

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

In Re:

Refer Reply To:

CC – GENIN-159237-03

Date:

January 13, 2004

Dear Ms. :

Reference: Form 2290 Returned Stamped Copy

The following is response to your September 25, 2003 inquiry regarding the above referenced subject matter.

ISSUE

Whether there is an unauthorized disclosure under I.R.C. § 6103, when a non-designee¹ third party: (1) submits a completed and signed Form 2290 and accompanying Schedule 1 with cash or check payment to a Service employee; (2) the employee acknowledges the receipt thereof by stamping Schedule 1; and (3) returns the original (stamped copy) of Form 2290, Schedule 1 and a copy of Form 2290 back to the third party?

CONCLUSION

By stamping and returning Form 2290 and Form 2290, Schedule 1 to the third party, the Service employee is merely acknowledging receipt of the Form and cash or check. This acknowledgment of receipt to the person who provided the information is not a disclosure.

FACTS

Taxpayer owners of highway motor vehicles that have a taxable gross weight of 55,000 pounds or more use Form 2290, *Heavy Highway Vehicle Use Tax Return Form* (Rev. July 2003) [hereinafter, *Form 2290*], to pay highway use tax, as well as proof of payment in order to register their vehicle in their respective state. See

¹ Form 2290 (Heavy Highway Vehicle Use Tax Return) permits the taxpayer to authorize a Third Party Designee to discuss the taxpayer's Form 2290 with the Service.

Instructions for Form 2290, Heavy Highway Vehicle Use Tax Return (Rev. July 2003), catalog No. 27231L, p. 1 [hereinafter, Form 2290 Instructions]. The Service employee stamps and returns the Form 2290, Schedule 1 to the taxpayer for this purpose. *Id.* Because states generally require verification of payment of the highway use tax before they will register a vehicle, Schedule 1 serves as proof of payment. *See Form 2290 Instructions*, p. 5 (Alternatively, the taxpayer may use a photocopy of Form 2290, Schedule 1, and a copy of his canceled check as proof of payment). *Id.*

You indicated in your correspondence that, on occasion, a non-designee third party, such as the taxpayer's friend or employee, enters a Service walk-in office to pay highway use tax on behalf of the taxpayer with Form 2290. The Service employee (typically a Tax Resolution Representative or a Contact Service Representative) accepts cash or check payment from the third party with Form 2290. Service employees are specifically instructed not to verify the information, but merely to ensure that Form 2290 is complete. You have indicated that Service employees do not verify the identity of the third party who submits the payment or the identity of the taxpayer who is named on the Form prior to accepting it. The Service employee stamps Form 2290, Schedule 1 with the date and the words "received with remittance" and returns it to the third party. The Service's original Form 2290 and a copy of Form 2290, Schedule 1 are sent by the Service employee to the Cincinnati Submission Processing Campus (CSPC) for processing. *See* I.R.M. 3.11.23.18 (01-01-2004). The returned "stamped copy" of the Form 2290, Schedule 1 serves as proof of payment for the taxpayer owner of the highway use tax. *See Form 2290 Instructions*, p. 5.

LAW AND ANALYSIS

According to your inquiry, there is a potential violation of I.R.C. § 6103 when the Service employee returns the original (stamped copy) back to the third party. The Form itself and the fact of receipt of remittance are, at the very least, "return information," as that term is defined in section 6103(b)(2).² Those items clearly have been received by the Service with regard to a taxpayer's liability or potential liability under the Internal Revenue Code. There is, however, no "disclosure" (defined in section 6103(b)(8) as the making known of any return or return information) in merely acknowledging to a third party provider of information the information provided. By stamping the Schedule 1, the Service employee is merely acknowledging that he has received a Form and payment.

This situation is not unlike giving a receipt to a third party for summoned documents. Certainly, without making an unauthorized disclosure of return information, the third party can be given a list of the items they turned over pursuant to summons. As another example, if a third party writes a check to pay the tax liability of another taxpayer, the third party would be entitled to a receipt describing what was provided,

² We do not address at what point the Form 2290 is deemed filed, making it a "return" under I.R.C. § 6103(b)(1).

without it being a “disclosure.”³ These acts are similar to a Service employee acknowledging the receipt by stamping Schedule 1, and returning the original (stamped copy) to the third party as only describing what has been received by the Service.

We understand that no verification process takes place when the Form and payment are accepted. The Service employee does not make verifications of such entries as name, taxpayer identification number, or other data before the return and payment is received. Such verifications, if required, would constitute a disclosure by tacitly acknowledging the matching of information on the form with IRS records.⁴ Such a disclosure would be prohibited absent consent of the taxpayer.

We hope this has been of assistance.

Sincerely,

David L. Fish
Senior Technician Reviewer,
Branch 1
(Disclosure & Privacy Law)

³ There would be a disclosure, however, if the IRS indicated the amount the taxpayer owed or the amount necessary to pay the taxpayer’s account in full. Whether such disclosure is authorized, under I.R.C. § 6103(k)(6), would depend upon the facts and circumstances.

⁴ In contrast, when the Service receives a return and acknowledges to an electronic return originator the successful transmission of a return, the acknowledgement constitutes a disclosure because the taxpayer’s name and taxpayer identification number are checked for validity, and certain preliminary checks are conducted to ensure data integrity. The transmission combined with such verifications are more than simple acknowledgement of receipt and therefore require the consent of the taxpayer.