tax return preparation must secure the taxpayer's consent to use or disclose their data.
- Partners and volunteers who use IRS loaned equipment must delete customer information after filing season tax return preparation activities are completed.
- Partners and site coordinators must keep confidential any personal volunteer information provided.

Taxpayer Information

Partners and volunteers must keep confidential the information provided for tax return preparation.

Privacy during the Interview

To the extent possible, arrange assistance areas to prevent others from easily overhearing or viewing the information under discussion. When volunteers require assistance to complete the tax return, they should ensure privacy is maintained during these discussions.

All tax returns should be prepared at the site with the taxpayer present, see exception below. Taxpayer information should not be dropped off at a site for tax return preparation at a later time. In situations where sufficient information to complete the return is unavailable, all documents should be returned to the taxpayer with a request that they be brought back, along with the remaining information needed to complete the tax return.

Exception: In rural areas –VITA/TCE sites may prepare tax returns without the taxpayer present. Refer to IRS guidance titled “Rural VITA/TCE Sites” located on the partner page on IRS.gov.

Requesting the Information

When preparing tax returns, only information that is necessary and relevant should be requested. The information provided is entrusted to the volunteer with the taxpayer's confidence that it will not be shared or used in any unauthorized manner.

Information such as name, address, SSN, birth dates, marital status, bank account information for direct deposit and other basic information is necessary to prepare the return. Documents that are relevant to ensure identity and accuracy include:

- Identity documents consist of a driver's license (U.S.), employer ID, school ID, birth certificate, state identification card (U.S.), Military ID, national identity card, visa, or passport. However, any other valid form of identification that would normally be used to prove identity is acceptable. Volunteers preparing tax returns should confirm the identity of the taxpayer to avoid the potential for identity theft or tax fraud. If the taxpayer cannot substantiate their identity, or if the volunteer is uncomfortable accepting the items presented as proof of identity, the taxpayer should be instructed to seek assistance elsewhere.
- Original or copies of social security cards or other form of SSN verification or ITIN (Individual Taxpayer Identification Number) card or letter. Volunteers should confirm the SSN or ITIN and the correct spelling of names for all individuals listed on the tax return. In the event a taxpayer provides verification of the ITIN and the W-2 contains a SSN that cannot be verified, the ITIN will be the number used to prepare the tax return. The mismatch of names and SSN information is one of the top ten reasons for delays in processing electronic tax returns.

Sharing the Information

Information provided for tax return preparation should not be shared with anyone who does not have a need to know. Individuals have the need to know if their involvement is required to process the information to its final disposition. Example of “need to know” would include sharing information for the purpose of obtaining guidance in tax return completion, electronically transmitting the return, reviewing to ensure the quality of the finished tax return or source documents transferred from a designated rural site to an urban site for return preparation. It is not acceptable to share information with other, even another volunteer, if their involvement in the tax return preparation is not required. For instance, sharing income information, birth dates, or even the marital status of taxpayers with other volunteers, taxpayers, family or friends as a matter of curiosity or interest is not acceptable.

Disclosure and Use of Taxpayer Information

On January 16, 2009 the IRS issued interim guidance under Section 7216 allowing disclosure, without taxpayer consent, of anonymous statistical compilations for fund raising, marketing and advertising purposes that are in direct support of the volunteer site’s tax return preparation activities. This exception applies to disclosures of anonymous statistical compilations occurring on or after February 9, 2009, and only to disclosures made during the calendar year 2009. Further, the exception provided by the interim guidance does not apply to the use or disclosure in marketing or advertising of statistical compilations containing or reflecting average amounts of refund, credit, or rebate, which use and disclosure is governed by the provisions of §301.7216-2(o).

SPEC’s 7216 Policy: All volunteer sites using or disclosing taxpayer data for purposes other than current, prior, or subsequent year tax return preparation must secure the taxpayer’s consent to use and disclose the data.

Exception: All volunteer sites using or disclosing anonymous aggregate data for fund raising, marketing, publicity or other business related uses are not required to secure taxpayer’s consent. This exception applies to disclosures of anonymous statistical compilations occurring on or after February 9, 2009, and only to disclosures made during the calendar year 2009. This exception does not apply to the use or disclosure in marketing or advertising of statistical compilations containing or reflecting average amounts of refund, credits, or rebate, which use and disclosure is governed by the provisions of §301.7216-2(o). (See Exhibit 1 Examples)

Under the interim guidance, a statistical compilation is anonymous if it does not include any personally identifiable information, such as the taxpayer’s name, SSN/ITIN, address or other individual information, and does not disclose cells containing data from less than twenty-five tax returns.

SPEC partners required to obtain consent are encouraged to solicit both a consent to use and a consent to disclose. Tax return preparers must obtain consent to disclose tax return information before returns are provided to the taxpayer for signature and before tax return information is disclosed. Services will be provided regardless of the taxpayer’s decision on whether to agree to the use and disclosure of their data. Taxpayers who choose not to consent to use or disclosure of their data will not be denied services; however, the services provided will be limited to tax return preparation and tax return preparers must not use or disclose their data. Each partner/volunteer organization must evaluate the uses of taxpayer information against IRC 7216 requirements to ensure compliance.

Consent Requirements

SPEC partners are required to provide written notice to the taxpayer and receive signed consent when using or disclosing taxpayer information for purposes other than current, prior, or subsequent year tax return preparation. Partners must customize consents to be specific for their particular use and disclosure.

There are two types of consents:

1) consent to “disclose”, taxpayer information. Disclosure means the giving out of information, either voluntarily or to be in compliance with legal regulations or workplace rules, and,

2) consent to “use” taxpayer information, Use means the act or practice of employing something.

These notices cannot be combined. They must be kept separate. Consents must meet the minimum requirements provided in Treasury Regulation Section 301-7216-3(a) (3) and must include the requirements defined in Revenue Procedure 2008-35.

- Identify the intended purpose of the disclosure or use
- Identify the recipients and describe the specific authorized disclosure or use of the information
- Identify the specific taxpayer information to be used or disclosed
- Mandatory language outlined in Rev. Proc. 2008-35
- The consent duration if more than one year.
- 12-point type font on 8 ½ by 11-inch paper; an electronic consent must be in the same type as the web site’s standard text
- The taxpayer’s signature and date
- Separate consents are required for disclosure and use, although multiple uses may be included in the same use consent and multiple disclosures may be included in the same disclosures consent (Note: Multiple disclosures consents and multiple use consents must provide the taxpayer with the opportunity, within the separate written document, to affirmatively select each separate disclosure and use.)

Consent notices are valid for one year unless otherwise specified in the written notice to the taxpayer. Under IRC 6531, the period of limitations for prosecuting a violator of IRC 7216 is three years after failure to comply. It is recommended that partners maintain signed copies of the consent notice for three years. Consent notices may be attached to Form 8879 and forwarded to the local territory office for storage at the Federal Record Center.

Mandatory Statement

Consent to Disclose (non-bank products):

Required Statements:

Federal law requires this consent form be provided to you. Unless authorized by law, we cannot disclose, without your consent, your tax return information to third parties for purposes other than the preparation and filing of your tax return. If you consent to the disclosure of your tax return information, Federal law may not protect your tax return information from further used or distribution.

You are not required to complete this form. If we obtain your signature on this form by conditioning our services on your consent, your consent will not be valid. If you agree to the disclosure of your tax return information, your consent is valid for the amount of time that you specify. If you do not specify the duration of your consent, your consent is valid for one year.

If you believe your tax return information has been disclosed or used improperly in a manner unauthorized by law or without your permission, you may contact the Treasury Inspector General for Tax Administration (TIGTA) by telephone at 1-800-366-4484, or by email at complaints@tigta.treas.gov.

Consent to “Disclose” for bank products (RALS or RACs):

Required Statements:

Federal law requires this consent form be provided to you. Unless authorized by law, we cannot disclose, without your consent, your tax return information to third parties for purposes other than the preparation and filing of your tax return and, in certain limited circumstances, for purposes involving tax return preparation. If you consent to the disclosure of your tax return information, Federal law may not protect your tax return information from further use or distribution.

You are not required to complete this form. Because our ability to disclose your tax return information to another tax return preparer affects the service that we provide to you and its cost, we may decline to provide you with services or change the terms of service that we provide to you if you do not sign this form. If you agree to the disclosure of your tax return information, your consent is valid for the amount of time that you specify. If you do not specify the duration of your consent, your consent is valid for one year.

If you believe your tax return information has been disclosed or used improperly in a manner unauthorized by law or without your permission, you may contact the Treasury Inspector General for Tax Administration (TIGTA) by telephone at 1-800-366-4484, or by email at complaints@tigta.treas.gov.

Consent to “Use” (Such as, Financial Aid, Establishment of a Bank Account, Relational EFINs, other government agency assistance, or bank products):

Required Statements:

Federal law requires this consent form be provided to you. Unless authorized by law, we cannot use, without your consent, your tax return information for purposes other than the preparation of your tax return.

You are not required to complete this form. If we obtain your signature on this form by conditioning our services on your consent, your consent will not be valid. Your consent is valid for the amount of time that you specify. If you do not specify the duration of your consent, your consent is valid for one year.

If you believe your tax return information has been disclosed or used improperly in a manner unauthorized by law or without your permission, you may contact the Treasury Inspector General for Tax Administration (TIGTA) by telephone at 1-800-366-4484, or by email at complaints@tigta.treas.gov.

Maintaining and Ensuring Confidentiality of Taxpayer Information

Partners and volunteers must protect physical and electronic data gathered for tax return preparation both during and after filing season.

Protecting the Information

Once the tax return is complete and the taxpayer has left, volunteers and sponsors must ensure the individual information provided during return preparation is protected. Protecting the information is not limited to preventing its theft but to ensuring it is recoverable. Partners should regularly make back up copies of the data they process in the event a computer dies. This action reduces the chance that the taxpayer could be harmed by the inability to file a return. For returns electronically filed, the IRS requires that certain documents be retained. For a complete list of the documents required to be retained, refer to Publication 3189, Volunteer e-file Administrator Guide.

Copies of paper prepared tax returns or related information should not be maintained. Paper prepared returns are provided to the taxpayer for mailing to the IRS and do not require retention.

If the site currently provides the required documents to their local territory office for retention, this option is still available.

Some states may have different requirements for retaining state related electronic filing documents. Partners should familiarize themselves with state requirements. This document does not impact the recordkeeping requirements imposed by individual states.

Providing a Safe Environment for Information

Implement a process to ensure information is adequately protected at all times. The process should include but is not limited to the following:

- Ensure that the information provided during the course of tax return preparation is under the care of volunteers at all times.
- Use locked storage. Keep devices (i.e. diskettes, CDs, flash drives, pen drives, key drives, thumb drives, etc.) containing taxpayer information secure.
- Label and account for the devices.
- Secure the equipment used for electronic tax return preparation and filing.
- Use passwords to prevent unauthorized access to the computer and software.
- Ensure portable equipment is under the care of a volunteer at all times.
- Use limited or controlled access locations for storing equipment.
- Guard equipment connected to the Internet with virus protection software.
- Ensure information is not accessible to general computer users who share equipment.
- Use data encryption processes when available to secure data stored on computers and on back-up devices.
- Ensure computer settings do not store passwords and any other key information that could provide access to information on the computer.
- Record the make, model and serial number of all computer equipment used and keep in a secure location. This can save valuable time if it is necessary to report the equipment as lost or stolen.

¹Documents and/or information that are provided to the IRS for storage and are subsequently used for tax administration purposes by the IRS, **become** “return information” protected by 26 U.S.C. 6103. At this point, they cannot be returned to a partner or volunteer for any use. This includes Forms 8453, back up disks containing tax return information, and/or supporting documents.

Stolen and Lost Information – Taxpayer Notification

No matter how diligent partners and volunteers are in protecting information, there is always a chance that it will be stolen or lost. If this occurs, notify the appropriate authorities and then thoroughly evaluate the incident. Be sure to take action to prevent other losses of information. Because each incident of loss is unique, partners should evaluate the circumstances surrounding the loss and decide whether the risk of identity theft warrants notification of the individuals whose information may have been compromised.

The following table depicts situations that have occurred and may prove helpful in evaluating risk and determining whether notification should be considered. All examples assume that individual tax return information is present.

ID	Situation	Risk Assessment
	A laptop and its bag are stolen. The passwords to the computer programs were recorded on a note card in the bag.	Risk is high because the password was with the computer and makes the data easily accessible.
	A laptop is stolen. Passwords are required to access the programs on the computer and they were not compromised. The software program used to prepare returns encrypts the data and return information is only stored within this software.	Risk is low. Use of passwords and encryption greatly reduce the risk of compromised data.
	A folder with information reports (W-2, 1099) and/or Forms 8453 or 8879 is stolen from the site by an angry taxpayer.	Risk is high because the information is easily accessible.
	A disk containing return information is lost. The data on the disk was saved using a tax preparation software program that encrypts the data when saved to a disk.	Risk is low. Use of encryption on the disk greatly reduces the risk of compromised data.
	A laptop is stolen with encryption and the passwords are not compromised but the briefcase contained a return acknowledgement report for accepted returns.	Risk is high. The information on the return acknowledgement report is easily accessible.

Deleting Taxpayer Information

Information may not be stored on partner owned or IRS loaned equipment once the filing season activities are completed. The information on all computers (both partner owned and IRS loaned) must be deleted as part of the site closing activities. Deleting the information properly will prevent unauthorized disclosure of confidential information.

Providers of electronic filing are reminded that they are required to retain a complete copy of the electronic portion of the tax return (which may be retained on magnetic media) until December 31 of the current tax year, which can be readily and accurately converted into an electronic transmission that the IRS can process.

Protection of Partner/Volunteer Information

Partners and site coordinators must keep confidential any personal volunteer information provided.

Volunteer information is available to IRS employees for the purposes of administering the volunteer tax return preparation program. Information pertaining to a potential volunteer, such as the name, home address, phone number, foreign language skill and other pertinent information may be provided to a partner for purposes of ensuring that the potential volunteer is provided an opportunity to participate in the program. Similar information pertaining to current volunteers may also be provided to a partner to help coordinate maximum efficient use of volunteer skills. This information must be kept confidential and should not be disclosed to unauthorized individuals.

Release of Partner Information

IRS will protect the information provided to the extent allowable by law. However, in some situations, IRS may be compelled to provide information requested under 5 U.S.C. 552, Freedom of Information Act (FOIA). For example a FOIA request for copies of the Application to Participate in the IRS E-file Program, Form 8633, could require the release of the applicant's name, business address and whether the applicant is licensed or bonded in accordance with state or local requirements. IRS cannot control how the information provided through a FOIA is used by the requester.

Sponsor and Volunteer Agreements

A Sponsor Agreement, Form 13533, and a Volunteer Agreement Standards of Conduct -VITA/TCE Programs, Form 13615, is included with this publication. These forms are used to acknowledge receipt of and/or agreement to maintaining key principles around privacy and confidentiality of the VITA and TCE programs.

The Sponsor Agreement, Form 13533, is requested from new partners and from existing partners when the publication changes. It reiterates the key principles of privacy and confidentiality found in the Publication 4299. By signing this agreement, the sponsor agrees to ensure their volunteers are aware of the standards of conduct and privacy and confidentiality key principles. The signed form is maintained in the local SPEC office.

The Form 13615 is often referred to as the standards of conduct and is solicited annually during or subsequent to training. It serves two purposes. It obtains the volunteer's agreement to the standards of conduct for the VITA and TCE programs and provides the IRS and/or partner a place to record the level of training received and the corresponding test scores used to determine whether a volunteer is certified to provide return preparation and/or tax law assistance.

The Form 13615 is required for all volunteers before working at a site. It is maintained at the partner or site level and is used to show the level of volunteer certification.

Potential Consequences

As part of the Tax Counseling for the Elderly (TCE) cooperative agreement with the IRS, all TCE sponsors agree to (by signing a certification document) take all the reasonable steps necessary to ensure that information provided by taxpayers remains confidential. This includes instructing volunteers that such information is strictly confidential and must not be discussed with anyone without a need to know and that the provisions relating to disclosure of tax information of Section 1905 of Title 18, United States Code, applies to volunteers as if they were employees of the United States. Disclosure of confidential information can result in fines or imprisonment.

The Volunteer Protection Act of 1997 excludes conduct that is willful or criminal, grossly negligent, or reckless, or conduct that constitutes a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer. If a volunteer discloses information, fails to protect personal information or is otherwise flagrantly irresponsible with information entrusted to him/her, criminal charges or a civil law suit could be brought against the volunteer.

Another potential consequence of failure to adequately protect taxpayer information is that the IRS may discontinue the relationship with the partner or volunteer. Federal financial assistance may no longer be provided such as software, computer equipment or electronic filing privileges.

Reference Materials

For further information and guidance please refer to the following:

Publication 1345- Handbook for Authorized IRS e-file Providers **Publication 1345A-** Filing Season Supplement for Authorized IRS e-file Providers **Publication 3189-** Volunteer e-file Administrator Guide **Form 8633-Application** to Participate in IRS e-file Program **Publication 1101-Application** Package and Guidelines for Managing a TCE Program **Publication 1084-** Volunteer Coordinator's Handbook **Publication 4600-** Safeguarding Taxpayer Information

Sponsor Agreement

We appreciate your willingness and commitment to serve as a sponsor in the Volunteer Income Tax Assistance (VITA) or Tax Counseling for the Elderly (TCE) volunteer tax return preparation programs.

To maintain program integrity and provide for reasonable protection of information provided by the individuals who use the services, it is essential that the following key principles be followed.

- Partners and volunteers must keep confidential the information provided for tax return preparation.
- Partners and volunteers must protect physical and electronic data gathered for tax return preparation both during and after filing season.
- Partners using or disclosing taxpayer data for purposes other than current, prior, or subsequent year tax return preparation must secure the taxpayer's consent to use or disclose their data.
- Partners and volunteers who use IRS loaned equipment must delete data after filing season tax return preparation activities are completed.
- Partners and site coordinators are expected to keep confidential any personal volunteer information provided.

Tell us about the products and services (other than tax return preparation) you will provide at your VITA/TCE site:

Sponsor Name:

Street Address:

Telephone Number:

E-Mail Address:

Please complete the information requested above and sign below. By signing below, you agree to ensure volunteers participating in the VITA or TCE program are aware of the Standards of Conduct and privacy and confidentiality key principles.

Sponsor Signature

Date

Privacy Act Notice

The Privacy Act of 1974 requires that when we ask for information we tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it, and whether your response is voluntary, required to obtain a benefit, or mandatory.

Our legal right to ask for information is 5 U.S.C. 301.

We are asking for this information to assist us in contacting you relative to your interest and/or participation in the IRS volunteer income tax preparation and outreach programs. The information you provide may be furnished to others who coordinate activities and staffing at volunteer return preparation sites or outreach activities. The information may also be used to establish effective controls, send correspondence and recognize volunteers.

Your response is voluntary. However, if you do not provide the requested information, the IRS may not be able to use your assistance in these programs.

Department of the Treasury – Internal Revenue Service
Volunteer Agreement
Standards of Conduct – VITA/TCE Programs

The mission of the VITA/TCE Program is to provide free basic tax return preparation for eligible taxpayers. Volunteers are the program's most valuable resource. To establish the greatest degree of public trust Volunteers have a responsibility to provide high quality service and uphold the highest of ethical standards.

Instructions: To be completed by all volunteers in the VITA/TCE program.

As a participant in the VITA/TCE Program, I agree to the following standards of conduct:

- I will treat all taxpayers professionally, with courtesy and respect.
- I will safeguard the confidentiality of taxpayer information.
- I will apply the tax laws equitably and accurately to the best of my ability.
- I will only prepare returns for which I am certified. (Basic, Advanced, etc.)
- I will exercise reasonable care in the use and protection of equipment and supplies.
- I will not solicit business from taxpayers I assist or use the knowledge I have gained about them for any direct or indirect personal benefit for me or any other specific individual.
- I will not accept payment from taxpayers for the services I provide. I may receive compensation as an employee of a program sponsor.

Volunteer Information

Print Full Name

Daytime Telephone

Home Street Address

E-mail Address

City, State and Zip Code

Signature

Site and/or Partner Name

Date

This form is to be retained at the Site or by the Partner.

Volunteer position(s) _____
(screener, preparer, interpreter, reviewer, etc.)

(Partner Use Only) Test Results – Only volunteers preparing federal tax returns, answering tax law questions, or reviewing federal tax returns for accuracy are required to be certified.

	Basic	Intermediate	Advanced	Military	International	Foreign Student/Scholars		
						Part 1	Part 2	Part 3
Volunteer's Test Score								
Certification level – Mark the appropriate box								

Certified by (IRS or SPEC Partner Only): _____ **Date:** _____

Privacy Act Notice—The Privacy Act of 1974 requires that when we ask for information we tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it, and whether your response is voluntary, required to obtain a benefit, or mandatory.

Our legal right to ask for information is 5 U.S.C. 301. We are asking for this information to assist us in contacting you relative to your interest and/or participation in the IRS volunteer income tax preparation and outreach programs. The information you provide may be furnished to others who coordinate activities and staffing at volunteer return preparation sites or outreach activities. The information may also be used to establish effective controls, send correspondence and recognize volunteers.

Your response is voluntary. However, if you do not provide the requested information, the IRS may not be able to use your assistance in these programs.

Examples

The interim guidance described by this notice may be illustrated by the following examples.

Example 1: Volunteer Preparer A is a tax return preparer as defined by §301.7216-1(b)(2)(i)(A). In 2008, A used tax return information to produce a statistical compilation of data for both internal management purposes and to support A's tax return activities. The statistical compilation included a cell containing the information that A prepared thirty-two tax returns in 2008. In 2009, A decides to embark upon a new marketing campaign emphasizing its experience preparing tax returns. In the campaign, A discloses the cell containing the number of tax returns prepared in 2008. A's disclosure does not include any information that can be associated with or that can identify any specific taxpayers. A may disclose the anonymous statistical compilation without taxpayer consent because it complies with the interim guidance described in this notice.

Example 2: Volunteer Preparer B is a tax return preparer as defined by §301.7216-1(b)(2)(i)(A). In 2009, in support of B's tax preparation activities, B advertises that the average tax refund obtained for its clients in 2008 was \$2,800. B may not disclose this information because it contains a statistical compilation reflecting average refund amounts.

Example 3: Volunteer Preparer C is a tax return preparer as defined by §301.7216-1(b)(2)(i)(A) and is a Volunteer Income Tax Assistance program. In 2009, in support of C's tax preparation business, C makes a grant request to a charitable foundation to fund C's operations providing free tax preparation services to low- and moderate-income families. In support of C's request, C includes anonymous statistical data showing that, in 2008, C provided services to 500 taxpayers, that 95% of the taxpayer population served by C received the Earned Income Tax Credit (EITC), and that the average amount of the EITC received was \$3,300. C may disclose this information because it contains an anonymous statistical compilation, is in direct support of their tax return preparation services, and is consistent with this interim guidance.

Example 4: Volunteer Preparer D is a tax return preparer as defined by §301.7216-1(b)(2)(i)(A). In December 2007 D produced an anonymous statistical compilation of tax return information obtained during the 2007 filing season. In 2009, D discloses portions of the anonymous statistical compilation in connection with the marketing of its financial advisory and asset building services. D is required to receive taxpayer consent under §301.7216-3 before disclosing the tax return information contained in the anonymous statistical compilation because the disclosure is not being made in support of the tax return preparation activities.