



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

11.3.21

AUGUST 16, 2024

EFFECTIVE DATE

(08-16-2024)

PURPOSE

- (1) This transmits revised IRM 11.3.21, Disclosure of Official Information, Disclosure of Returns and Return Information for Tax Administration Purposes under IRC 6103(k).

MATERIAL CHANGES

- (1) Reviewed and updated the IRM where necessary for the following types of editorial changes: new organizational titles, legal citations, published forms and documents and web addresses.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 11.3.21, Disclosure of Official Information, Investigative Disclosure dated July 28, 2023.

AUDIENCE

All Operating Divisions and Functions.

RELATED RESOURCES

- (1) The *Disclosure and Privacy Knowledge Base*.

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11.3.21

Disclosure of Returns and Return Information for Tax Administrative Purposes under IRC 6103(k)

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11.3.21.1
(06-02-2022)
Program Scope and Objectives

- (1) **Purpose:** This Internal Revenue Manual (IRM) section provides instructions concerning disclosures of returns and return information for tax administration purposes pursuant to the Internal Revenue Code (IRC) 6103(k)(6).
- (2) **Audience:** These procedures apply to all IRS and Treasury Inspector General for Tax Administration (TIGTA) employees in connection with official duties related to tax administration.
- (3) **Policy Owner:** The Director of Governmental Liaison, Disclosure and Safeguards (GLDS) is responsible for oversight of Disclosure policy.
- (4) **Program Owner:** The Disclosure office, under GLDS is responsible for the Disclosure program and guidance. Each IRS organization is responsible for ensuring its employees are aware of and follow Servicewide Disclosure policy.
- (5) **Primary Stakeholders:** IRS and Treasury Inspector General for Tax Administration (TIGTA) employees authorized to disclose returns and return information for tax administration purposes pursuant to IRC 6103(k).

11.3.21.1.1
(06-02-2022)
Background

- (1) The IRS is responsible for administering and enforcing internal revenue laws and IRC 6103 permits certain disclosures of federal tax information for tax administration purposes. This IRM focuses on disclosures of returns and return information for tax administration purposes under Internal Revenue Code (IRC) 6103(k).
- (2) Some IRC 6103(k) provisions are specific as to what type of information can be released or as to the uses of the information. All disclosures must have a nexus to tax administration purposes.
- (3) IRS and TIGTA employees are authorized to disclose return information, as discussed in this IRM, to the extent necessary to gather data relating to their official tax administration duties or to accomplish properly any activity connected with such official duties.
- (4) The Taxpayer First Act, signed into law in July 2019, included several provisions which updated IRC 6103(k).

11.3.21.1.2
(06-02-2022)
Authority

- (1) The following legal authorities pertain to disclosures of returns and return information for tax administration purposes pursuant to IRC 6103(k):
 - IRC 6103(k)
 - 26 CFR 301.6103(k)(6)
 - 26 CFR 301.6103(k)(9)-1
 - Taxpayer First Act, Public Law 116-25
 - The Privacy Act 5 USC 552a

11.3.21.1.3
(06-02-2022)
Roles and Responsibilities

- (1) This IRM section is applicable to all IRS and TIGTA employees and all contractors who are authorized by IRC 6103(k) to disclose return information to the extent necessary to gather data relating to their official tax administration duties or to accomplish properly any activity connected with such official duties.

11.3.21.1.4
(07-28-2023)
Program Controls

(1) Business Units are responsible for establishing and documenting the program controls developed to oversee their program as well as ensuring employee compliance with all applicable elements of this IRM.

11.3.21.1.5
(08-16-2024)
Acronyms

(1) The following is a list of the acronyms that are used in this IRM section:

| Acronyms | |
|----------|---|
| Acronym | Definition |
| BFS | Bureau of Fiscal Service |
| CFR | Code of Federal Regulation |
| CI | Criminal Investigation, IRS |
| FAST Act | Fixing America’s Surface Transportation Act |
| FBP | Federal Bureau of Prisons |
| FPLP | Federal Payment Levy Program |
| FOIA | Freedom of Information Act |
| FTI | Federal Tax Information |
| GLDS | Governmental Liaison, Disclosure and Safeguards |
| IRC | Internal Revenue Code |
| IRM | Internal Revenue Manual |
| ISAC | Information Sharing Analysis Center |
| LPTS | Linguistic Policy, Tools and Services |
| OI | Office of Investigations, TIGTA |
| RRA ‘98 | IRS Restructuring and Reform Act of 1998 |
| TBOR | Taxpayer Bill of Rights |
| TFA | Taxpayer First Act |
| TIGTA | Treasury Inspector General for Tax Administration |
| TIN | Taxpayer Identification Number |
| TS | Taxpayer Services |
| USC | United States Code |

11.3.21.1.6
(06-02-2022)
Related Resources

(1) The following is a list of other sources of guidance related to disclosures of returns and return information for tax administration purposes under IRC 6103(k):

- *Investigative Disclosures* articles found on the Disclosure Knowledge Management Portal.
- Revenue Ruling 2004-53: https://www.irs.gov/irb/2004-23_IRB#RR-2004-53

11.3.21.2
(06-02-2022)
Disclosure of Accepted Offers-in-Compromise - IRC 6103(k)(1)

- (1) IRC 6103(k)(1) provides for the public inspection of accepted Offers-in-Compromise. Procedural regulation 26 CFR 601.702(d)(8) requires that Form 7249, Offer Acceptance Report, for each accepted offer in compromise with respect to any liability for tax imposed by IRC 26 will be available for inspection and copying. Any applicable Form 7249 will be available for one year from the date of execution. The inspection file will be maintained so that it is readily available for examination by the public. Information inspected or provided is subject to removal of identifying information. See IRM 11.3.11.8, Public Inspection of Accepted Offer-in-Compromise, and IRM 5.8.8.9, Public Inspection File.
- (2) Treasury Regulation 26 CFR 301.7122-1 and 601.702(d)(8) also provide guidance for inspection for offers in compromise matters.
- (3) This program is administered by SB/SE, who should be contacted for questions. See Delegation Order 11-2 found in IRM 1.2.2.12.2 for information on the IRS employees authorized to release information under IRC 6103(k)(1).
- (4) IRC 6103(k)(1) disclosures do not require IRC 6103(p)(3)(A) accounting and are not subject to IRC 6103(p)(4) safeguard requirements.

11.3.21.3
(06-02-2022)
Disclosure of Amount of Outstanding Lien - IRC 6103(k)(2)

- (1) IRC 6103(k)(2) allows the disclosure of the amount of an outstanding lien if a notice of lien has been filed pursuant to Section 6323(f). The disclosure may be made to any person who furnishes satisfactory written evidence that they have a right in the property subject to the lien or intends to obtain a right in the property. See IRM 11.3.11.10, Disclosure of Amount of Outstanding Lien.
- (2) For purposes of IRC 6103(k)(2) the term “right” includes prior recorded judgments, whether or not executed, subsequently recorded judgments, title interest, and possessory interest.
- (3) For purposes of IRC 6103(k)(2) the term “satisfactory written evidence” encompasses any written evidence, including a written declaration by the requester, indicating that person has a right or intends to obtain a right in the property subject to the lien.

Example: A copy of a purchase agreement, judgment lien, mortgage application, or security agreement satisfies the requirement of the statute.

- (4) A situation may occur where the person requesting the outstanding balance does not have nor intend to obtain a right in the property subject to a lien but expresses a desire to make a payment toward the outstanding liability. In such cases, the outstanding balance owed may be disclosed to that individual under IRC 6103(k)(6), if they demonstrate the willingness and the means to pay. If the requester does not intend to fully pay the account, and it is otherwise unnecessary to disclose the actual balance due, then the balance due should not be disclosed. Because IRC 6103(k)(6) is a discretionary provision, IRS functions may set their own specific criteria for making these disclosures or prohibiting them completely, within the context of program administration.

- (5) This program is administered by SB/SE, who should be contacted for questions. See Pub 4235, Collection Advisory Offices Contact Information, to determine which office to contact with questions about Notices of Federal Tax Liens. Delegation Order 11-2 found in IRM 1.2.2.12.2 has information on the IRS employees authorized to release information under IRC 6103(k)(2). Other delegated employees are found in Delegation Order 5-4 found in IRM 1.2.2.6.4.
- (6) IRC 6103(k)(2) disclosures do not require IRC 6103(p)(3)(A) accounting and are not subject to IRC 6103(p)(4) safeguard requirements.

11.3.21.4
(06-02-2022)

**Disclosure of Return
Information to Correct
Misstatements of Fact -
IRC 6103(k)(3)**

- (1) IRC 6103(k)(3) allows the IRS to disclose return information 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 IRS.
- (2) These situations are rare and require disclosure approval by the Joint Committee on Taxation. These disclosures will be approved only if the misstatement will have a significant impact on tax administration. See IRM 11.3.11.3, Disclosure to Correct Misstatement of Fact.
- (3) The IRS should seek authorization to disclose only when a misstatement of fact can potentially instigate taxpayer noncompliance, cause a proliferation of taxpayer noncompliance or questions the integrity of the IRS. Whenever IRS personnel become aware of any situation where a misstatement may warrant correction by the IRS through the disclosure of return information, they should contact their servicing Disclosure Manager for assistance.
- (4) This program is administered by GLDS, who should be contacted for questions. See Delegation Order 11-2 found in IRM 1.2.2.12.2 for information on the IRS employees authorized to release information under IRC 6103(k)(3).
- (5) IRC 6103(k)(3) disclosures require an accounting pursuant to IRC 6103(p)(3)(A) but are not subject to IRC 6103(p)(4) safeguard requirements. See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

11.3.21.5
(06-02-2022)

**Disclosure to Competent
Authority Under Tax
Convention - IRC
6103(k)(4)**

- (1) IRC 6103(k)(4) provides an exception for disclosure of tax information to foreign tax authorities pursuant to a treaty or bilateral agreement. Specifically, IRC 6103(k)(4) states: "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".
- (2) Although IRC 6103(k)(4) generally provides the authority for disclosure of tax information to foreign tax authorities, other provisions of IRC 6103 permit limited disclosures to foreign countries or individuals of foreign countries in certain situations. These disclosures can be made regardless of whether the United States has a tax treaty with the country. However, when a tax treaty is in force, information must be exchanged under the tax treaty to the extent possible.

- (3) Any information received by the IRS under a tax convention is subject to IRC 6105 rules and requirements. See IRM 11.3.25, Disclosure to Foreign Countries Pursuant to Tax Treaties, for additional information on IRC 6103(k)(4) and IRC 6105.
- (4) This program is administered by LB&I, who should be contacted for questions. See Delegation Order 4-12 (Rev.4) found in IRM 1.2.2.5.11 and the related Reference Chart in IRM Exhibit 1.2.2-2 Authority to Act as “Competent Authority” or “Taxation Authority” Under Certain International Agreements, Authorize the Disclosure of Tax Information Under mutual Legal Assistance Treaties, and Disclose Certain Tax Convention Information, for information on the IRS employees authorized to release information under IRC 6103(k)(4). Authority must be exercised in consideration with IRC 6103(i)(3)(C) and (i)(7).
- (5) IRC 6103(k)(4) disclosures require an accounting pursuant to IRC 6103(p)(3)(A) but are not subject to IRC 6103(p)(4) safeguard requirements. See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

11.3.21.6
(06-02-2022)

Disclosure to State Agencies Regulating Tax Return Preparers - IRC 6103(k)(5)

- (1) IRC 6103(k)(5) permits the disclosure, to state or local agencies, bodies or commissions lawfully charged under any state or local law with the licensing, registration or regulation of income tax return preparers, of taxpayer identity information with regard to the preparers and information as to whether or not any penalty has been assessed against such preparers under IRC 6694, IRC 6695, or IRC 7216. In a response to a written request from the head of the agency, body, or commission designating the officers or employees to whom the information is to be disclosed, the information may be furnished and used only for the purpose of licensing, registration, or regulation of the preparers. See IRM 11.3.32.13, Disclosure of Tax Return Preparer Information pursuant to IRC 6103(k)(5).
- (2) Disclosures made to state and local agencies under IRC 6103(k)(5) are restricted to the agency’s need for and use of such information. See Policy Statement P-11-90 (formerly P-1-35) found in IRM 1.2.1.11.5. See also IRM 11.3.32.2, Need and Use.
- (3) This program is administered by GLDS, who should be contacted for questions. See Delegation Order 11-2 found in IRM 1.2.2.12.2 for information on the IRS employees authorized to release information under IRC 6103(k)(5).
- (4) Disclosures pursuant to IRC 6103(k)(5) are subject to the accounting requirements of IRC 6103(p)(3)(A) but are not subject to safeguards under 6103(p)(4). See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

11.3.21.7
(06-02-2022)

Disclosure by Certain Officers and Employees for Investigative Purposes - IRC 6103(k)(6)

- (1) IRC 6103(k)(6) permits an officer or employee of IRS, Chief Counsel or TIGTA, in connection with his/her official duties relating to any audit, collection activity, or civil or criminal tax investigation or any offense under the internal revenue laws, to 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 provision of Title 26 of the IRC. These 6103(k)(6) disclosures are sometimes referred to as an “investigative disclosure”.

- (2) For purposes of IRC 6103(k)(6) the following terms are relevant:

| Term | Definition |
|--|---|
| Disclosure of return information to the extent necessary | A disclosure of return information that an IRS or TIGTA employee, based on the facts and circumstances at the time of the disclosure, reasonably believes is necessary to obtain information to properly perform the official duties described by this IRM, or to properly accomplish the activities associated with those official duties. The term necessary in this context does not mean essential or indispensable, but rather appropriate and helpful in obtaining the information sought. Nor does “necessary” in this context refer to the necessity of conducting an investigation or the appropriateness of the means or methods chosen to conduct the investigation. |
| Disclosure of return information to accomplish properly an activity connected with official duties | A disclosure of return information to carry out a function associated with official duties related to tax administration generally consistent with established practices and procedures. |

| Term | Definition |
|--|--|
| Information not otherwise reasonably available | Information that an IRS or TIGTA employee reasonably believes, under the facts and circumstances at the time of the disclosure, cannot be obtained in a sufficiently accurate or probative form, or in a timely manner, and without impairing the proper performance of the official duties related to tax administration described by this IRM, without making the disclosure. This definition does not require or create the presumption or expectation that an IRS or TIGTA employee must seek information from a taxpayer or authorized representative prior to contacting a third-party witness in an investigation. Moreover, an IRS or TIGTA employee may make a disclosure to a third-party witness to corroborate information provided by a taxpayer. |
| Tax Administration | 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 the development and formulation of Federal tax policy relating to existing or proposed internal revenue law, related statutes, and tax conventions, and includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes or conventions. See IRC 6103 (b)(4). |

- (3) Situations in which IRS employees may make investigative disclosures arise daily. With few exceptions, no special permission or authorization is needed to make investigative disclosures under the circumstances and conditions described in 26 CFR 301.6103(k)(6)-1, so long as the IRS employees are performing official duties relating to:

- a. An administrative appeal
 - b. A ruling or pre-filing activity
 - c. A negotiated agreement
 - d. An examination
 - e. Collection activity
 - f. Civil or criminal investigation
 - g. Enforcement activity or other offense under the internal revenue laws
 - h. Certain personnel or claimant representative matters
 - i. Preparation for or investigation leading to an IRC 6103(h)(2) proceeding
- (4) It is important to note that IRC 6103(k)(6) and 26 CFR 301.6103(k)(6)-1 permit the disclosure of return information in the investigatory process; but they do **not** authorize the disclosure of the taxpayer's tax return, which includes all forms, schedules, statements, and attachments. Also, any taxpayer's information, not just the information of the taxpayer who is the subject of the IRS action, may be disclosed if the conditions of IRC 6103(k)(6) are met.

Example: Fact of filing or the existence of a criminal investigation, are items of return information that could be subject to investigative disclosures.

- (5) When asking for information from a third party during a tax investigation, an IRS employee may not show a taxpayer's tax return to the third party. However, pertinent data (such as the nature and amount of income, deductions and expenses) may be extracted as necessary from the tax return and used in questions to third parties.

Note: There are special rules relating to disclosures of tax returns and return information to preparers in some situations. See IRM 11.3.2, Disclosure to Persons with a Material Interest, for more information.

- (6) Disclosures should not be made to the extent that sufficiently reliable information may be secured promptly **without** disclosing return information and **without** seriously impairing a tax investigation.
- (7) IRC 7602(c) does not alter the rules and requirements under which IRC 6103(k)(6) disclosures can be made. However, IRC 7602(c), Examination of books and witnesses - Notice of contact of third parties, prohibits the IRS from contacting any person other than the taxpayer regarding the determination or collection of the tax liability of the taxpayer without providing advance notice of the intent to contact third-parties. See IRM 25.27.1.3.1 , TPC Notification Procedures. Treas. Reg. 301.7602-2(e)(1) states the taxpayer may request a record of third parties contacted. See IRM 25.27.1.5 , Providing Taxpayers with TPC List. IRC 7602(c)(3) and Treas. Reg. 301.7602-2(f) provide seven exceptions to the notice and recording requirements. See IRM 25.27.1.3.2, Exceptions to IRC 7602(c) Notification Requirements.

Note: A taxpayer making such a request need not do so under the Freedom of Information Act (FOIA). See IRM 11.3.13, Freedom of Information Act (FOIA), for FOIA procedures for processing requests for this information.

- (8) Certain violations of Title 18 and Title 31 of the United States Code can be statutes related to tax administration as defined in IRC 6103(b)(4) in some situations, thus allowing access to tax information. See IRM 11.3.22, Disclosure to

Federal Officers and Employees for Tax Administration Purposes under IRC 6103(h). IRC 6103(k)(6) disclosures may be made in connection with these investigations as well.

- (9) See 26 CFR 301.6103(k)(6)-1 for examples of when investigative disclosures may be made.
- (10) IRS and TIGTA employees may identify themselves, their organizational affiliation with the IRS (e.g., Criminal Investigation (CI)) or TIGTA (e.g., Office of Investigations (OI)), and the nature of their investigation, when making an oral, written, or electronic contact with a third-party witness. This identification may include the use and presentation of any identification media (including, but not limited to, an IRS or TIGTA badge, credential, or business card) or the use of an information document request, summons, or correspondence on IRS or TIGTA letterhead or which bears a return address or signature block that reveals affiliation with the IRS or TIGTA.
- (11) Disclosures under IRC 6103(k)(6) do not require accounting and are not subject to IRC 6103(p)(4) safeguard requirements.
- (12) As discussed in *Revenue Ruling 2004-53*, federal, state and local government employees who receive return information under IRC 6103(k)(6) are not subject to the disclosure restrictions of IRC 6103(a) regarding such information.

Caution: Because there are no restrictions on the re-disclosure of Federal Tax Information (FTI) provided under IRC 6103(k)(6), IRS employees are reminded to exercise caution by limiting the amount of information disclosed to only that which is absolutely necessary in the performance of their official duties

11.3.21.8
(06-02-2022)
**Requirements for
Investigative
Disclosures**

- (1) The provisions of Treasury Regulation 26 CFR 301.6103(k)(6)-1 may be summarized as follows:

IRS employees, in connection with their official tax administration duties, may disclose return information to the extent necessary in order to obtain information which is not otherwise reasonably available in an accurate and sufficiently probative form or in a timely manner, or to accomplish properly any activity connected with such official duties.
- (2) Return information may be disclosed to someone other than the taxpayer or the taxpayer's representative in order to obtain facts needed during an investigation. However, such disclosures of information will be limited only to the extent required to obtain the information. See 26 CFR 301.6103(k)(6)-1 for examples of when investigative disclosures may be made. The examples in the regulations are not all inclusive, employees should refer to their functional IRMs for additional guidance.
- (3) An investigative disclosure must be made solely to obtain information for the benefit of the IRS. Return information may not be divulged for the benefit of the recipient or negotiated in some form of quid pro quo arrangement where the intent is that both parties benefit from the information exchanged.

- (4) Disclosures of return information in investigative situations may be made only if the information cannot otherwise be reasonably obtained in accurate and sufficiently probative form, or in a timely manner, without impairing the proper performance of official duties. As a general rule, when the taxpayer is aware of the investigation, is cooperating, and is believed to have the needed information, IRS employees should obtain such information directly from the taxpayer or the taxpayer's representative unless doing so would impair the investigation.
- (5) Situations in which information generally will not be available from the taxpayer or will not be in a usable form include:
 - a. When corroboration of a taxpayer's statement or records is necessary.
 - b. When the taxpayer's records are in the possession of a third party and the taxpayer is unwilling or unable to obtain the records.
 - c. When it is necessary to disclose return information to persons possessing special expertise in areas such as handwriting analysis, photographic development, sound recording enhancement, and voice identification, and use of an IRC 6103(n) contract is not feasible.
- (6) If the accuracy of the information provided by the taxpayer or the taxpayer's representative needs to be verified, investigative disclosures may be made to third parties to obtain missing or corroborating information.
- (7) When determining whether an investigative disclosure under IRC 6103(k)(6) is appropriate, be certain that the disclosure is consistent with the requirements of IRC 6103(k)(6) and the related regulation.

Caution: Depending upon a variety of factors, even information that may already be "public" may still be protected by IRC 6103. Thus, any disclosures of information for investigative purposes should meet the requirements of IRC 6103(k)(6).

- (8) Questions concerning investigative disclosures should be brought to the attention of one's manager or by contacting the Disclosure Help Desk.
- (9) The IRS Restructuring and Reform Act of 1998 (RRA '98), Section 3705(a), provides identification requirements for all IRS employees working tax related matters. In June of 2014 the IRS adopted the Taxpayer Bill of Rights (TBOR) which lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>.

11.3.21.9
(06-02-2022)
**Contractual Disclosures
for Investigative
Purposes**

- (1) Situations arise when it becomes necessary to secure the services of qualified experts to assist the IRS during an investigation, examination, or other enforcement activity. Often, such experts will be called as witnesses to testify in tax cases. On occasion, we seek the assistance of:
 - a. Outside fee appraisers
 - b. Non-IRS court reporters and stenographers
 - c. Engineers
 - d. Actuaries, or
 - e. Other persons possessing special expertise

- (2) Authority to disclose return information to obtain such services is contained in Treasury Regulations 301.6103(n)-1 and 301.6103(k)(6)-1(a)(1)(v). The Privacy Act also protects the returns and return information of individuals. Disclosures made pursuant to the Privacy Act must be permissible under the controlling System of Records routine use (pursuant to 5 USC 552a(b)(3)) authorizing the disclosure under IRC 6103.
- (3) Whenever possible, the services of experts for investigative purposes should be engaged under IRC 6103(n) and its implementing regulation, rather than IRC 6103(k)(6) and its implementing regulation. This is because the safeguard provisions of IRC 6103(p) apply to the former whereas the statutory confidentiality protection provisions of the IRC do not apply to the latter. The confidentiality provisions under the Privacy Act may be included in the IRC 6103(n) contract. See *Revenue Ruling 2004-53* for additional information.
- (4) See IRM 11.3.24, Disclosures to Contractors, for information regarding disclosures of return information to contractors under IRC 6103(n), when providing services related to tax administration.
- (5) Contracts for expert services under IRC 6103(k)(6) do not have the safeguard requirements of IRC 6103(p) that are applicable to contracts under IRC 6103(n), nor are they subject to the Privacy Act provisions of 5 USC 552a(e)(10) regarding government contractors under 5 USC 552a(m)(1).

11.3.21.10
(06-02-2022)
Information Gathering

- (1) It is not necessary to obtain investigatory information directly from a taxpayer or the taxpayer's representative if doing so would impair an IRS investigation.
- (2) The third-party notification requirements of IRC 7602(c) do not apply when the IRS is seeking information about groups of taxpayers (e.g., a specialized industry or trade). Accordingly, taxpayers who are included in an approved information gathering activity or project need not be notified of this fact. Information concerning these taxpayers may be obtained by IRS employees from third parties without soliciting such information directly from the taxpayer or the taxpayer's representative. However, if the focus of the investigation shifts to determining or collecting a specific taxpayer's tax liability, then all requirements of IRC 7602(c) must be met.

11.3.21.11
(04-27-2016)
**Use of Return
Information on Mailings**

- (1) The use of a taxpayer's name and address to send a document or package (including courier services) is an inherent part of the mailing process. Displaying other information (e.g., Taxpayer Identification Number (TIN) or revealing the fact that the contents relate to an installment agreement) on the cover of the mailing would not ordinarily meet the standards of IRC 6103(k)(6) and its regulation. Since the mail is simply a means to effect delivery, revealing information beyond name and address would ordinarily not be necessary.

Note: The IRS is required to simply use prudent and reasonable care in its mailings. For example, use of a window envelope to mail a document would be consistent with policy, as long as no confidential information could be easily viewed by normal manipulation of the "window." It is not necessary to worry about what might be disclosed through handling or turning enclosed correspondence within the envelope.

- (2) IRC 6103(k)(6) and its regulation permit disclosures of return information when it is determined that the disclosure is necessary for the IRS's tax administration function. Every effort should be made to ensure that all activities (e.g., modernization efforts, tax forms redesign) implement the practice of removing/concealing TINs or other confidential information from IRS mailings.
- (3) Determinations involving uses of any information other than name and address will be made on a case-by-case basis in order to prevent any unauthorized disclosures of confidential data. Alternatives to disclosure should be considered whenever feasible.

11.3.21.12
(06-02-2022)
Internet Research

- (1) Internet research is a powerful technique available to investigators in today's electronic environment. Research of the internet for compliance purposes can involve disclosures of tax information. It is important to ensure that such investigative disclosures comply with the requirements of IRC 6103(k)(6) and 26 CFR 301.6103(k)(6)-1. Additional information is found in IRM 4.2.5.2, Investigative Disclosures.
- (2) Following are guidelines for the application of IRC 6103(k)(6) and 26 CFR 301.6103(k)(6)-1 to internet research:
 - a. A taxpayer's name and address are "return information" (IRC 6103(b)) protected from disclosure (IRC 6103(a))
 - b. Entering on the internet a taxpayer's name and/or address obtained from IRS files constitutes a disclosure of return information
 - c. A "disclosure of return information to the extent necessary" may be made in order to obtain "information not otherwise reasonably available"
 - 1. Disclosure of return information to the extent necessary (26 CFR 301.6103(k)(6)-1(c)(1)) means a disclosure of return information which an employee, based on the facts and circumstances at the time of the disclosure, reasonably believes is necessary to obtain information to perform properly the official duties described by this section, or to accomplish properly the activities connected with carrying out those official duties. The term necessary in this context does not mean essential or indispensable, but rather appropriate and helpful in obtaining the information sought.
 - 2. Information not otherwise reasonably available (26 CFR 301.6103(k)(6)-1(c)(3)) means information that an employee reasonably believes, under the facts and circumstances at the time of a disclosure, cannot be obtained in a sufficiently accurate or probative form, or in a timely manner, and without impairing the proper performance of the official duties described by this section, without making the disclosure. This definition does not require or create the presumption or expectation that an employee must seek information from a taxpayer or authorized representative prior to contacting a third-party witness in an investigation.
 - d. Disclosure of a TIN, which is return information (IRC 6103(b)), is sensitive as well and should be carefully considered.
 - e. The decision to disclose return information while conducting internet research for an official purpose should be made on a case-by-case basis.
- (3) **Translation Services.** During the course of a tax investigation or in situations involving personnel matters, the translation of non-English language documents may be required.

- a. Employees **should not** utilize any of the many internet provider translation services available (i.e., Google Translator, Windows 7, etc.)
- b. Placing sensitive information on the internet for this purpose creates risks and vulnerabilities for the Service. The information is not subject to data protections or restrictions from re-disclosure by the end recipient and may not always meet the investigative disclosure requirements.
- c. Instead, employees should contact Linguistic Policy, Tools and Services (LPTS) for assistance. This branch supports the translation needs of employees in the course of performing their official duties under Title 26 USC 6103, the Privacy Act of 1974, and the Bank Secrecy Act.

Note: For additional information on translation services see IRM 22.31.1, IRS Language Services, Form 14078, Request for Translation and/or Quality Review Services, or contact *Linguistic Services.

11.3.21.12.1
(06-02-2022)
**IRC 6103(k)(6)
Disclosures by IRS
Employees Using Social
Networking and Other
Internet Sites**

- (1) IRS employees are allowed to search for publicly available information on the internet, which may include publicly available social media information, to perform compliance-related work. Compliance-related research may include locating taxpayers, identifying assets subject to seizure or levy actions, and identifying other possible unreported sources of income. When performing any type of internet research, you must comply with the disclosure rules in IRM 11.3.21.8, Requirements for Investigative Disclosures.
- (2) The discussion of restrictions in this section is not intended to be all inclusive. IRS employees should use prudent judgment, must comply with all other guidance that may be applicable in this area and refer to their functional IRMs for additional information. Employees should proceed cautiously in this rapidly evolving area. If an issue is not clearly addressed in the IRM, they should raise any ambiguities or questions of appropriate use to their managers.
- (3) IRM 5.1.18.2, Locator Services Program, and IRM 5.1.18.3, Performing Research on the Internet/Intranet, contain information about the use of locator services, including internet research, and disclosure and privacy considerations when conducting internet research.

11.3.21.13
(06-02-2022)
**Disclosure of Excise Tax
Registration Information
- IRC 6103(k)(7)**

- (1) IRC 6103(k)(7) permits disclosure of excise tax registration information to permit the effective administration of subtitle D of the IRC. The information that may be disclosed is:
 - 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
 - the registration status of any person
- (2) This program is administered by SB/SE, who should be contacted for questions. See Delegation Order 11-2 found in IRM 1.2.2.12.2 and the related Reference Chart in IRM Exhibit 1.2.2-2 for information on the IRS employees authorized to release information under IRC 6103(k)(7).
- (3) IRC 6103(k)(7) disclosures require an accounting pursuant to IRC 6103(p)(3)(A) but are not subject to IRC 6103(p)(4) safeguard requirements.

See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

11.3.21.14
(06-02-2022)
**Disclosure of Levies on
Certain Government
Payments - IRC
6103(k)(8)**

- (1) IRC 6103(k)(8) permits disclosure of return information of levies on certain government payments. In serving a notice of levy, or release of such levy, IRC 6103(k)(8)(A) allows disclosure of return information to the officers and employees of the Bureau of Fiscal Service (BFS). These disclosers are authorized in connection with the Federal Payment Levy Program (FPLP). The information that may be disclosed is:
 - return information, including taxpayer identity information
 - the amount of any unpaid liability under Title 26 (including penalties and interest), and
 - the type of tax and tax period to which such unpaid liability relates
- (2) Return information disclosed under IRC 6103(k)(8)(A) may be used by officers and employees of BFS based on the restricted uses listed in IRC 6103(k)(8)(B). The information may only be used for the purpose of:
 - transferring levied funds to satisfy 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
- (3) For purposes of IRC 6103(k)(8) the term “applicable government payment” means any federal payment certified to the BFS for disbursement, and any other payment which is certified to the BFS for disbursement and which the IRS designates by published notice.
- (4) This program is administered by SB/SE, who should be contacted for questions. See Delegation Order 11-2 found in IRM 1.2.2.12.2 and the related Reference Chart in IRM Exhibit 1.2.2-2 for information on the IRS employees authorized to release information under IRC 6103(k)(8).
- (5) IRC 6103(k)(8) disclosures do not require IRC 6103(p)(3)(A) accounting but are subject to IRC 6103(p)(4) safeguard requirements.

11.3.21.15
(06-02-2022)
**Disclosure of
Information to
Administer Section 6311
- IRC 6103(k)(9)**

- (1) IRC 6103(k)(9) and 26 CFR 301.6103(k)(9)-1 permit disclosure of returns or return information to financial institutions and others to the extent it is necessary for the administration of Section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall only be made to the extent authorized by written procedures promulgated by the Secretary.
- (2) IRS employees may disclose return information in connection with billing or collection of the amounts charged or debited, including resolution of errors relating to the credit card or debit card account.
- (3) This program is administered under the direction of Division Commissioners and are made pursuant to executed agreements. See Delegation Order 11-2 found in IRM 1.2.2.12.2 and the related Reference Chart in IRM Exhibit 1.2.2-2 for information on the IRS employees authorized to release information under IRC 6103(k)(9).

Disclosure of Returns and Return Information for Tax Administrative Purposes under IRC 6103(k) 11.3.21

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11.3.21.16 (06-02-2022) **Disclosure of Certain Returns and Return Information to Certain Prison Officials - IRC 6103(k)(10)**

- (4) IRC 6103(k)(9) disclosures do not require IRC 6103(p)(3)(A) accounting and are not subject to IRC 6103(p)(4) safeguard requirements.
- (1) IRC 6103(k)(10) allows disclosure of certain returns and return information to officers and employees of the Federal Bureau of Prisons (FBP) and of any state agency charged with the responsibility for administration of prisons with respect to individuals incarcerated in federal or state prison systems. Disclosures are made if the Secretary has determined the tax information may have been filed or facilitated the filing of a false or fraudulent return and to the extent that the disclosure is necessary to permit effective federal tax administration.
- (2) IRC 6103(k)(10)(B) allows disclosures under this provision to contractors responsible for the operation of a federal or state prison on behalf of the FBP or state agency.
- (3) Use of the tax information is restricted under IRC 6103(k)(10)(C). Any tax information received by the specified prison officials or contractors shall be used only for the purposes of and to the extent necessary in taking administrative action to prevent the filing of false and fraudulent returns, including administrative actions to address possible violations of administrative rules and regulations of the prison facility and in administrative and judicial proceedings arising from such administrative actions.
- (4) IRC 6103(k)(10)(D)(i) defines restrictions on redisclosure and IRC 6103(k)(10)(D)(ii) defines restrictions on disclosure of the information to legal representatives.
- IRC 6103(k)(10)(D)(i) - Any officer or employee or contractor of the FBP or of any state agency charged with the responsibility for administration of prisons shall not disclose any information to any person other than an officer or employee or contractor of such bureau or agency personally and directly engaged in the administration of prison facilities on behalf of such bureau or agency.
 - IRC 6103(k)(10)(D)(ii) - The returns and return information may be disclosed to the duly authorized legal representative of the FBP, state agency, or contractor charged with the responsibility for administration of prisons, or of the incarcerated individual accused of filing the false or fraudulent return who is a party to an action or proceeding, solely in preparation for, or for use in, such action or proceeding.
- (5) This program is administered under the direction of Division Commissioners and is made pursuant to executed agreements, however, at the time of publication of this IRM there were no active agreements. Since the IRS stopped 99.9 percent of prisoner fraud using other methods, and state Departments of Correction have reported no benefits from executing a Memorandum of Understanding for disclosures under IRC 6103(k)(10), the IRS has suspended disclosures under this program. Ad hoc requests will not be honored. TIGTA concurred with this decision since there is no benefit to the government. If an executed agreement is needed in the future, refer to Delegation Order 11-2 found in IRM 1.2.2.12.2 and the related Reference Chart in IRM Exhibit 1.2.2-2 for information on the IRS employees authorized to release information under IRC 6103(k)(10).

11.3.21.17
(06-02-2022)
**Disclosure of Return
Information to
Department of State for
Purposes of Passport
Revocation - IRC
6103(k)(11)**

- (6) IRC 6103(k)(10) disclosures require an accounting pursuant to IRC 6103(p)(3)(A) and are subject to IRC 6103(p)(4) safeguard requirements. See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

- (1) IRC 6103(k)(11) permits disclosure of return information to the Department of State for purposes of passport revocation under Section 7345. The IRS, upon receiving a certification described in Section 7345, shall disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt. Disclosure of return information is limited to:
- the taxpayer identity information with respect to such taxpayer, and
 - the amount of such seriously delinquent tax debt
- (2) The officers and employees of the Department of State may only use the return information for purposes of and to the extent necessary in carrying out the requirements of section 32101 of the Fixing America's Surface Transportation (FAST) Act.
- (3) This program is administered by SB/SE, who should be contacted for questions. See Delegation Order 11-2 found in IRM 1.2.2.12.2 and the related Reference Chart in IRM Exhibit 1.2.2-2 for information on the IRS employees authorized to release information under IRC 6103(k)(11).
- (4) IRC 6103(k)(11) disclosures require an accounting pursuant to IRC 6103(p)(3)(A) and are subject to IRC 6103(p)(4) safeguard requirements. See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

11.3.21.18
(06-02-2022)
**Disclosure to Qualified
Tax Collection
Contractors - IRC
6103(k)(12)**

- (1) Persons providing services to the IRS pursuant to a qualified tax collection contract under Section 6306, may identify themselves as contractors of the IRS and disclose the business name of the contractor, and the nature, subject, and reason for the contact. These disclosures can be made if the contractor is speaking to a person who has identified him/herself as having the name of the taxpayer to which a tax receivable relates, and after appropriate authentication has been met. Further, these disclosures shall be made only in situations and under conditions approved by the Secretary.
- (2) The contractor program for qualified tax collection is administered by SB/SE, who should be contacted for questions. See Delegation Order 11-2 found in IRM 1.2.2.12.2 and the related Reference Chart in IRM Exhibit 1.2.2-2 for information on the IRS employees authorized to release information under IRC 6103(k)(12).

Note: The Qualified Collection Contractors were awarded competitive contracts to assist IRS in tax collection and also receive return information under the authority of IRC 6103(n).

- (3) IRC 6103(k)(12) disclosures require an accounting pursuant to IRC 6103(p)(3)(A) but are not subject to IRC 6103(p)(4) safeguard requirements. See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

11.3.21.19
(06-02-2022)
Disclosure to Whistleblowers - IRC 6103(k)(13)

- (1) IRC 6103(k)(13) permits the IRS to disclose, to any individual providing information to the IRS under paragraph (1) or (2) of Section 7623(a) (i.e., whistleblower), return information related to the investigation of any taxpayer with respect to whom the individual has provided information, but only 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 with respect to enforcement.
- (2) The following information shall be disclosed under IRC 6103(k)(13) to the whistleblower:
 - a. Not later than 60 days after a case for which the individual has provided information has been referred for an audit or examination, a notice with respect to such referral
 - b. Not later than 60 days after a taxpayer with respect to whom the individual has provided information has made a payment of tax with respect to tax liability to which such information relates, a notice with respect to such payment.
 - c. Upon written request by the individual - information on the status and stage of any investigation or action related to the information the individual provided, and in the case of a determination of the amount of any award under Section 7623(b), the reasons for such determination.

Note: This information will not be disclosed if the Secretary determines that the disclosure of such information would seriously impair federal tax administration.
- (3) The permissible information to be disclosed in (2) above may be disclosed to a designee of the individual providing such information (i.e. the whistleblower).
- (4) This program is administered by the Whistleblowers Office, who should be contacted for questions. See Delegation Order 25-7 found in IRM 1.2.2.15.7 for information on the IRS employees authorized to make determinations under Section 7623 and to disclose information under IRC 6103(k)(13). See also, Pub 5251, The Whistleblower Claim Process.
- (5) IRC 6103(k)(13) disclosures require an accounting pursuant to IRC 6103(p)(3)(A) but are not subject to IRC 6103(p)(4) safeguard requirements. See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

11.3.21.20
(08-16-2024)
Disclosure of Return Information for Purposes of Cybersecurity and the Prevention of Identity Theft Tax Refund Fraud - IRC 6103(k)(14)

- (1) IRC 6103(k)(14) allows disclosure of specified return information to specified Information Sharing and Analysis Center (ISAC) participants for purposes of cybersecurity and the prevention of identity theft tax refund fraud. This disclosure is made to the extent that it is determined the disclosure is in furtherance of effective federal tax administration relating to the detection or prevention of identity theft tax refund fraud, validation of taxpayer identity, authentication of taxpayer returns, or detection or prevention of cybersecurity threats.
- (2) For purposes of IRC 6103(k)(14) the term "specified ISAC participant" means:

- Any person designated by the Secretary as having primary responsibility for a function performed with respect to the information sharing and analysis center described in section 2003(a) of the Taxpayer First Act (TFA) (P.L. 116-25) and
- Any person subject to the requirements of IRC 7216 and which is a participant in such information sharing and analysis center.

This term does not include any person unless such person has entered into a written agreement with the Secretary setting forth the terms and conditions for the disclosure of information, including requirements regarding the protection and safeguarding of such information.

- (3) For purposes of IRC 6103(k)(14) the term “specified return information” means:
- a. In the case of a return connected with potential identity theft refund fraud:
 1. For any return filed electronically, the internet protocol address, device identification, email domain name, speed of completion, method of authentication, refund method, and such other return information related to the electronic filing characteristics of the return.
 2. For any return prepared by a tax return preparer, identifying information with respect to such tax return preparer, including the preparer taxpayer identification number and electronic filer identification number.
 - b. In the case of a return connected with a case of identity theft refund fraud which has been confirmed by the IRS:
 1. All of the information referenced in (3) a) above.
 2. The name and taxpayer identification number of the taxpayer as it appears on the return
 3. Any bank account and routing information provided for making a refund in connection with the filed return.
 - c. In the case of any cybersecurity threat to the IRS, information similar to (3) a) above as it pertains to such threat.
- (4) Any specified return information received by the specified ISAC participant is restricted and shall be used only for the purposes of and the extent necessary in:
1. Performing the function, they are designated to perform with respect to the ISAC described in section 2003(a) of the TFA.
 2. Facilitating disclosures authorized under IRC 6103(k)(14) to ISAC participants.
 3. Facilitating disclosures authorized under IRC 6103(d) to ISAC participants.
 4. In the case of a return preparer, any information received shall be treated for purposes of Section 7216 as information furnished in connection with the preparation of a return of the tax imposed under Chapter 1.
- (5) Return information disclosed shall be subject to protections and safeguards required by the Secretary, as found in regulations or in written agreements. Such written agreements shall include a requirement that any unauthorized access to information, and any breach of any system in which information is held, must be reported to TIGTA.
- (6) This program is administered by Taxpayer Services (TS), who should be contacted for questions. See Delegation Order 11-2 found in IRM 1.2.2.12.2 and the related Reference Chart in IRM Exhibit 1.2.2-2 for information on the IRS employees authorized to release information under IRC 6103(k)(14).

- (7) IRC 6103(k)(14) disclosures require an accounting pursuant to IRC 6103(p)(3)(A) but are not subject to IRC 6103(p)(4) safeguard requirements. However, as mentioned above protections and safeguards are included in written agreements with the specified ISAC participant. See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

11.3.21.21
(06-02-2022)

Disclosures to Social Security Administration (SSA) to Identify Tax Receivables Not Eligible for Collection Pursuant to Qualified Tax Collection Contracts – IRC 6103(k)(15)

- (1) IRC 6103(k)(15) allows the IRS to disclose the taxpayer identity and date of birth of an individual involved in a tax receivable and who has been identified for possible collection pursuant to a qualified tax collection contract (as defined in section 6306(b)), to officers, employees, and contractors of the SSA to determine if such tax receivable is NOT eligible for collection pursuant to a qualified tax collection contract by reason of Section 6306(d)(3)(E).

Note: The term “taxpayer identity” means the name of a person with respect to whom a return is filed, his/her mailing address, his/her taxpayer identifying number, or a combination thereof, as defined by IRC 6103(b)(6).

- (2) The contractor program for qualified tax collection is administered by the SB/SE Collection Operations, Private Debt Collection group, who should be contacted for questions. See IRM 5.19.1, Liability Collection, Balance Due, for additional information.
- (3) IRC 6103(k)(15) disclosures are carried out as defined by a Memorandum of Understanding between IRS SB/SE and SSA.
- (4) IRC 6103(k)(15) disclosures require an accounting pursuant to IRC 6103(p)(3)(A) and are subject to IRC 6103(p)(4) safeguard requirements. See IRM 11.3.37, Recordkeeping and Accounting for Disclosures, for additional information on accounting requirements.

