



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

OFFICE OF
CHIEF COUNSEL

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MEMORANDUM FOR DISTRICT COUNSEL, CONNECTICUT-RHODE ISLAND
CC:NER:CTR:HAR

FROM: Chief, Branch 4 (Disclosure Litigation) CC:EL:D
SUBJECT: FedState Agreement with the State of Connecticut

This is in response to your request dated October 22, 1999. This document is not to be cited as precedent.

You requested our opinion regarding the use of tax information received by the Connecticut Department of Revenue Services (Conn. DRS) from the Internal Revenue Service (Service) pursuant to an agreement meeting the statutory requirements of I.R.C. § 6103(d). Specifically, Connecticut's Office of the Chief State's Attorney is interested in the procedures for requesting return information for use in the administration of State tax laws under I.R.C. § 6103(d) and whether I.R.C. § 6103 authorizes the disclosure of Federal tax information for nontax purposes.

Section 6103(d) authorizes the disclosure of tax information to state agencies charged under the laws of the state with the administration of state tax laws. Use of tax information received pursuant to section 6103(d) is permitted **only** for state tax administration purposes. Under section 6103(d), the permitted recipients of Federal tax information are (1) officers and employees of the State tax agency; (2) the State tax agency's legal representative; and (3) the State tax agency's contractors. Section 6103(d) requires that the head of an eligible state tax agency submit a written request. Most state agencies are interested in continuing disclosures and, therefore, meet the statutory written request requirement by entering into a basic agreement with the Service and an implementing agreement. If an agreement has not been entered into between the Service and a state tax agency, the state agency may request Federal tax data on a case-by-case basis. We will now answer the specific questions posed.

"Is it correct to say that [F]ederal returns and return information in the possession of DRS ... remain subject to the disclosure requirements of 26 U.S.C. § 6103?"

Yes. State tax agency officials who receive tax information pursuant to section 6103(d) are specifically subject to the prohibition against redisclosure in section 6103(a) and the civil and criminal penalties for unauthorized inspection and disclosure in sections 7213, 7213A, and 7431. State tax agencies are also subject to the safeguard requirements of section 6103(p)(4).

“The [Connecticut Office of the Chief State’s Attorney] intends, from time to time, to request in writing, specific [F]ederal return information from the Internal Revenue Service, pursuant to § 6103(d). Is the procedure for the formal written request for return information that will be used for tax administration purposes, outlined in § 6103(d), supplemented by any additional requirements that the [Connecticut Office of the Chief State’s Attorney] may address at this time?”

As discussed above, a state tax agency that receives returns and return information pursuant to section 6103(d) may redisclose such information to its legal representative. Typically, the IRS does not disclose directly to state attorneys general or similar offices. Rather, the IRS has agreements with state tax agencies, and those agencies disclose to their attorney general’s offices for use in state tax prosecutions and other state tax litigation pursuant to section 6103(d).¹ Any separate requests or arrangements with the Office of the Chief State’s Attorney, without the involvement of Conn. DRS, would require a case by case assessment of why the information is needed and being requested out of normal channels.²

“Would a request for [F]ederal information that would be used for other than tax administration purposes, require a District Court order?”

Section 6103(d) does not authorize the Service to disclose information to the Conn. DRS or its legal representative for nontax purposes, including a joint tax/nontax state criminal prosecution. Further, there is no other provision in section 6103 that permits the IRS to make disclosures for state nontax criminal prosecutions.³ Generally, section 6103(i) provides procedures, including the ex parte court order procedure in section 6103(i)(1), for **Federal agencies** to obtain tax information for use in Federal nontax criminal investigations. In addition, Connecticut cannot redisclose information it has received under section 6103(d) to Federal agencies under section 6103(i).

If you have any further questions, please call (202) 622-4570.

¹ The state tax agency or its legal representative rediscloses tax information in judicial and administrative state tax proceedings under the authority granted in section 6103(h)(4).

² The IRS could disclose directly to the state tax agency’s legal representative upon the state tax agency’s request.

³ I.R.C. § 6103(i)(3)(B) generally permits certain disclosures to Federal and state law enforcement agencies if there is an imminent danger of death or physical injury.