



Consents & Disclosures - What You Really Need To Know!

Presented by:
National Society of Accountants
1010 N. Fairfax Street
Alexandria, VA 22314
800-966-6679
www.nsacct.org



Learning Objectives

At the end of this course you will be able to:

- Understand the basic rules of §7216 and §6713
- Apply the requirements of Rev. Proc. 2013-14
- Identify potential areas of non-compliance and the penalty risks
- Implement a process and procedure in your office to meet the disclosure requirements



History of Tax Confidentiality Laws

- Tax return information has always been protected!
- Privacy Act of 1974
- Tax Reform Act of 1976 and IRC § 6103
- Gramm-Leach-Bliley Act of 1999
- New regulations effective January 1, 2009
- Most recent: Rev. Proc. 2013-14; 2013-19



Disclosure and Use of Tax Return Information

- What is “tax return information”?
- What are “disclosures” of tax return information?
- What are “uses” of tax return information?



What is IRC § 6713

- A civil preparer penalty
 - Unauthorized disclosure or use of tax return information
 - \$250/each not to exceed \$10,000/year
- The rules of IRC § 7216 apply
- Criminal and civil penalties can both apply



What is IRC § 7216

- A criminal provision enacted in 1971
 - Knowingly or recklessly disclosing or using tax return information
 - \$1,000 / 1 year prison or **BOTH!**
- New regulations added 4 areas:
 - Civil Penalties
 - Electronic Filing
 - Cross Marketing
 - Updated Regulations



Regulations: Who do they apply to?

- Paid Preparers – YOU, ME, US!
- Electronic Return Originators & Transmitters
- Support Contractors or Employees
- Volunteer Preparers for VITA & TCE
- Software Developer



Rev. Proc. 2013-14

- Supersedes Rev. Proc. 2008-35
- Effective date extended to January 1, 2014 by Rev. Proc. 2013-19



Overview of Rev. Proc. 2013-14

- Applies to Form 1040 series returns
- Multiple disclosures on one consent
- Multiple uses on one consent
- Consent form format
- Prescribed language
- Electronic consent permitted



Rev Ruling 2010-4 & 2010-5

- 2010-4: Five acceptable scenarios
 - Tax law changes
 - Related services
 - Newsletters
 - Marketing
 - Economic or educational analysis
- 2010-5
 - Sharing with liability insurance carriers



Permissible Without Taxpayer Consent

- Disclosures or Uses:
 - To the IRS
 - Other taxing jurisdictions or the courts
 - Obtaining legal advise
 - Related parties: spouses, parent-child



Permissible Without Taxpayer Consent

- Disclosures or Uses:
 - Other US based tax preparers
 - Create solicitation lists for tax return preparation business
 - Produce statistical information; Quality and Peer review



Consent to Disclose and Use

In general for all tax returns:

You Must.....

- Before returns are provided
- Before tax return information is disclosed or used
- Include name of taxpayer and tax preparer
- Intended purpose and specific recipient



Consent to Disclose and Use In general for all tax returns:

You Still Must.....

- Specify information to be disclosed or used
- Must be written
- Signed and dated by taxpayer
- Refer to Reg. 301.7216-3(a)(3)(i)



2015

IRSNationwide

TaxFORUM

Consent to Disclose and Use 1040 Series



- Mandatory statements
- Affirmative Consent with no opt-out
- Knowing and voluntary
- Signature
- Incomplete consents; no blank spaces
- Separate document
- Keep on file



Consent to Disclose and Use 1040 Series

- Paper:
 - One or more 8.5 by 11 inch sheet or larger
 - 12 point type
 - Handwritten original signature



Consent to Disclose and Use 1040 Series

- Electronic:
 - One or more screens
 - Text must be same or larger than all other text
 - Sufficient contrast between text and background
 - Signature with PIN, or type in name



Disclosing Outside the United States

- Special Rules
 - Taxpayer has to agree before the fact
 - SS #'s must be redacted
 - Specific language
 - §301.7216-3(b)(4)
 - See Rev. Proc. 2013-14 section 4.04(1)(e)(i)
- Exceptions
 - See Rev. Proc. 2013-14 section 4.04(1)(e)(ii)



How does this apply to Me?

- Do you provide services other than tax preparation?
 - Accounting, Bookkeeping and Payroll
 - Financial Services and Insurance
- What are your client's expectations?
- What does your staff understand about consents and disclosures?



ACA and §7216

- Will taxpayer consent be required to provide general information to clients?
- Will taxpayer consent be required to solicit and facilitate enrollment if I become a health care “navigator”?



WHAT?!?

What we covered in the last hour:

- The basic rules of §7216 and §6713
- Rev. Proc. 2013-14
- Identifying potential areas of non-compliance and the penalty risks in your practice
- Implementing a process and procedure in your office to meet the disclosure requirements



Practice Tip!

When in Doubt

GET CONSENT



For More Information

National Society of Accountants

More information is available
including additional materials at:

Booth in Vendor Hall

Or Table in Lobby

800-966-6679

www.nsacct.org