



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

11.3.28

APRIL 17, 2025

EFFECTIVE DATE

(04-17-2025)

PURPOSE

- (1) This transmits revised IRM 11.3.28, Disclosure of Official Information, Disclosure to Federal Agencies for Administration of Non-Tax Criminal Laws.

MATERIAL CHANGES

- (1) Related Resources - Updated link to Disclosure Knowledge Library
- (2) IRM 11.3.28.1, Program Scope and Objectives -
 - Revised (3) to clarify the correct owner of Disclosure policy.
 - Revised (4) to clarify the correct program owner and added new sentence reminding IRS organizations of individual responsibility.
 - Revised (5) to add Disclosure to list of Primary Stakeholders.
- (3) IRM 11.3.28.1.5, Terms and Definitions - Reformatted definitions from (1-10) into a table under (1) for conformity with similar IRMs, then removed (2-10).
- (4) IRM 11.3.28.1.6, Acronyms - Added and removed acronyms applicable to this IRM, to match changes in content.
- (5) IRM 11.3.28.2, Disclosure of Returns and Return Information Pursuant to IRC 6103(i)(1), IRC 6103(i)(2) and IRC 6103(i)(5) -
 - Renamed this subsection to Disclosure of Returns and Return Information Pursuant to IRC 6103(i)(1), IRC 6103(i)(5) and IRC 6103(i)(7)(C) to correspond to changes in content.
 - Added new (1-4) to move information from former IRM 11.3.28.3.2(1-3), Information Required in an Application for an Ex Parte Court Order. Information moved to streamline guidance throughout the IRM.
 - Removed former (1). Information now contained in IRM 11.3.41.8.1(18) and (19), Disclosure Case Processing and Inventory Management, General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1).
 - Removed former (2-3). Information now contained in IRM 11.3.41.8.2(2) and (4), Disclosure Case Processing and Inventory Management, Case Timeliness Expectations IRC 6103(i)(1).
 - Removed portion of former (4) speaking to Ex Parte application approvals. Information now contained in Exhibit 11.3.41-5, Disclosure Case Processing and Inventory Management, IRC 6103(i)(1) Case Processing Checklist.
 - Removed former (5). Information now generalized and contained in IRM 11.3.41.8.2(2) and (3), Disclosure Case Processing and Inventory Management, Case Timeliness Expectations IRC 6103(i)(1). Removed former (5) Note as the guidance is obsolete due to ongoing changes in form submission procedures and required form elements. Disclosure caseworkers will find current guidance on the Disclosure SharePoint site.
 - Added new Note to (5) to move information from former IRM 11.3.28.3.1(a) Note, Procedures for Access to Returns and Return Information. Information moved to streamline guidance throughout the IRM.
 - Added new (6-8) to move information from former IRM 11.3.28.3.2(4-6), Information Required in an Application for an Ex Parte Court Order. Information moved to streamline guidance throughout the IRM.

- Removed former (6). Information now contained in IRM 11.3.41.8.4(1), Disclosure Case Processing and Inventory Management, Certification. Removed former (6) Note as Disclosure caseworkers have separate guidance in Exhibit 11.3.41-5, Disclosure Case Processing and Inventory Management, IRC 6103(i)(1) Case Processing Checklist to discuss needed documents with the requester.
 - Removed former (7-8). Information now contained in IRM 11.3.41.8.2(3) and (4), Disclosure Case Processing and Inventory Management, Case Timeliness Expectations IRC 6103(i)(1).
 - Removed former (9). Information now contained in IRM 11.3.41.3.4, Review and Edit.
 - Added new (9) to move information from former IRM 11.3.28.4(17-18), Disclosures in Conformity with an Ex Parte Court Order. Information moved to streamline guidance throughout the IRM.
 - Added new (10) to move portions of information from former IRM 11.3.28.3.1(1), Notifying the IRS of Intent to Apply for an Ex Parte Court Order. Information moved to streamline guidance throughout the IRM.
 - Added new (11) to move portions of information from former IRM 11.3.28.3.3(1) Note, Information Required in an Ex Parte Court Order. Information moved to streamline guidance throughout the IRM.
 - Moved information from former (9) Note to new (12) to streamline guidance throughout the IRM.
 - Added new (13) to move information from former IRM 11.3.28.3.2(7), Information Required in an Application for an Ex Parte Court Order. Information moved to streamline guidance throughout the IRM.
 - Removed former (10). Information now contained in IRM 11.3.41.8.1(5), Disclosure Case Processing and Inventory Management, General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1).
 - Removed former (10) Note. Information now contained in Exhibit 11.3.41-5, Disclosure Case Processing and Inventory Management, IRC 6103(i)(1) Case Processing Checklist.
 - Removed former (11). Information now contained in IRM 11.3.41.8.1(6), Disclosure Case Processing and Inventory Management, General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1).
 - Removed former (12) as exhibits are no longer present in this IRM. Disclosure caseworkers will find guidance throughout IRM 11.3.41, Disclosure Case Processing and Inventory Management.
 - Removed former (13-17). Information now contained in IRM 11.3.41.8.1(7) thru (12), Disclosure Case Processing and Inventory Management, General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1).
 - Removed former (18). Information now contained in IRM 11.3.41.8.1(16), Disclosure Case Processing and Inventory Management, General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1).
 - Removed former (19) and first Note. Information now contained in IRM 11.3.41.8.1(22), Disclosure Case Processing and Inventory Management, General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1).
 - Removed former (19) second Note. Information now contained in IRM 11.3.41.8.4(2), Disclosure Case Processing and Inventory Management, Certification.
- (6) Former IRM 11.3.28.2.1, Disclosures Based on a Mutual Legal Assistance Treaty (MLAT) Request in Criminal Matters - removed this subsection. Information now found in IRM 11.3.41.8.7, Mutual Legal Assistance Treaties Ex Parte Court Order Procedures.
- (7) Former IRM 11.3.28.2.2, Disclosures to Main Department of Justice (DOJ) - removed this subsection as guidance is outdated. "Main DOJ" is not a specific division of the Department of Justice, and all divisional requests receive similar treatment, regardless of origin so specific guidance for this division is unnecessary.
- (8) Former IRM 11.3.28.2.2.1, Military Judge Requests and Ex Parte Court Orders - moved this subsection to IRM 11.3.28.2.1, Military Judge Requests and Ex Parte Court Orders to align this material with similar IRM topics.

- (9) Former IRM 11.3.28.2.2.2, FISA Courts and Ex Parte Court Orders - moved this subsection to IRM 11.3.28.2.2, FISA Courts and Ex Parte Court Orders to align this material with similar IRM topics.
- (10) Former IRM 11.3.28.2.3, Special Requests for Returns, Taxpayer Return Information, and Return Information(Other than Taxpayer Return Information) -
- Deleted this subsection due to removal of all underlying paragraphs for reasons as identified.
 - Removed (1) and (3) as Disclosure should not attempt to dictate actions to be taken by other IRS functions when those functions are conducting normal operations.
 - Removed (2) as electronic transmission of records has obsoleted the need for special trips to retrieve paper copies of files.
 - Removed (3) Note as the guidance on Form 2275-A is obsolete due to ongoing changes in form submission procedures and required form elements. Disclosure caseworkers will find current guidance on the Disclosure SharePoint site.
- (11) Former IRM 11.3.28.3, Procedures for Access to Returns and Return Information -
- Deleted this subsection due to removal of all underlying paragraphs for reasons as identified.
 - Removed (1)(a) as the application approval authority is already identified in IRM 11.3.28.1.1, Disclosure of Official Information, Disclosure to Federal Agencies for Administration of Non-Tax Criminal Laws, Background.
 - Removed (1)(a) Note as a portion of the information is reflected in IRM 11.3.28.2(5), Disclosure of Returns and Return Information Pursuant to IRC 6103(i)(1), IRC 6103(i)(5) and IRC 6103(i)(7)(C).
 - Removed remainder of (1)(a) Note and 1.). Information now contained in Exhibit 11.3.41-5, Disclosure Case Processing and Inventory Management, IRC 6103(i)(1) Case Processing Checklist.
 - Removed (1)(a) 2.) and 3.) as this IRM does not provide guidance on file documentation procedures within the U.S. Attorney's Offices.
 - Removed (1)(b-e). Information now contained in Exhibit 11.3.41-5, Disclosure Case Processing and Inventory Management, IRC 6103(i)(1) Case Processing Checklist.
- (12) Former IRM 11.3.28.3.1, Notifying the IRS of Intent to Apply for an Ex Parte Court Order -
- Deleted this subsection due to removal of all underlying paragraphs for reasons as identified
 - Removed (1-3) as the information is now contained in IRM 11.3.41.8(2), General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1)
- (13) Former IRM 11.3.28.3.2, Information Required in an Application for an Ex Parte Court Order-
- Deleted this section due to removal of all underlying paragraphs for reasons as identified
 - Removed (1) as the information is now contained in IRM 11.3.41.8.1(1), General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1)
 - Removed (2) as the civil forfeiture provision is now located in the new IRM 11.3.28.2.(2), Disclosure of Returns and Return Information Pursuant to IRC 6103(i)(1), IRC 6103(i)(5) and IRC 6103(i)(7)(C)
 - Removed (3) as the IRC 6103(i)(5) provision is now located in the new IRM 11.3.28.2.(3), Disclosure of Returns and Return Information Pursuant to IRC 6103(i)(1), IRC 6103(i)(5) and IRC 6103(i)(7)(C)
 - Removed (4- 6) as the information is now contained in IRM 11.3.41.8.1(1), General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1)
 - Removed (7) as the information is now contained in new IRM 11.3.28.2.(13), Disclosure of Returns and Return Information Pursuant to IRC 6103(i)(1), IRC 6103(i)(5) and IRC 6103(i)(7)(C)

- (14) Removed former IRM 11.3.28.3.3, Information Required in an Ex Parte Court Order, as the information is now located in IRM 11.3.28.2(1), (7) and (11), Disclosure of Returns and Return Information Pursuant to IRC 6103(i)(1), IRC 6103(i)(5) and IRC 6103(i)(7)(C)
- (15) IRM 11.3.28.4, Disclosures in Conformity with an Ex Parte Court Order -
- Consolidated (1) to provide guidance relating to ex parte court orders received by IRS for TIGTA records.
 - Removed former paragraph (2), as the information is now located in IRM 11.3.41.8.1(11), General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1)
 - Removed former paragraphs (3-8), as the information is now located in IRM 11.3.41.8.1(9), General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(i)(1)
 - Removed former paragraph (9-10), as the information is now located in IRM 11.3.41.8.2(1) and (2), Case Timeliness Expectations IRC 6103(i)(1).
 - Removed former paragraph (11-12), as the information is now located in IRM 11.3.41.8.4, Certification
 - Removed former paragraph (13), as the information is now located in IRM 11.3.41.8.2(3), Case Timeliness Expectations IRC 6103(i)(1)
 - Updated paragraph (14) to include additional guidance.
 - Added paragraph (15) from former IRM 11.3.28.4.1(1), Disclosure of Bank Secrecy Act Information
 - Removed former paragraphs (16-17), as the information is now located in IRM 11.3.41.3.4, Review and Edit
 - Removed former paragraph (18-20), as the information is now located in IRM 11.3.28.2(12), Disclosure of Returns and Return Information Pursuant to IRC 6103(i)(1), IRC 6103(i)(5) and IRC 6103(i)(7)(C)
 - Removed former paragraph (21-23), as the information is now located in IRM 11.3.28.4.2(2), Re-disclosure Rules for US Attorneys
 - Removed former paragraph (24-26), as the information is now located in IRM 11.3.41.8.1(17), General Case Processing for Disclosure to Department of Justice Under an Ex Parte Court Order Pursuant to IRC 6103(1)
 - Removed former paragraph (27), as the information is now located in IRM 11.3.41.8.4(5), Certification
 - Removed former paragraph (30), as the information is now located in IRM 11.3.41.8.4(1), Certification
- (16) Removed former section IRM 11.3.24.4.1, as the information is now located in IRM 11.3.41.8.5, Bank Secrecy Act (BSA) Records
- (17) Former IRM 11.3.28.4.2, Re-Disclosure Rules for US Attorneys-
- Section is now renumbered as IRM 11.3.28.3.1, Re-Disclosure Rules for US Attorneys
 - Added paragraph (2-4) from former IRM 11.3.28.4.(21-23), Disclosures in Conformity with an Ex Parte Court Order
- (18) Former IRM 11.3.28.5, Disclosure of Return Information (Other Than Taxpayer Return Information)-
- Renamed this section to Disclosure of Return Information(Other Than Taxpayer Return Information) Pursuant to IRC 6103(i)(2) to correspond to changes in its content
 - Section has been renumbered to IRM 11.3.28.4
 - Added clarification to procedures in paragraph (1)
 - Added paragraph (2) to include statutory requirements for making a request under IRC 6103(i)(2)
 - Added paragraph (4) to include clarification of information requested under IRC 6103(i)(2)

- Removed former paragraph (5) as the information is now located in IRM 11.3.41.9.1(3) Note, General Case Processing for Disclosure to Head of Federal Agency for Administration of Federal Non-Tax Laws Pursuant to IRC 6103(i)(2)
 - Removed former (6) Note as the information is located in IRM 11.3.28.1.5, Terms and Definitions
 - Removed former (7) as the information is now located in IRM 11.3.41.9.1(6), General Case Processing for Disclosure to Head of Federal Agency for Administration of Federal Non-Tax Laws Pursuant to IRC 6103(i)(2)
 - Added (8) as to provide clarifying information regarding restitution.
 - Removed former (10) as the information is now located in IRC 11.3.41.9.1(6), General Case Processing for Disclosure to Head of Federal Agency for Administration of Federal Non-Tax Laws Pursuant to IRC 6103(i)(2)
- (19) Former IRM 11.3.28.6 IRS Initiated Disclosures of Return Information Concerning Non-Tax Criminal Violations
- Renamed this section to Disclosures of Return Information Pursuant to IRC 6103(i)(3), Renumbered to new IRM 11.3.28.5
 - Removed paragraphs (2-8) and consolidated into IRM 11.3.28.6.1(2) thru (4), Disclosure of Return Information (Other than Taxpayer Return Information) Pursuant to IRC 6103(i)(3)(A)
- (20) IRM 11.3.28.6.1 Disclosures of Return Information-
- Renamed this section to Disclosures of Return Information (Other than Taxpayer Return Information) Pursuant to IRC 6103(i)(3)(A)
 - Section has been renumbered to IRM 11.3.28.5.1
 - Consolidated and added paragraphs (2-4) from former IRM 11.3.28.6, IRS Initiated Disclosures of Return Information Concerning Non-Tax Criminal Violations
 - Added sentence in (7) to align with current procedures
 - Removed (8) to align with Delegation Order 11-2 (Rev. 4), Reference Chart located in IRM Exhibit 1.2.2-2.
 - Removed (9) as the information was consolidated in (6)
 - Removed (10) as the information has been updated in (3)
- (21) Created new subsection IRM 11.3.28.5.2, Disclosure in Emergency Situations Pursuant to IRC 6103(i)(3)(B) -
- Paragraphs (1-9) were added from former IRM 11.3.28.7, Suicide Threats, to appropriately align the guidance with IRC 6103(i)(3)(B)
- (22) Former IRM 11.3.28.7 - Disclosure In Emergency Situations Pursuant to IRC 6103(i)(3)(B)
- Renamed this section to Suicide Threats
 - Renumbered section to IRM 11.3.28.5.2.1
 - Removed former paragraphs (1-9) to IRM 11.3.28.6.2, Disclosure in Emergency Situations Pursuant to IRC 6103(i)(3)(B)
 - Added paragraphs (1-4) from former IRM 11.3.28.7.1, Suicide Threats
- (23) Removed subsection IRM 11.3.28.7.1, Suicide Threats, the information has been added to IRM 11.3.28.5.2.1, Suicide Threats
- (24) Removed subsection IRM 11.3.28.7.2, Antiterrorism Disclosures to new subsection IRM 11.3.28.8 to align with code section IRC 6103(i)(7)
- (25) Former IRM 11.3.28.8, Antiterrorism Disclosures -
- Renumbered to IRM 11.3.28.6, Antiterrorism Disclosures

- Added paragraphs (1-4) from former IRM 11.3.28.7.2, Antiterrorism Disclosures.
- (26) IRM 11.3.28.7, Use of Returns and Return Information in Judicial Proceedings-
- Removed (2) Note as the information provides specific Disclosure case processing that is being integrated into the next revision of IRM 11.3.41, Disclosure Case Processing
 - Added clarification to (4).
- (27) IRM 11.3.28.10 - Notifying Individuals That Their Records Were Made Available Under a Compulsory Legal Process
- (28)
- Removed paragraphs (2-6) as the information is now located in IRM 10.5.6.4.7, Notifying Individuals That Their Records Were Made Available Under Compulsory Legal Process
- (29) Removed former IRM 11.3.28.11, Accounting for Disclosures as the information is now contained in IRM 11.3.41.8.3, Narrative Record of Accounting
- (30) Removed former Exhibit 11.3.28-1, Processing IRC 6103(i)(1), (i)(5) and (i)(7)(C) Requests, as the information is now contained in Exhibit 11.3.41-5, IRC 6103(i)(1) Case Processing Checklist
- (31) Removed former Exhibit 11.3.28-2, Processing IRC 6103(i)(2) Requests, as the information is now contained in Exhibit 11.3.41-6, IRC 6103(i)(2) Case Processing Checklist
- (32) Removed former Exhibit 11.3.28-3, Non-tax Federal Criminal Referral Check List IRC 6103(i)(3)(A) or (i)(3)(C), as the information is now contained in Exhibit 11.3.41-7 IRC 6103(i)(3)(A) Case Processing Checklist
- (33) Editorial changes were made throughout to comply with the plain language standard as well as update IRM, statutory, web, titles, and organizational references

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 11.3.28, Disclosure of Official Information, Disclosure to Federal Agencies for Administration of Non-Tax Criminal Laws, dated August 11, 2023.

AUDIENCE

All Operating Divisions and Functions.

RELATED RESOURCES

- (1) The Disclosure and Privacy Virtual Library can be found at: *Disclosure Knowledge Library* .

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11.3.28

Disclosure to Federal Agencies for Administration of Non-Tax Criminal Laws

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11.3.28.1
(04-17-2025)
Program Scope and Objectives

- (1) Purpose: This IRM section provides instructions concerning the disclosure of returns and return information to officers and employees of federal agencies for the administration of federal non-tax criminal and terrorist-related laws.
- (2) Audience: These procedures apply to all IRS employees and contractors.
- (3) Policy Owner: The director of Governmental Liaison, Disclosure and Safe-guards (GLDS) is responsible for oversight of Disclosure policy.
- (4) Program Owner: The Disclosure office, under GLDS, is responsible for the Dis-closure program and guidance. Each IRS organization is responsible for ensuring its employees are aware of and follow Servicewide Disclosure policy.
- (5) Primary Stakeholders: The following offices have responsibility for disclosures to federal agencies for the administration of federal non-tax crimes:
 - Criminal Investigation
 - Chief Counsel, Procedure & Administration (P&A)
 - Disclosure

11.3.28.1.1
(04-17-2025)
Background

- (1) Congress decided that federal law enforcement officials should not have easier access to information about a taxpayer maintained by the IRS than they would have if they sought to compel the production of that information from the taxpayer themselves. With this in mind, Congress enacted section 6103(i), which establishes the general rule that a federal agency enforcing a non-tax criminal law must obtain court approval to obtain a return or return information submitted by the taxpayer or their representative.
- (2) IRC 6103(i) primarily permits disclosure of returns and return information to officers and employees of federal agencies for the administration of federal non-tax criminal and terrorist-related laws subject to the restrictions imposed by IRC 6103(i)(1) through IRC 6103(i)(7). Refer to Delegation Order 11-2, found in IRM 1.2.2.12.2, for those authorized to disclose information under these sections.
- (3) IRC 6103(i) is the only code section where it may be necessary to distinguish between taxpayer return information and return information (other than taxpayer return information). See IRM 11.3.28.1.5, Terms and Definitions for the meaning of terms/definitions pertinent to IRC 6103(i).
- (4) IRC 6103(i)(1)(A) and (B) provide that the Attorney General, Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any U.S. Attorney, any special prosecutor (independent counsel) appointed under 28 USC 593, and any attorney in charge of an organized crime strike force (although strike forces no longer exist) may authorize an application for an Ex Parte order from a federal district court judge or magistrate allowing officers and employees of a federal agency in cooperation with the Department of Justice (DOJ) access to returns and return information, or portions thereof. This information will be disclosed only to officers and employees who are personally and directly engaged in:
 - a. preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated federal criminal statute (not

involving tax administration) to which the United States or such agency is or may be a party, or pertaining to the case of a missing or exploited child,

- b. any investigation which may result in such a proceeding, or
- c. any federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party, or to such a case of a missing or exploited child

Note: This information will be disclosed to these officers and employees solely for their use in such preparation or investigation or grand jury proceeding as noted above.

- (5) IRC 6103(i)(1)(C) provides, in the case of an investigation pertaining to a missing or exploited child, the head of any federal agency, or their designee, may disclose any return or return information obtained under IRC 6103(i)(1)(A) to officers and employees of any state or local law enforcement agency, if such state or local law enforcement agency is part of a team with the federal agency in such investigation, and such information is disclosed only to such officers and employees who are personally and directly engaged in such investigation.

Note: The disclosure of returns and return information under IRC 6103(i)(1)(C) are made by the head of the federal agency who obtained the information under an Ex Parte court order.

- (6) IRC 6103(i)(2) provides for a written request from the head of a federal agency, or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any U.S. Attorney, any special prosecutor (independent counsel) appointed under 28 USC 593, or any attorney in charge of an organized crime strike force to request the disclosure of return information (other than taxpayer return information) to certain officers and employees of such agency. Taxpayer identity information for this purpose is not considered taxpayer return information. See IRM 11.3.28.4, Disclosure of Return Information (Other Than Taxpayer Return Information) Pursuant to IRC 6103(i)(2) for further discussion. This provision limits disclosure to officers and employees who are personally and directly engaged in:

- a. preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party, or pertaining to the case of a missing or exploited child,
- b. any investigation which may result in such a proceeding, or
- c. any federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party, or to such a case of a missing or exploited child

Note: This information will be disclosed to these officers and employees solely for their use in such preparation or investigation or grand jury proceedings as noted above.

Note: IRC 6103(i)(2) does not permit disclosure of “returns” or “return information”, only “other than taxpayer return information.”.

- (7) IRC 6103(i)(3)(A) permits the Commissioner or their delegate to disclose in writing, return information (other than taxpayer return information) that may constitute evidence of a violation of a federal non-tax criminal statute. Disclosures can be made to the extent necessary to apprise the head of the appropriate federal agency charged with enforcement responsibility. The head of the requesting agency may re-disclose that information to officers and employees of the agency to the extent necessary to enforce the law.
- (8) IRC 6103(i)(3)(B)(i) permits the Commissioner or their delegate to disclose return information (including taxpayer return information) to the extent necessary to apprise appropriate officers or employees of any federal or state law enforcement agency of the circumstances involving an imminent danger of death or physical injury to any individual. See IRM 11.3.28.5.2, Disclosure in Emergency Situations Pursuant to IRC 6103(i)(3)(b) regarding disclosures of tax information in terrorism and national security investigations.
- (9) IRC 6103(i)(3)(B)(ii) permits the Commissioner or their delegate to disclose return information (including taxpayer return information) to the extent necessary to apprise appropriate officers or employees of any federal law enforcement agency in circumstances involving the imminent flight of any individual from federal prosecution. This provision is intended to cover individuals who could be prosecuted for flight from prosecution, as a separate federal offense, and circumstances where an individual has attempted to change identity or intends to flee from the country.

Note: See IRM 11.3.28.7, Use of Returns and Return information in Administrative and Judicial Proceedings and IRM 11.3.35, Requests for Testimony and Production of Documents for information concerning IRS initiated disclosures absent emergency circumstances in terrorism and national security investigations (IRC 6103(i)(3)(C)).

- (10) IRC 6103(i)(4) provides for information obtained under the other subsections of IRC 6103(i) to be entered into evidence in an administrative or judicial proceeding if the court determines that the tests provided by sections 6103(i)(4)(A)(i) or (i)(4)(A)(ii) have been met. See IRM 11.3.28.7, Use of Returns and Return Information in Administrative and Judicial Proceedings and IRM 11.3.35, Requests for Testimony and Production of documents, for additional information. IRC 6103(i)(4)(C) states that no return or return information shall be admitted into evidence if the Secretary determines and notifies the Attorney General or his delegate or the head of the federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.
- (11) IRC 6103(i)(5) permits disclosure of the returns and return information of a fugitive pursuant to an Ex Parte court order signed by a federal district court judge or magistrate to officers and employees of any federal agency exclusively for their use in locating the fugitive. The same officials permitted to authorize applications for court orders under IRC 6103(i)(1) can authorize applications under IRC 6103(i)(5). Process these in the same manner as IRC 6103(i)(1) orders.
- (12) The Victims of Terrorism Tax Relief Act, enacted 1/2002, set out detailed rules for disclosures in terrorism and national security investigations. These provisions were made permanent by the passage of the Emergency Economic

Stabilization Act of 2008. Disclosures must be approved by individuals having Delegation Order 11-2 authority (See IRM 1.2.2.12.2, Delegation Order 11-2, (Rev.4), Authority to Permit Disclosure of Tax Information and to Permit the Testimony of the Production of documents). The provisions are:

- a. IRC 6103(i)(3)(C)(i) allows IRS on its own to disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate investigating or responding federal law enforcement agency. This authority is exercised by officials having Delegation Order 11-2 authority (see IRM 1.2.2.12.2). Taxpayer identity information for this purpose is **not** considered taxpayer return information. The head of the agency can re-disclose the information received to officers and employees of that agency to the extent necessary to investigate or respond to the terrorist incident, threat, or activity.
- b. IRC 6103(i)(3)(C)(ii) permits the disclosure of returns and return information to the Attorney General to the extent necessary to prepare an application under IRC 6103(i)(7)(D).
- c. IRC 6103(i)(7)(A) allows IRS to disclose return information (other than taxpayer return information) to officers and employees of any federal law enforcement agency who are personally and directly engaged in responding to or investigating any terrorist incident, threat, or activity. A written request signed by the head of the federal law enforcement agency or their delegate is required. The written request must set forth the specific reason(s) why disclosure is relevant to a terrorist incident, threat, or activity. Taxpayer identity information for this purpose is **not** considered taxpayer return information. Limited re-disclosure is allowed to state or local law enforcement employees personally and directly engaged as a part of a team with the federal law enforcement agency in the response or investigation.
- d. IRC 6103(i)(7)(B) allows IRS to disclose return information (other than taxpayer return information) upon the written request of an officer or employee of DOJ or Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the U.S. Secret Service, if that individual is responsible for the collection and analysis of intelligence and counterintelligence concerning any terrorist incident, threat, or activity. Taxpayer identity information for this purpose is **not** considered taxpayer return information. The written request must set forth the specific reason(s) why disclosure may be relevant to a terrorist incident, threat, or activity. Disclosures under IRC 6103(i)(7)(B) may be made to those officers and employees of DOJ, Treasury, and other federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. These disclosures may be made solely for the use of the officers and employees in the investigation, collection, or analysis.
- e. IRC 6103(i)(7)(C) creates an Ex Parte court order process similar to IRC 6103(i)(1). It provides that, upon grant of an Ex Parte order by a federal district court judge or magistrate, returns and return information with respect to a specified period(s), shall be disclosed to officers and employees of any federal law enforcement or federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. These disclosures may be made solely for officers and employees to use in the investigation,

response, or analysis, and, subject to IRC 6103(i)(4) provisions, in any judicial or administrative proceeding pertaining to the terrorist incident, threat, or activity.

Note: The application for the order must be approved by the Attorney General, Deputy Attorney General, Associate Attorney General, any Assistant Attorney General, or any U.S. Attorney. In granting the order, the judge/magistrate must determine that there is a reasonable cause to believe, based on information believed to be reliable, that the return or return information may be relevant to a matter relating to the terrorist incident, threat, or activity. In addition, the judge/magistrate must determine that the return or return information is sought exclusively for use in a federal investigation, analysis, or proceeding concerning any terrorist incident, threat or activity.

- f. IRC 6103(i)(7)(D) allows the Commissioner of Internal Revenue to authorize an application for an Ex Parte order described in IRC 6103(i)(7)(C). In granting the order, the U.S. District Court judge/magistrate must determine that, on the basis of the facts submitted by the applicant, there is a reasonable cause to believe the return or return information may be relevant to a matter relating to the terrorist incident, threat, or activity. The facts submitted by the applicant must be based upon information believed to be reliable. Information may be disclosed pursuant to IRC 6103(i)(7)(D) only to the extent necessary to apprise the head of the appropriate federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity. Information so disclosed shall be used solely in a federal investigation, analysis, or proceeding concerning a terrorist incident, threat, or activity. The head of the agency may re-disclose the information to officers and employees of that agency to the extent necessary to investigate or respond to the terrorist incident, threat, or activity. IRS disclosures to DOJ to make an application for the Ex Parte order described in IRC 6103(i)(7)(D) are authorized under IRC 6103(i)(3)(C)(ii). Disclosure Policy and Program Operations coordinates the IRC 6103(i)(7)(D) process.
- g. Other than taxpayer return information obtained under IRC 6103(i)(3)(C) or IRC 6103(i)(7) can be disclosed in judicial or administrative proceedings consistent with IRC 6103(i)(4)(B). Returns and taxpayer return information obtained under IRC 6103(i)(7)(C) can be used in judicial or administrative proceedings consistent with the requirements of IRC 6103(i)(4)(A). The requirements of IRC 6103(i)(4) are discussed in IRM 11.3.28.7, Use of Returns and Return Information in Administrative and Judicial Proceedings.
- h. Disclosures under the authority of IRC 6103(i)(3)(C) and IRC 6103(i)(7) are subject to a determination by the IRS that they will not identify a confidential informant or seriously impair a civil or criminal tax investigation.
- i. The term terrorist incident, threat, or activity means an incident, threat, or activity involving an act of international or domestic terrorism as defined in 18 USC 2331(1) and (5).

Note: See IRM 11.3.28.1.5, Terms and Definitions(9) and (10) for definitions of international and domestic terrorism.

- j. Generally, processing of IRC 6103(i)(3)(C), IRC 6103(i)(7)(A), IRC 6103(i)(7)(B), and IRC 6103(i)(7)(C) requests are handled by Disclosure

Policy and Program Operations and will parallel processing of IRC 6103(i)(1), IRC 6103(i)(2), and IRC 6103(i)(5) requests.

11.3.28.1.2
(07-23-2018)

Authority

- (1) The following items govern the authority pertaining to disclosures to federal agencies for administration of non-tax crimes:

- 26 USC 6103 (IRC 6103)
- 26 CFR 301.6103
- Delegation Order 11-2, found in IRM 1.2.2.12.2
- Delegation Order 4-12, found in IRM 1.2.2.5.11

11.3.28.1.3
(07-23-2018)

Roles and Responsibilities

- (1) This IRM is used by all IRS employees and contractors to help comply with the disclosure provisions of IRC 6103(i) pertaining to disclosures to federal agencies for administration of non-tax and terrorist related crimes.

11.3.28.1.4
(08-11-2023)

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.

11.3.28.1.5
(04-17-2025)

Terms and Definitions

- (1) The following is a list of terms and definitions that are used in this IRM:

Terms and Definitions

Term	Definition
Domestic terrorism	<ol style="list-style-type: none"> a. Involve acts dangerous to human life that are violations of the criminal laws of the US or any state; b. Appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by mass destruction, assassination or kidnapping and c. Occur primarily within the territorial jurisdiction of the United States
Federal agency	A generally independent authority of the federal government, whether or not within another agency, that has legal authority to take binding action. The title of the body (such as "office," "bureau," "board," "agency," or "department") is not relevant when determining its status

Term	Definition
Head of a federal agency	<p>The executive with the final review and control authority over the agency.</p> <p>Note: With the implementation of the Disclosure electronic inventory management system, requests made under this statute will be processed in the office where assigned. But, the local Disclosure Offices will retain the responsibility for maintaining a relationship with their United States Attorney's Office.</p>
International Terrorism	<p>Defined by 18 USC 2331(1) as activities that:</p> <ul style="list-style-type: none"> a. involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the US or of any state or that would be if committed within the US; b. appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by mass destruction, assassination, or kidnapping and c. occur primarily outside the territorial jurisdiction of the US, or transcend national boundaries in terms of the means by which they are accomplished, the persons that they appear intended to intimidate or coerce or the locality in which their perpetrators operate or seek asylum.
Return	<p>Any tax or information return, declaration of estimated tax, or claim for refund required by or provided for or permitted under, the provisions of which the Internal Revenue Code, which is filed with the IRS by, on behalf of or with respect to any person. It includes any amendment or supplement to the return, including supporting schedules, attachments, or lists that are supplemental to, or part of, such a return. (See IRC 6103(b)(1)).</p>

Term	Definition
Return Information	<ul style="list-style-type: none"> a. A taxpayer's identity b. The nature, source, or amount of their income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over assessments, or tax payments. c. Whether the taxpayer's return was, is being or will be examined or subject to other investigation or proceeding. d. Any other data, received by, recorded by, prepared by, furnished to, or collected by the IRS with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount of liability) of any person under the Internal Revenue code for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense. e. Any part of any written determination or background file document relating to a written determination or background file document relating to a written determination, which is not open to public inspection under IRC 6110. f. Any advance pricing agreement entered into by a taxpayer and the IRS and any background information related to such agreement or any application for an advance pricing agreement. g. IRC 7121 agreements (closing agreements) and background documents as defined in IRC 6103(b)(2). <p>See IRC 6103(b)(2). Return information does not include data in a form, which does not identify, directly or indirectly, a particular taxpayer, such as an amalgamation of returns or return information of a number of taxpayers. Merely removing taxpayer identity information from a document, which is return information, however, does not change its status as return information. See Church of Scientology of California V. IRS, 484 U.S. 9(1987).</p>
Return Information (other than taxpayer return information)	Return information not provided to the IRS by or on behalf of the taxpayer. This term is sometimes shortened to “ other than taxpayer return information. ” For examples, see IRM 11.3.28.1.5.2, Examples of Other Than Taxpayer Return Information
Taxpayer Identity	<ul style="list-style-type: none"> a. The name of a person with respect to whom a return is filed b. Their mailing address c. Their taxpayer identification number or d. Any combination of a, b and/or c

Term	Definition
Taxpayer Return Information	<p>Return information filed with or furnished to the IRS by or on behalf of the taxpayer to whom such information relates.</p> <p>a. All books, records and the contents of oral statements, received by the IRS from, or on behalf of, the taxpayer to whom such data relates are taxpayer return information. This includes information obtained as a result of a summons served on the taxpayer or their representative. In addition, any data, in written form or otherwise, obtained by any office or employee of the IRS from these books, records, and oral statements are also taxpayer return information. Any data that has been secured from third parties or other sources as a result of leads that were identified from the taxpayer return information generally not be classified as taxpayer return information.</p> <p>b. A third party is deemed to be acting on behalf of a taxpayer, and the data presented by that third party is considered taxpayer return information, if the third party, at the time of the IRS' request for the information, was acting as an authorized representative or agent for the taxpayer. Examples include a bookkeeper, return preparer, and an employee, or relative of the taxpayer acting for the taxpayer in connection with the preparation of a return or as custodian of the taxpayer's records. The information presented by the third party must be the taxpayer's own data, which the taxpayer provided to the third party as a representative or agent for the taxpayer, or which such third party derived from, provided to the third party as a representative or agent for the taxpayer, or which such third party derived from information so furnished. See IRM 11.3.28.1.5.1, Examples of Taxpayer Return Information for examples of taxpayer return information.</p>

11.3.28.1.5.1
(04-17-2025)
**Examples of Taxpayer
Return Information**

- (1) A Special Agent obtains information from a Spouse A concerning actions taken by Spouse B that affected their previously filed joint income tax return. The information Spouse A provides is to be used against Spouse B in criminal proceedings resulting from the Special Agent's investigation. Although Spouse A will not be charged as a principal in the criminal case, Spouse A would be jointly and severally liable for any resulting civil tax deficiency for the return at

issue. In this example, the information obtained from Spouse A is taxpayer return information because it relates to their joint return.

- (2) A Special Agent is investigating allegations of evasion of corporate income taxes by the president of Corporation X. The Special Agent interviews Y (the treasurer, who signed the corporate income tax return) and obtains information supporting the allegations. This is taxpayer return information because Y was representing the corporation when interviewed by the Special Agent.
- (3) A Special Agent questions a tax practitioner who prepared the return for a taxpayer who is under investigation. The information the practitioner gives to the Special Agent was obtained from the taxpayer (the taxpayer's records and statements) so the return could be prepared. The information is taxpayer return information because the taxpayer was the source of the information and the practitioner was representing the taxpayer.
- (4) Revenue Agent reports, Special Agent reports, workpapers, and other administrative documents such as Individual Master File (IMF) transcripts may contain a combination of other than taxpayer return information and taxpayer return information. The source of each piece of information in IRS files must be determined if a disclosure under IRC 6103(i)(2), IRC 6103(i)(3)(A), IRC 6103(i)(3)(C), IRC 6103(i)(7)(A), or IRC 6103(i)(7)(B) is to be made. If the source cannot be determined, the information must be treated as taxpayer return information and cannot be released under the sections just mentioned, except to the extent it constitutes identity information.
- (5) An Information Returns Master File (IRMF) transcript, is taxpayer return information. The information comes from returns filed by the payer or information return filer and is both the payer's and payee's taxpayer return information.
- (6) When a summons is served on the taxpayer and data is received from the taxpayer or someone acting on their behalf, the information is taxpayer return information. This is also true for information received from the taxpayer as a result of a summons enforcement hearing.
- (7) In accordance with the Agreement on Coordination of Tax Administration (Basic Agreement), IRS has agreed to treat information provided by a state tax agency and used in a federal tax compliance matter as taxpayer return information.

11.3.28.1.5.2 (04-17-2025)

Examples of Other than Taxpayer Return Information

- (1) The fact that IRS records indicate a specific taxpayer filed or failed to file a return is other than taxpayer return information.
- (2) Within the provisions of IRC 6103(i), taxpayer identity information (name, mailing address, Taxpayer Identification Number (TIN) or a combination thereof) may be considered other than taxpayer return information.
- (3) Local police seize the books and records of a taxpayer during a raid. The police subsequently turn over the books and records to the IRS. The source of this information is the police, who were not acting on behalf of the taxpayer. In this example, the books and records are other than taxpayer return information.
- (4) A Special Agent interviews H who provides information to the IRS concerning G, the subject of the investigation. Thereafter, the Special Agent confirms the information in a discussion with G. The information originally obtained from H

does not become taxpayer return information as a result of being confirmed by the taxpayer. The source of the information is the determining factor. In this example, the original information is other than taxpayer return information, and the confirming information is taxpayer return information.

- (5) If the Special Agent who was investigating G initially obtained information from G and subsequently received confirming information in the course of a discussion with H, the confirming information received from witness H would be other than taxpayer return information. This is so even if the information is the same as the information previously obtained from G, which is taxpayer return information.
- (6) A transcript is made of a conversation between an informant who consented to being monitored and the taxpayer who is the subject of the investigation. The transcript of both the informant's and the taxpayer's remarks is other than taxpayer return information. The source of the information in this instance is the informant.
- (7) A Revenue Agent examines a bank's records of the taxpayer's bank account. The bank is considered the owner of the records and is not acting on behalf of the taxpayer in producing them for inspection. Therefore, information obtained from the bank's records is other than taxpayer return information.
- (8) A Special Agent interviews J, who provides information to the IRS concerning I, the subject of the investigation. J provides information about I which also implicates J in possible tax and non-tax violations. Based upon this information, the IRS subsequently opens an investigation of J. The information J initially provided is other than taxpayer return information since J was not the target of the investigation with respect to which the information was furnished. The fact that the same information is used in a later investigation of J does not change the character of the information at the time it was received.
- (9) A Special Agent interviews L, who provides information to the IRS concerning K, the subject of the investigation. At the time, an unrelated investigation of L is also in open status. The information provided by L about K's tax matters also implicated L in possible tax violations. Since the information was not obtained with respect to the unrelated investigation of L, it is other than taxpayer return information, not taxpayer return information. (If the existing investigation of L is a related case, however, the information is regarded as having been gathered with respect to both investigations and characterized as taxpayer return information of L.)
- (10) Substitute for Return (SFR) information not taken from information returns is considered to be other than taxpayer return information.
- (11) Information seized at the taxpayer's residence pursuant to a search warrant is other than taxpayer return information because the taxpayer did not voluntarily provide it. Information observed or seized that does not actually relate to a tax liability or potential tax liability is not considered tax information even if the search itself was tax motivated.
- (12) When a summons is served on a third party (e.g., bank) and data is received from the third party, the information is other than taxpayer return information. This is also true for information received from the third party as a result of a summons enforcement hearing.

11.3.28.1.6
(04-17-2025)
Acronyms

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

Acronym	Definition
ACCI	Associate Chief Counsel (International)
AUSA	Assistant United States Attorney
BSA	Bank Secrecy Act
CAU	Caution Upon Contact
CFR	Code of Federal Regulations
CI	Criminal Investigation, (IRS)
COLOR	Certification of Lack of Record
GSS	GLDS Support Services
CTR	Currency Transaction Report
DAS	Discriminant Analysis System
DCI	Deputy Commissioner International
DIF	Discriminant Function
DOJ	Department of Justice
DOJ OIA	Department of Justice Office of International Affairs
FBAR	Foreign Bank Account Report
FinCEN	Financial Crimes Enforcement Network
FISA	Foreign Intelligence Surveillance Act
FOIA	Freedom of Information Act
FRC	Federal Records Center
GLDS	Governmental Liaison, Disclosure and Safeguards
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRC	Internal Revenue Code
IRMF	Information Returns Master File
LEO	Law Enforcement Officer
MF	Master File
MLAT	Mutual Legal Assistance Treaty
PDT	Potentially Dangerous Taxpayer

Acronym	Definition
PGLD	Privacy, Governmental Liaison and Disclosure
RMSB	Registration of Money Services Business
SAC	Special Agent in Charge
SAR	Suspicious Activity Report
SERFE	Selection of Exempt Organization Returns for Examination
SFR	Substitute for Return
SSA	Social Security Administration
SSN	Social Security Number
TII	Taxpayer Identity Information
TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number
TRPRT	Tax Return Print
UCMJ	Uniform Code of Military Justice
UIDIF	Underreported Income DIF
US	United States
USC	United States Code

11.3.28.1.7
(04-17-2025)

Related Resources

- (1) The following table lists other sources of guidance on disclosures to federal agencies for administration of non-tax or terrorist related crimes.

Resource	Title	Guidance
IRM 11.3.25	Disclosure to Foreign Countries Pursuant to Tax Treaties	Procedures on release of returns and return information to foreign countries pursuant to IRC 6103(k)(4)

Resource	Title	Guidance
IRM 11.3.35	Requests and Demands for Testimony and Production of Documents	Procedures on release of IRS records or IRS employee testimony pursuant to a subpoena or other request from a court of competent jurisdiction
IRM 11.3.27	Disclosure of Returns and Return Information to Grand Juries	Procedures on release of returns and returns information to Grand Juries during the Grand Jury process
IRM 11.3.37	Recordkeeping and Accounting for Disclosures	Procedures for making an accounting of release of returns and return information pursuant to an Ex Parte court order

(2) Additional information may also be found at these related resources:

- *United States Attorney's Ex Parte Manual*
- *Suicide Threat Resources on Disclosure and Privacy Knowledge Library*
- *Reporting non-tax federal crimes article on Disclosure and Privacy Knowledge Library*

11.3.28.2
(04-17-2025)

**Disclosure of Returns
and Return Information
Pursuant to IRC
6103(i)(1), IRC 6103(i)(5),
and IRC 6103(i)(7)(c)**

- (1) To obtain an Ex Parte court order under IRC 6103(i)(1), the requester must show the district court judge or magistrate that:
 - a. There is reasonable cause to believe, based on information believed to be reliable, that a specific federal non-tax criminal act has been committed.
 - b. There is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of that non-tax criminal act, and
 - c. The return or return information is sought exclusively for use in a federal non-tax criminal investigation or proceeding concerning that act, and cannot reasonably be obtained, under the circumstances from any other source.
- (2) An Ex Parte order cannot be obtained solely for purposes of a civil forfeiture matter. If information is appropriately requested pursuant to IRC 6103(i)(1), as indicated in (1) above it may be subsequently be used in a civil forfeiture matter .
- (3) To obtain an Ex Parte court order under IRC 6103(i)(5), the requester must show the judge or magistrate that:

- a. A federal arrest warrant relating to a federal felony offense has been issued for an individual who is a fugitive from justice,
 - b. The tax return of the individual or return information relating to the individual is sought exclusively for use in locating that individual, and
 - c. There is reasonable cause to believe that the return or return information is or may be relevant to determine the location of the individual
- (4) To obtain an Ex Parte court order under IRC 6103(i)(7)(c), the requester must show the district court judge or magistrate that:
 - a. There is reasonable cause to believe that the return or return information may be relevant to a matter relating to a terrorist incident, threat or activity, and
 - b. The return or return information is sought exclusively for use in a federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.
- (5) The IRM does not require that employees review Ex Parte applications as part of responding to the orders themselves. However, Disclosure personnel must ensure that the applications meet statutory requirements when provided with the order, or when references in the order indicate the proper official did not approve the application.

Note: Only the officials identified in the statute, or someone officially “acting in their absence” may approve the application for the order; It is not necessary that the official actually sign the application. An Ex Parte court order predicated on an invalid application is also considered invalid.

- (6) Normally, the application will conform precisely to the statute. It is within the discretion of the judge or magistrate, however, to accept oral testimony from the applicant in support of information contained in the application.
- (7) A valid court order pursuant to IRC 6103(i)(1), IRC 6103(i)(5), or IRC 6103(i)(7)(c) need not repeat the information provided in the application and/or oral testimony of the prosecuting attorney.
- (8) Disclosure cannot extend beyond the scope of the Ex Parte court order so it is essential that the applicant carefully word the proposed order.
- (9) Unless otherwise provided in the Ex Parte Order, disclosure will be limited to those returns and return information in the IRS’ possession on the date of the order. Returns or related return information subsequently received or developed for the years authorized by the order may be disclosed only if the order provides for further disclosures and designates a specific cut off period.

Example: An order may state that the IRS disclose information as may come into its possession subsequent to the date of the order, and for a period no longer than xx number of days thereafter. Generally, the order will specify a 30, 60 or 90 day cutoff. When no cut off is given, the date of the order is the cutoff date. In no case will the cutoff date exceed 90 days, even if the order specifies a cutoff date that exceeds the 90 day limit.

- (10) When there is a short deadline for receipt of the documents (usually 15 business days or less), the appropriate official should notify the IRS Disclosure Office to advise of the pending order. This advance notification allows the IRS to expedite efforts to obtain and review return and return information prior to receipt of the finalized order. The possibility that an application may be rejected by the U.S. District Court is not a reason for inaction.
- (11) Some court jurisdictions approve Ex Parte orders with an electronic signature in lieu of an ink signature. If the court has a practice whereby the judge or magistrate uses an electronic signature, the order is valid if it meets all other requirements.
- (12) Disclosure will provide all applicable information to the Assistant United States Attorney, or Trial Attorney named in the order; it is their responsibility to provide that information to any other federal employees actively involved in the case, including any Court Witness called to testify regarding the records.
- (13) When considering the application for the Ex Parte order, the judge or magistrate may wish to view the IRS' **records in camera**. If **in camera** inspection is requested, the Disclosure Office will obtain copies of the requested documents and have them delivered directly to the judge or magistrate for their inspection, instead of to the requesting official. In such cases, the disclosure is not considered to be made unless the judge/magistrate approves the disclosure.
- (14) The penalty provisions of IRC 7213, IRC 7213A, IRC 7431 and Title 18 USC 1905 apply to individuals who have inspected or gained access to returns and return information pursuant to IRC 6103(i)(1), IRC 6103(i)(5) and IRC 6103(i)(7).
- (15) Disclosures made pursuant to IRC 6103(i)(1), IRC 6103(i)(2), IRC 6103(i)(3), IRC 6103(i)(5), or IRC 6103(i)(7) are subject to the statutory safeguarding requirements of IRC 6103(p)(4) and IRS oversight. Federal agencies receiving return information from DOJ pursuant to court orders are responsible for maintaining the confidentiality of the information and comply with Pub 1075, Tax Information Security Guidelines for Federal, State and Local Agencies. See IRM 11.3.36, Safeguard Review Program, for additional information.

11.3.28.2.1
(04-17-2025)
**Military Judge Requests
and Ex Parte Court
Orders**

- (1) IRC 6103 (i)(1), IRC 6103(i)(5), IRC 6103(i)(7)(C) and IRC 6103(i)(7)(D) specify that an Ex Parte court order must be granted by a federal district court judge or magistrate. The Uniform Code of Military Justice (UCMJ) is a federal statute and investigations/actions involving criminal violations of the UCMJ meet the requirements of the IRC 6103(i). If a military branch needs information under IRC 6103(i)(1), IRC 6103(i)(5) or IRC 6103(i)(7)(C), it should apply for the order through one of the Department of Justice employees listed in IRC 6103(i)(1)(B) or IRC 6103(i)(7)(C)(ii), as appropriate. One of the listed individuals must authorize the application and a federal district court judge or magistrate must grant the order. A military court judge cannot grant an IRC 6103(i)(1), IRC 6103(i)(5), IRC 6103(i)(7)(C) or IRC 6103(i)(7)(D) order.

11.3.28.2.2
(04-17-2025)
**FISA Courts and Ex
Parte Court Orders**

- (1) The Foreign Intelligence Surveillance Act (FISA) established courts which can authorize the gathering of data for intelligence purposes. These courts are known as FISA courts.
- (2) FISA Courts have been authorized by 50 USC 1805 to issue Ex Parte court orders. The United States Attorney General is authorized to issue an applica-

tion for a FISA court order. Since the information contained in the application contains sensitive information related to terrorist activities, the application itself is classified as Top Secret and only those individuals with that clearance can have access to the application and process FISA court orders. Top Secret is the highest level of classification of material on a national level. Such material would cause “exceptionally grave damage” to national security if publicly available.

Note: Disclosure has no access to any system authorized to store or maintain national security classified information. If Disclosure personnel receive any correspondence marked “Confidential”, “Secret” or “Top Secret,” the employee must immediately contact their manager who will then contact the Senior Disclosure Analyst for CI for additional guidance. The Disclosure employee(s) must not open any envelopes which are marked “Confidential”, “Secret” or “Top Secret” and must not transfer any electronic records which are marked “Confidential”, “Secret” or “Top Secret”, to their computer or any other database.

(3) Contact the Senior Disclosure Analyst for CI for all issues regarding FISA matters.

11.3.28.3 (04-17-2025) Disclosures in Conformity with an Ex Parte Court Order

- (1) TIGTA records in TIGTA's possession do not fall within the scope of an Ex Parte court order to the IRS. A separate order to TIGTA needs to be made for such records.
- (2) An Ex Parte court order for a copy of any Freedom of Information Act (FOIA) requests submitted by the subject(s) of the order and the FOIA case file information must also cite the Privacy Act, 5 USC 552a. Per Counsel advice, the Privacy Act protects these documents, thus they are not releasable under IRC 6103(i). If the order includes the appropriate language, Disclosure will process the request. The requirements for such a request are that:
 - U.S. Attorney must make the written request (not an Assistant U.S. Attorney)
 - Specify the particular portions of the FOIA records desired
 - State that the information will be used for civil or criminal law enforcement
 - Specify what the law enforcement activity is
- (3) Effective January 3, 2012, Disclosure no longer process Ex Parte court order requests for Bank Secrecy Act (BSA) records. Per the December 22, 2011 Department of Justice memorandum, United States Attorney's must submit all requests for copies of BSA Records to FinCEN (Financial Crimes Enforcement Network).

Note: To the extent an IRS file contains BSA information used to determine tax liability or the ability to pay tax, that BSA information is considered Title 26 information that can be released to the DOJ.

- (4) Once a related statute call is made in a Bank Secrecy Act investigation, the investigation is treated as a tax administration activity, even though the violation is not a pure tax violation. An Ex Parte court order applies only to enforcement of federal criminal statutes **not** involving tax administration.

Therefore, it is not necessary for Criminal Investigation to obtain an Ex Parte order for itself on related statute cases as long as IRC 6103(h) procedures have been followed.

- (5) In a multi-agency investigation/grand jury involving other non-tax charges such as bank fraud, Medicare fraud, and money laundering (with no substantive tax charges), an Ex Parte court order is required if the return/tax information will be used for the non-tax charges, even though the IRS representative is working on a related statute case. If a related statute call is not made, IRS Special Agents must obtain an Ex Parte order prior to accessing returns and return information for the non-tax (e.g., money laundering) charges they are investigating.
- (6) The use of information contained in a sealed IRC 6103(i)(1), IRC 6103(i)(5), or IRC 6103(i)(7)(C) order to initiate a tax investigation depends on the instructions in the application. Generally, the sealed document will indicate how long and to what extent the information is to remain sealed. If the instructions impose no disclosure constraints, the IRS may use pertinent information to initiate a tax investigation. In any such case, contact Area Counsel for advice on whether the instructions in the application limit the IRS' use of the information.
- (7) Providing copies of returns and taxpayer return information in response to an Ex Parte Court Order is per an agreement between the IRS, the Department of Justice and the federal courts.

11.3.28.3.1
(04-17-2025)

**Re-disclosure Rules for
US Attorneys**

- (1) The regulations at 26 CFR 301.6103 (i)-1(b)(i) permit the U.S. Attorney to disclose return information obtained under IRC 6103(i)(1) to private contractors to provide special expertise to the investigation. Their services must meet the special knowledge or technical skills requirement. The U.S. Attorney may make these disclosures only if the special expertise requires the use of the material in the determination.

Example: Includes handwriting analysis, photographic development, sound recording enhancement, or voice identification. This list is not comprehensive; other special skills may meet the technical requirements of the regulations.

Note: The U.S. Attorney may not use this to circumvent the rules regarding disclosures to state and local law enforcement personnel, or as general authority for "contracting out." General accounting or law enforcement skills would not meet the special requirement. The intent is to provide a way to get special help where needed, not to provide a mechanism to overcome resource problems that the government should address through normal channels. For example, accounting skills/analysis applicable to a specific industry or methodology of commerce could meet the special test while general accounting skills would not. Although it is impossible to cover every possible situation, it is unlikely that state and local law enforcement personnel possess the type of special skills necessary to fall under this provision. However, retired federal law enforcement personnel with specialized skills and/or knowledge in pursuing complicated financial crimes, such as money laundering, can be hired as "rehired annuitants" or as employees, which will allow access to tax information.

- (2) Generally, the U.S. Attorney may only re-disclose IRC 6103(i) information to federal employees personally and directly engaged in the investigation. The U.S. Attorney may consider state and local personnel as federal employees for disclosure purposes as long as the employees are:

- Formally appointed, rather than merely detailed.
- Assisting in a federal investigation.
- Supervised by a federal employee.

Example: These personnel include those whose job titles are: Special United States Attorneys, Special Deputy United States Marshals, and other persons appointed under the Intergovernmental Personnel Act. As such state and local personnel formally appointed as federal employees under these provisions would be permissible recipients of tax information under IRC 6103(i). As federal employees, they are subject to the penalty provisions of IRC 7213, IRC 7213A, IRC 7431, and 18 USC 1905. See IRM 11.3.22.12.1.2(8).

Note: Qualifying appointments do not include narcotics deputations pursuant to 21 USC 878.

- (3) When state and local personnel are formally appointed, they will be advised in writing of disclosure restrictions and the penalties for unauthorized disclosures and inspections. See Exhibit 9.3.1-2, Statement Regarding Use and Disclosure of Federal Information By State or Local Government Employee Appointed to Assist A Federal Grand Jury Investigation.
- (4) State and local government personnel involved in the federal investigation are prohibited from using or disclosing the data obtained through the federal Ex Parte Court Order process for state or local law enforcement purposes.

11.3.28.4
(04-17-2025)
**Disclosure of Return
Information (Other Than
Taxpayer Return
Information) Pursuant to
IRC 6103(i)(2)**

- (1) A request under IRC 6103(i)(2) must be in writing and signed (approved) by the head of the federal agency or the Inspector General of the agency, or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, any U.S. Attorney, any special prosecutor appointed under 28 USC 593, any attorney in charge of an organized crime strike force, the Director, Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. An Assistant U.S. Attorney may not approve a request.

Note: The approving official does not need to actually sign the request as long as the request makes a declarative statement that the delegated IRC 6103(i)(2) official has actually approved the specific request. The authority to approve an IRC 6103(i)(2) request **cannot** be re-delegated.

- (2) A valid request under IRC 6103(i)(2) must be in writing and include:
- The name and address of the taxpayer
 - The taxable period or periods
 - The statutory authority for the proceeding or investigation

Note: The authority cited in the request must include the specific statute and preferably statute and section, for example Title 18, Section 1343.

- The specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation
- (3) If possible, the requester should provide advance notice of their intent to make an IRC 6103(i)(2) request.
 - (4) Frequently, the U.S. Attorney's Offices request fact of filing information under this section, however this section authorizes the IRS to release any type of return information (other than taxpayer return information).

Note: See IRM 11.3.28.1.4.2 for records considered return information (other than taxpayer return information).

- (5) Requests for addresses only are invalid because IRC 6103(i)(2) requires that the requester provide an address.
- (6) IRC 6103(i)(2) does not allow disclosure of return information, (other than taxpayer return information) to the DOJ for use in collecting restitution due to the U.S. government as a result of the Fair Debt Collection Procedures Act. Clearly at the point that the DOJ is seeking restitution, all judicial and administrative actions related to the investigation or proceedings pertaining to the identified defendants criminal actions are completed. Thus, the IRC 6103(i)(2) provision does not apply.
- (7) Disclosure of related material subsequently developed for the years authorized may be made on a continuing basis even though the original IRC 6103(i)(2) letter might not include a request for continued disclosures. Such disclosures may be made only if the requester indicates an interest in or need for this information subsequent to the initial disclosure. The information disclosed may be discussed as often as necessary.

Note: This does not require Disclosure to continually monitor the account for any changes, but allows for the requester to seek additional information using the initial request.

11.3.28.5
(04-17-2025)
**IRS Initiated Disclosures
of Return Information
Pursuant to IRC
6103(i)(3)**

- (1) While performing their official duties, IRS employees may obtain information indicating that non-tax criminal violations may have occurred, or they may witness criminal acts that are under the jurisdiction of another federal agency. Information may be disclosed to the extent necessary to tell the head of the federal agency having enforcement responsibility over the federal criminal statutes thought to be violated. However, information will not be disclosed if disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.
- (2) IRC 6103(i)(3)(B)(i) provides for the disclosure of return information, including taxpayer return information, to the extent necessary to advise appropriate officers or employees of any federal or state law enforcement agency of the imminent danger of death or physical injury to any individual. The source of information detailing the threat of imminent harm is irrelevant. IRS makes its own determination whether an emergency situation exists. These disclosures

are limited to federal or state law enforcement agencies and cannot be made to **local** law enforcement agencies such as county or city police departments.

- (3) Return information, including taxpayer return information, may be disclosed to appropriate officers or employees of any federal law enforcement agency under IRC 6103(i)(3)(B)(ii) in circumstances involving imminent flight of any individual from federal prosecution.
- (4) Delegation Order 11-2, found in IRM 1.2.2.12.2, names those authorized to disclose or authorize disclosures under IRC 6103(i)(3).
- (5) IRM 11.3.34, Disclosure for Non-Tax Criminal Violations, provides instructions for instances when IRS employees receive non-tax information about a possible non-tax violation of federal, state or local criminal laws.

11.3.28.5.1 (04-17-2025) **Disclosures of Return Information (Other than Taxpayer Return Information) Pursuant to IRC 6103(i)(3)(A)**

- (1) When an employee discovers return information, (other than taxpayer return information) that may indicate an identifiable taxpayer has committed a potential non-tax federal crime the employee will report the information by memorandum through functional channels to the appropriate Disclosure Office.
- (2) IRC 6103(i)(3)(a) provides for disclosure in writing of return information, (other than taxpayer return information) that may constitute evidence of a violation of a non-tax federal criminal statute. Care must be taken in determining whether the referral information, as defined in IRC 6103(b), or return information, (other than taxpayer return information). If a return or taxpayer return information contains the evidence of the violation, the IRS may not initiate the disclosure.

Example: If the “other income” line on a tax return shows drug proceeds of \$400,000, a disclosure may not be initiated, since this is taxpayer return information.

- (3) When return information, (other than taxpayer return information) that may constitute evidence of a violation of a non-tax federal criminal law is disclosed, the identity (name, address, SSN and date of Birth) of the taxpayer may also be disclosed. The taxpayer identity information is treated as return information, (other than taxpayer return information), in this instance. However, taxpayer identity information may not be disclosed by itself.

Example: A referral to Department of Homeland Security pertaining to illegal activity in the United States consisting of only the name, address and TIN of the individual, without other independently verifiable non-tax information, is not permitted under IRC 6103(i)(3)(A).

- (4) Information that merely indicates a violation may have occurred is adequate to warrant a referral to the appropriate federal agency. The information must sufficiently identify the specific criminal act or event or statute to which it relates.

Note: Any information referred to another federal agency must be able to be independently verified by that agency, outside the use of confidential tax information.

- (5) The memorandum prepared should contain the following information about the violation:

- a. Name, social security number, address and any aliases, of the subject. To the extent necessary, the subject's date of birth may also be disclosed.
 - b. Summary of the facts and circumstances surrounding the non-tax federal criminal violation.
 - c. U.S. Code sections potentially violated, if known.
 - d. Specific source of the information, (e.g. Informant, local police, state/county records, internet, 3rd party summons) and how the information was obtained.
 - e. The tax years where the information applies; e.g. the year(s) where an examination or criminal activity took place. If unknown, indicate that in the memorandum.
 - f. The agency that would have an interest in this violation, e.g. U.S. Department of Homeland Security, other agency (specify).
 - g. Determination whether disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.
- (6) The Disclosure Office will review the information to ensure it qualifies for referral under IRC 6103(i)(3)(A), prepare the necessary referral letter and forward the letter to the head of the appropriate federal agency.
 - (7) Oral discussions or clarifications with an employee of the other federal agency are prohibited. Should an IRS employee receive contact from the agency, the employee should advise that the letter sent contains all the information permitted to be disclosed under IRC 6103(i)(3)(A) and that the statute does not permit oral discussions on the information.

11.3.28.5.2
(04-17-2025)
**Disclosure in
Emergency Situations
Pursuant to IRC
6103(i)(3)(B)**

- (1) Inform the Disclosure Manager or other IRS employee having IRC 6103(i)(3)(B)(i) authority of situations involving the imminent danger or death or physical injury to any individual.
- (2) The Disclosure Manager or receiving office will contact an authorized IRS official identified in Delegation Order 11-2, found in IRM 1.2.2.11.2 for consultation and disclosure authorization, as necessary.

Note: In situations involving imminent danger or death or physical injury, CI Special Agents are the only non-supervisors that possess the authority to make an immediate determination and subsequent disclosure.

- (3) When making the disclosure, the Disclosure Manager or other function may provide the information by telephone to the appropriate Officer or employee of the **federal or state** law enforcement agency that could take action on the imminent situation.

Note: The disclosures **cannot** be made to local law enforcement agencies nor to assist agencies such as suicide prevention bureaus.

Note: When appropriate, IRS functions may make these disclosures internally. For example, some Potentially Dangerous Taxpayers (PDT) or Caution Upon Contact (CAU) information may be disclosed to IRS employees conducting non-tax investigations (e.g. Title 31) when disclosure is necessary to protect individual safety. Even though such disclosures are internal, the accounting requirements of IRC 6103(p)(3)(A) and safeguarding requirements of IRC 6103(p)(4) still apply. See IRM 11.3.37, Recordkeeping and Accounting for

Disclosures, and IRM 11.3.36, Safeguard Review Program. Safeguarding questions should be directed to the Office of Safeguards.

- (4) When a taxpayer makes a threat against the President or certain other Government officials during an official contact (e.g., during the preparation of a tax return in an IRS office, or by written statements contained on the tax return), the Disclosure Manager, Special Agent or other authorized person will immediately disclose the threat, together with the name and address of the taxpayer by telephone to the local Secret Service field office. These figures include:

- President
- President's immediate family
- President-elect
- Vice President or other officer next in line for succession to the Presidency
- Former Presidents
- Wife, widow, and minor children of former Presidents
- Presidential and Vice-Presidential candidates
- Visiting heads of foreign states or foreign governments

- (5) IRC 6103(3)(B)(ii) permits the disclosure of return information to the appropriate officers or employees of any federal law enforcement agency in situations involving the imminent flight of an individual from federal prosecution. Delegation Order 11-2, found in IRM 1.2.2.11.2 for those having delegated authority to make this type of disclosure.

Note: Special Agents do not have the authority to make a disclosure in imminent flight situations. However, Special Agents in Charge (SACs) may make these disclosures.

- (6) The referring office must maintain thorough documentation to provide a review trail for each disclosure under IRC 6103(i)(3)(B). The accounting requirements of IRC 6103(p)(3) apply to these disclosures. See IRM 11.3.37, Recordkeeping and Accounting for Disclosures
- (7) IRC 6103(i)(3)(B) permits disclosure of both taxpayer return information and return information (other than taxpayer return information). The source of the information concerning the threat is irrelevant. IRS must decide on its own whether an emergency situation exists.
- (8) Disclosures under IRC 6103(i)(3)(B) are not subject to the confidential informant and tax impairment determinations required under IRC 6103(i)(6). However, it is IRS policy never to release the identity of a confidential informant.

11.3.28.5.3 (04-17-2025) **Suicide Threats**

- (1) By itself, a suicide threat to the IRS is not tax information, therefore the rules limiting tax disclosures do not apply to the threat itself. IRC 6103 limitations on disclosure do not apply to location information that the taxpayer provides while making the threat nor on location information an employee may obtain from a public source. To verify the address or current location of the taxpayer making the threat, without accessing tax return information, take the following steps:

- a. Ask the taxpayer for their address or location, i.e. "Where are you, right now?"
- b. Attempt to look up the taxpayer's location in the telephone book, on the internet or from some other public source.

Note: Do not use IDRS to look up the taxpayer's address. IDRS information is taxpayer return information protected by IRC 6103. For example, when verifying a caller is actually the taxpayer, we verify their name, TIN, address, etc. against information contained in IDRS. This verification cannot be used when reporting a suicide threat. By asking where the taxpayer is, specifically, you will be able to direct a Law Enforcement Officer (LEO) to where the taxpayer is instead of the address of record which may be an empty house.

- (2) If the taxpayer's location comes from one of the above sources, call 911 for assistance. Be careful not to mention the underlying reason for the taxpayer's call or the fact the call is related to a tax issue.

Note: It is permissible to state that the threat was made during a contact involving official business.

- (3) If the taxpayer's location must be obtained by accessing tax information (e.g., through IDRS), IRS employees must follow the procedures related to disclosures under IRC 6103(i)(3)(B)(i).
 - a. These disclosures can only be made to state or federal law enforcement authorities.
 - b. Only authorized IRS employees (IRS and Chief Counsel supervisors; Special Agents, CI) may make the disclosure. See Delegation Order 11-2, found in IRM 1.2.2.11.2.
 - c. Form 5466-B, *Multiple Records of Disclosure*, must be prepared for accounting purposes after making any disclosure of taxpayer return information to state or federal law enforcement authorities. The completed Form 5466-B will be sent to the local Disclosure Manager for year end accounting.
 - d. Any disclosures made to local law enforcement of taxpayer location information obtained from IRS systems or files constitutes an unauthorized disclosure. See *Reporting Unauthorized Disclosures* on the Privacy and Disclosure Virtual Library.
- (4) IRM 21.1.3.12, Suicide Threats, contains step-by-step procedures for dealing with suicide threats.

11.3.28.6
(04-17-2025)
**Antiterrorism
Disclosures**

- (1) The IRS' effort to cooperate with the various agencies investigating terrorist actions is led by CI. CI and Disclosure work in partnership to ensure that everything legally possible is done to assist in these investigations.
- (2) When performing their official duties, employees may identify information which could relate to terrorist activities. Alternatively, LEO's outside the IRS may ask an employee to provide information for a terrorism-related investigation. In either case, the employee should contact CI immediately.

Caution: Employees should not browse taxpayer information in order to locate information related to terrorism.

- (3) Disclosure personnel will give expedited assistance or technical guidance, when sought, to CI personnel considering disclosures under IRC 6103(i)(3)(B)(i). Terrorism related disclosures under IRC 6103(i)(3)(B)(i) should be rare and supported by compelling facts since Congress enacted specific legislation in IRC 6103(i)(3)(C) and IRC 6103(i)(7) regarding IRS interaction with terrorism and national security investigations.

Note: Direct questions concerning IRC 6103(i)(3)(C) and IRC 6103(i)(7) issues to the Senior Disclosure Analyst for CI.

Note: If you receive any correspondence marked “Classified,” “Secret” or “Top Secret” **do not open it**. Immediately contact the Senior Disclosure Analyst for CI.

- (4) Delegation Order 11-2, found in IRM 1.2.2.11.2, contains delegations of authority pertaining to IRC 6103(i)(3)(C) and IRC 6103(i)(7). The following compares processing procedures under IRC 6103(i)(3)(C) and IRC 6103(i)(7) provisions to those of other IRC 6103(i) sections:
- Process IRC 6103(i)(3)(C) disclosures in the same manner as IRC 6103(i)(3)(A) disclosures;
 - Process IRC 6103(i)(7)(A) and IRC 6103(i)(7)(B) disclosures in the same manner as IRC 6103(i)(2) requests. See (3) Note above for guidance if the request is marked “Secret” or “Top Secret”;
 - Process IRC 6103(i)(7)(C) Ex Parte orders in the same manner as IRC 6103(i)(1) Ex Parte orders;
- Note:** Field Disclosure employees work these Ex Parte court orders.
- GLDS, in close coordination with CI, will prepare and obtain approval for Ex Parte applications under IRC 6103(i)(7)(D).

11.3.28.7
(04-17-2025)
**Use of Returns and
Return Information in
Administrative and
Judicial Proceedings**

- (1) Subject to the conditions prescribed in IRC 6103(i)(4), returns and return information, including taxpayer return information and return information (other than taxpayer return information), disclosed under IRC 6103(i)(1), IRC 6103(i)(2), IRC 6103(i)(3)(A), IRC 6103(i)(3)(C), or IRC 6103(i)(7) may be disclosed in an administrative or judicial proceeding (including the sentencing phase) pertaining to the enforcement of a specifically designated non-tax federal criminal statute or related civil forfeiture where the U.S. or a federal agency is a party.

Note: IRC 6103(i)(4) permits the use of information in 18 USC 981 or 982 civil or criminal forfeitures related to the non-tax violations of 18 USC 1956 or 1957, or 31 USC 5313(a) or 5324(a).

- (2) Prior to introducing IRC 6103(i)(1) and IRC 6103(i)(7)(C) federal tax information, the court must make a determination that the return or return information is probative of a matter in an issue relevant to establishing the commission of a crime or guilt or liability of a party, or to the extent required by order of the court pursuant to Title 18, U.S. Code, or rule 16 of the Federal Rules of Criminal Procedure. The judge’s determination can be oral or in writing, consistent with that court’s practice. The IRC 6103(i)(4) determination cannot be made as part of the initial Ex Parte court order.

- (3) Return information, (other than taxpayer return information) disclosed pursuant to IRC 6103(i)(1), (i)(2), (i)(3)(A) or (i)(3)(C) and (7), does not require a court determination described in IRM 11.3.28.7(2) or to introduction into a court proceeding.
- (4) The U.S. Attorney or other federal official may not admit returns or return information into evidence in these proceedings if the IRS determines that introducing the information into evidence would identify a confidential informant or seriously impair a civil or criminal tax investigation.
- (5) The U.S. Attorney or other federal official should notify the IRS in all cases where the United States intends to seek to introduce returns or return information, including taxpayer return information, into evidence.
- (6) An accounting for disclosures made under IRC 6103(i)(4) is not required. See IRM 11.3.37.1(7).

11.3.28.8

(04-17-2025)

**Notifying Individuals
That Their Records Were
Made Available Under a
Compulsory Legal
Process**

- (1) Subsection (e)(8) of the Privacy Act requires that agencies “. . . make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.”
- (2) See IRM 10.5.6.4.7 and IRM 11.3.35.17 Notifying Individuals That Their Records Were Made Available to a Person Under Compulsory Legal Process, IRM 11.3.35.16, Accounting Requirements, and for a full explanation of requirements and procedures.