

**Office of Chief Counsel
Internal Revenue Service
memorandum**

GL-111133-04
CC:SB:SWatson

date: February 2, 2005

to: Donna Downing, Program Director, Compliance Policy Internal Stakeholder
Attn: Marvin Carter


from: Miriam A. Howe, Assistant Division Counsel (GL)
(Small Business/Self-Employed)

subject: Collecting Process, General Handbook Locating Taxpayer IRM 5.1.18

SBSE Division Counsel has reviewed the proposed revision of the IRM. We suggest one change with regard to the disposal of consumer credit information in IRM 5.1.18.1(15) for the reasons set forth below.

The Fair and Accurate Credit Transactions Act of 2003 (FACTA) provides that persons in possession of consumer credit information should properly dispose of such information. The Internal Revenue Service comes within the definition of "person" in FACTA. The Federal Trade Commission issued regulations on November 24, 2004, explaining how to properly dispose of credit reports.

FTC Disposal of Consumer Report Information and Records Rule, 16 C.F.R. § 682.3 states that proper disposal means "taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal." The rule does not provide for any specific method of disposal, but sets forth some examples. One acceptable method is the implementation of policies that require the "burning, pulverizing, or shredding of papers containing consumer information so that the information cannot be practicably read or reconstructed." Another acceptable method is the implementation of policies that require the "destruction or erasure of electronic media containing consumer information so that the information cannot practicably be read or reconstructed." A person may also implement procedures and policies that call for contracting with a party engaged in the "business of record destruction" to dispose of credit information records. Section 682.4 provides that the rule does not require the destruction of credit reports. It merely provides that a person should properly dispose of such information if that person decides to dispose of credit reports.

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