

**Office of Chief Counsel  
Internal Revenue Service**

**memorandum**

CC:EL:D:Br4:DFish  
DL-121753-97

date: January 12, 1998

to: Executive-in-Charge  
Simplified Tax and Wage Reporting System (STAWRS)  
Attention: Donna Hockensmith

from: Senior Technician Reviewer, Branch 4 (Disclosure Litigation) CC:EL:D

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subject: Use of Form 8821 for Montana Joint Form 941 Test

You requested our review of the Form 8821 and its applicability for use in the IRS/Montana Department of Revenue (MDOR) joint Form 941 filing test. As noted in our memorandum dated September 3, 1997, the legislation authorizing the test (section 976 of the Taxpayer Relief Act of 1997) permits disclosure of taxpayer identity and signature data to the Montana Department of Revenue but does not permit the state to use the information for non-tax purposes. See Staff of the Joint Committee on Taxation, 105th Cong., 1st Sess., General Explanation of Tax Legislation Enacted in 1997 p. 168 note 197 (Comm. Print 1997) (attached). Pending a technical correction, an I.R.C. § 6103(c) consent from the taxpayer would permit the state to use the information as if it had received it directly from the taxpayer on a Montana return.

The Form 8821 was designed to meet the requirements of section 6103(c) for taxpayer consents. ~~When filled out and signed and dated by the taxpayer it~~ meets the requirements of section 6103(c) and permits the IRS to disclose returns and return information to the appointed designee. We believe the Form 8821 would be suitable for the test. We also have some general comments.

As a general matter, the Form 8821 cannot be executed by the taxpayer's attorney or a preparer. Generally, the same official that signs the return can sign the Form 8821.

[REDACTED]

DP

The regulations require that before disclosure can be made, the consent must be received by the Service. Treas. Reg. § 301.6103(c)-1(a). Consistent with other positions the Service has taken regarding contractors, we would generally view receipt of a consent by the Service's contractor as receipt by the Service. However, in this case, the Service's contractor, MDOR, would also be the intended recipient of the information under the consent.<sup>1</sup> In addition, we are not aware of

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<sup>1</sup> The contractor would also be making the disclosure. The regulations require that the Service approve any redisclosure by the contractor in writing (other

any other program where the IRS has utilized contractors to receive taxpayer  
consents



A consent can cover future years or periods. Thus, it is possible that the taxpayer would only have to file one consent for the entire period of the test (or until remedial legislation is enacted).<sup>2</sup> However, in that case, a system would have to be in place to ensure that a consent has been received covering all the subsequently filed Forms 941.

Issues regarding retention and storage of the original copy of the consent and the copy sent to the Service should be coordinated with the Assistant Chief Counsel (General Legal Services). Operational issues regarding processing of consents generally should be coordinated with the National Director, Governmental Liaison and Disclosure.

If you have any questions or comments, please contact me at 622-4570.

/s/

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DAVID L. FISH

Attachments  
As stated.

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than a disclosure to the contractor's officers and employees). Treas. Reg. § 301.6103(n)-1(a). The MOU should detail how the consents will be processed and disclosures will be made, not only because such disclosures are an integral part of the program, but also to meet the "written approval" requirement of the regulations.

<sup>2</sup> The Service has taken the position that a consent can be valid for up to five years in the future.

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cc: Director  
6103/Privacy Operations CP:EX:GLD:O

Special Counsel  
Modernization & Strategic Planning  
CC:M&SP

Assistant Chief Counsel  
(General Legal Services)  
CC:F&M:GLS

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