

The original documents are located in Box 19, folder “Internal Revenue Service - Privacy of Tax Returns (2)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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Department of the Treasury / Internal Revenue Service / Washington, D.C. 20224

Commissioner

August 27, 1974

Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

In accordance with our talk yesterday afternoon, I am enclosing a copy of the News Release, with attachments, which we issued on August 22. This release describes our new internal procedures for the handling of requests for tax information from the White House.

As I mentioned, this release was issued, with my approval, while I was out of the continental United States. Before issuing it we cleared it, through Dick Albrecht, with the Secretary of the Treasury. Therefore, IRS did not issue this release without appropriate advance clearance.

Last night Meade Whitaker and I discussed questions raised by Department of Justice officials with respect to our draft of legislation strengthening taxpayer rights of privacy. We agreed upon revisions to meet all the objections which seem meritorious, and we think we have made strides toward reaching a mutually satisfactory result.

With best wishes,

Sincerely,



Donald C. Alexander



Enclosure

cc: Mr. Geoffrey C. Shepard
Associate Director, Domestic Council
Committee on the Right of Privacy

Commissioner

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With best wishes,

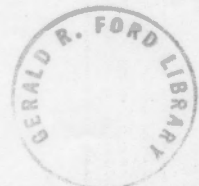
Sincerely,

/s/ Don

Donald C. Alexander

Enclosure

cc: Mr. Geoffrey C. Shepard
Associate Director, Domestic Council
Committee on the Right of Privacy



News Release

Department of the Treasury Internal Revenue Service

Washington, DC 20224

Tel. (202) 964-4021 8/22/74

IR-1413

For Release: Immediate

Washington, D.C.--The Internal Revenue Service has issued formal instructions to all of its employees that place strict limitations on the furnishing of tax returns and tax information to the White House.

The instructions, which had been previously conveyed orally to key IRS officials, provide that requests from the White House must be in writing and may be responded to only by the Commissioner of Internal Revenue. In the Commissioner's absence, only the Deputy Commissioner may act for him in this regard. No other IRS officials will be empowered to act in their absence.

The IRS action is in accordance with testimony given by Commissioner Donald C. Alexander on July 31, 1974 before the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee.

Copies of IRS Information Notice 74-23 containing the formal instructions and a revised portion of the Internal Revenue Manual dealing with Special Tax Check Reports are attached.

X X X



information notice

Number: 74-23
August 9, 1974

US Treasury Department **Internal Revenue Service**

Disclosure of Tax Returns and Tax Information to Members of the White House Staff

This is to inform Service employees of the procedures which should be followed with respect to requests for tax returns and tax information from members of the White House Office. The White House Office comprises the officers and employees of the staff of the President required in the performance of the detailed activities incident to his immediate office. Any officer or employee of the Internal Revenue Service who receives a request for tax returns or tax information from a member of the White House Office shall promptly communicate the contents of the request to the Commissioner through the head of the office in which he serves. The Commissioner will evaluate the request and will ask the Assistant Commissioner (Compliance) to prepare whatever reports may be necessary in the same manner as provided by sections (18)30(1)(b) and (3) of IRM 1272, Disclosure of Official Information Handbook. Only the Commissioner, or, in the absence of the Commissioner, the Deputy Commissioner, will make the report, the tax returns, or tax information available to the members of the White House Office. These procedures will be made a part of the Disclosure of Official Information Handbook, IRM 1272. The institution of these procedures is intended to include the Special Tax Check Report Program established by Chapter (19)00 of IRM 1272, Disclosure of Official Information Handbook. Pending revision and republication of Chapter (19)00 of IRM 1272, the information submitted pursuant to a report under this Program should be limited to whether an individual has filed income tax returns with respect to the immediately preceding three years, has failed to pay any tax within 10 days after notice and demand, has been under any criminal tax investigation and the result of such investigation, or has been assessed a civil penalty for fraud or negligence.


Commissioner



Manual Transmittal

Internal Revenue Service

1272-6

Date of Issue:

August 22, 1974

Purpose

This transmits revised material for IRM 1272, Disclosure of Official Information Handbook.

Removal and Insertion of Pages

Remove:

Text (19)00—(19)70:(3)(f)

Insert:

Text (19)00—(19)70:(3)(f)

Nature of Changes

Chapter (19)00 has been revised to require a written request by a designated official, who is charged by the

head of the requesting agency with the responsibility for such requests, before the National Office will require a special tax check report, and to have the special tax check report contain only specified tax information concerning Chapter 1 of the IRC of 1954.

Donald C. Alexander

DONALD C. ALEXANDER
Commissioner



Special Tax Check Report

(19)10

General

(1) The National Office will request tax check reports on prospective Presidential appointees, on nominees for Presidential "E" Awards established by Executive Order 10978, and on certain other persons. Generally, these tax records checks are made to supplement investigations concerning the character, loyalty, or suitability of such prospective appointees or nominees. We cannot emphasize too strongly the need for prompt, completed, and discreet processing of these requests.

(2) Requests for tax check reports will be made by the National Office only pursuant to a written request signed by a designated individual who is charged by the head of the requesting agency with the responsibility for such requests.

(3) Tax record checks should be confined to taxes imposed by Chapter 1 of the Internal Revenue Code of 1954.

(4) When field contact with the taxpayer is required, the Director may assign any officer he deems appropriate to perform this task. In this respect, any attempt to substantiate the filing of a return by telephone is not desirable and should be discouraged.

(5) If in the judgment of the Director certain information is of such a nature that it should not be transmitted by teletype, the report should state that additional information is being forwarded by memorandum.

(19)20

Type "X" Reports

(1) Communications from the National Office for reports on prospective appointees will ask for a Type "X" Report.

(2) District offices should submit a teletype report to the National Office, Attention: CP:D, within three workdays after receipt of the request. The report should be in the format described in (19)50. If complete data is not assembled within the time limit, a report should be sent containing any partial information available, and should indicate the approximate period of time needed to complete the report.

(3) In "no record" cases a field contact in accordance with established procedure should be made with the taxpayer to substantiate whether returns were filed and to determine the place of filing.

(a) These inquiries should be conducted as discreetly as possible, giving no indication to the taxpayer that anything other than a routine check is being made.

(b) Upon field contact, if the taxpayer indicates he has filed his returns in another district, immediately teletype identifying information to the District Director and request that a collateral Type "X" Report be submitted directly to the National Office, Attention: CP:D. Also advise the National Office of such action.

(c) If a field contact is not desirable, the National

Office teletype or other communication will contain specific instructions that the taxpayer will not be contacted under any circumstances for information because of the request.

(4) In failure to file cases, returns should not be solicited without first consulting the Intelligence Division.

(19)30

"E" Award Reports

(1) Communications from the National Office for reports on nominees for "E" Awards will ask for an "E" Award report.

(2) District offices should submit a report to the National Office within five workdays after receipt of the request. The report should be in the format described in (19)50.

(a) If complete data is not assembled within the time limit, a report should be sent containing any partial information available, and should indicate the approximate period of time needed to complete the report.

(b) Reports should be made by memorandum using the fastest available mail service.

(3) In "no record" cases, the same procedures as prescribed for Type "X" Reports in (19)20:(3) should be followed.

(19)40

Service Center Participation

(1) Because of the transfer to service centers of information on outstanding balances, and because of the increasing importance of service centers in our over-all operations, district offices in preparing tax check reports should make such arrangements as may be necessary with service centers to obtain the required data so that complete and accurate reports will be furnished to the National Office. This may impose additional work on district offices, but with our decentralized operations, the National Office is unable to assume the responsibility for coordinating all details on individual cases of this nature.

(2) The responsibility for submitting tax check reports to the National Office will, therefore, still lie with the District Director concerned.

(19)50

General Format of Reports

(1) The general format for making Type "X" Reports, "E" Award Reports, or other similar reports follows:

(a) Name or title of report (Type "X" Report) or ("E" Award Report).

(b) Name and address of person, firm, or organization.

(c) Furnish statements indicating:

1 Whether such party has filed returns with respect to taxes imposed under Chapter 1 of the Internal Revenue Code for not more than the immediately preceding 3 years.

Special Tax Check Report

(19)50

General Format of Reports—Cont.

2 Whether such party owes any unpaid taxes and, if so, for what years.

3 Whether such party has been or is under investigation of possible criminal offenses under the internal revenue laws and the result of such investigation.

4 Whether such party has been assessed any penalty for fraud or negligence.

(19)60

Tax Checks on Treasury Employees

(1) Requests for tax checks on Treasury employees (other than Internal Revenue Service employees) will be initiated by bureaus or offices of the Treasury by use of Treasury Department Form TD 4002.

(2) District offices should complete items 10 through 15 of Form TD 4002 no later than 10 workdays after receipt of the request.

(3) If a lien was filed (item 11(b)), furnish the name, address, amount, date and place of filing, and date of release in item 15.

(4) The completed form should be returned to the originating office by use of double-sealed mailing, the inner envelope to be marked, "To Be Opened By Addressee Only."

(5) In "no record" cases it will not be necessary to contact the taxpayer unless a specific request is received from the Treasury office concerned. In failure-to-file cases, returns should not be solicited without first consulting the Intelligence Division.

(6) If district offices receive requests for additional information regarding items 10 through 15, the request, together with the proposed reply to the requesting Treasury office, should be transmitted to the National Office, Attention: CP:D.

(19)70

Tax Audits in Connection with Type "X" Reports

(1) Treasury Administrative Circular 189, dated May

12, 1969, (since revised) established requirements for preappointment tax audits on persons not already on Treasury rolls selected for high-level positions, such as Heads of Treasury Bureaus, Assistant Commissioners of Internal Revenue, and Presidential appointments, including persons serving on Presidential Committees.

(2) The responsibility for initiating and coordinating the audits is assigned to the Disclosure Staff, Office of the Assistant Commissioner (Compliance), CP:D.

(3) When the Director, Office of Personnel, Treasury Department, determines that a tax audit on a prospective Treasury appointee is needed, he will ask the Disclosure Staff to initiate the audit.

(a) The Disclosure Staff will telephone the District Director in whose district the taxpayer resides to obtain the returns from the service center or Federal Records Center and to assign an Internal Revenue Agent to make the audit.

(b) If the prospective appointee has already moved from his permanent residence to the Washington, D.C. area, it may be advisable to ask the District Director, Baltimore District, or the District Director, Richmond District, to conduct the audit.

(c) If a return for one of the open years has been examined under established procedures, it will not be necessary to re-examine the return. However, a report of the previous audit should be furnished to the Disclosure Staff.

(d) A regular Type "X" Report should be furnished as soon as possible in accordance with established procedures without waiting for the completion of the audit.

(e) A supplemental report of the audit should be furnished by telephone to the Disclosure Staff as soon as the results are known. It should be confirmed by memorandum to which is attached a copy of the audit report.

(f) Because of the extremely tight deadline in these cases, district offices are requested to make every effort to complete the audit within five workdays after receipt of the request. If this is not possible, a telephone or teletype report should be furnished to the Disclosure Staff indicating the approximate time when the audit will be completed.

THE WHITE HOUSE
WASHINGTON

August 27, 1974

MEMORANDUM FOR PHILIP W. BUCHEN

FROM: LARRY SPEAKES ✓

SUBJECT: WIRE STORY ON TAX RETURNS

I thought the attached would be of interest--particularly
Rep. Litton's remarks.

Attachment



2021

r czzclbylv

IRS Access Bjt 490

By DICK BARNES

Associated Press Writer

WASHINGTON AP - A double-barreled White House plan to keep income tax returns from prying politicians is running into opposition from Congressional privacy advocates who say it doesn't go far enough.

A White House official disclosed on Monday that the Treasury Department was asked to draft legislation that would curtail government agencies' access to returns filed with Internal Revenue Service. A companion executive order would keep the President from peeking, too.

Aides to former President Richard M. Nixon sought IRS confidential data for political purposes, according to evidence uncovered by the Senate Watergate committee and House Judiciary Committee. These disclosures spurred attempts to better protect privacy of tax returns.

President Ford's interest in curtailing access grew out of his pre-presidential work on the Domestic Council Committee on the Right to Privacy, said a White House official.

But Rep. Jerry L. Litton, D-Mo., said the proposed legislation is full of loopholes and the executive order would be worth less than a simple promise from Ford not to look at the tax returns.

Litton publicized a Nixon executive order last year that authorized the Department of Agriculture to examine farmers' tax returns. The order was revoked by Nixon this year.

He and Sen. Lowell P. Weicker Jr., R-Conn., a member of the Senate Watergate committee, sought approval this year for a law that would clamp down on access to tax returns, but haven't succeeded so far.

Litton said that three weeks ago, Philip Buchen met with him to discuss the administration's tax return privacy goals "and we pretty much agreed on what is needed to be done."

At that time, Buchen was executive director of the Domestic Council privacy panel. Now he is White House counsel to Ford.

Litton complained that the original administration proposal has grown from a few pages to more than 40 as it was circulated to different agencies.

He said it has been loaded with exemptions "to appease every agency that wants to keep its access."

The White House said the proposal still is being drafted, and wouldn't comment on its details or its expected time of completion.

Litton said the notion of an executive order governing the President's access to tax returns is absurd because it can be changed or revoked by the President.

"It would be harder to break a promise than change an executive order," he said.

Litton said he also fears the issuance of an executive order may be an attempt to cut support for his bill.

Litton's bill would permit the President to seek tax return information only in checking an appointee to high federal position. And then, he could learn only if the person had filed a return for the past three years, whether the person was delinquent, and whether he or she was under investigation for criminal tax violations.

The White House said its proposed executive order still is being drafted.

0245aED 08-27



M. Albrecht
Treasury Dept.

9642093

Moody
Whitaker

3:55 Pm



THE WHITE HOUSE
WASHINGTON

8/28/74

5:50 p. m.

Geoff Shepard returned
the attached --

recommends omitting
the marked portion on page 2.



THE WHITE HOUSE
WASHINGTON

8/28/74

To: Geoff Shepard

From: Phil Buchen

As we discussed.

EXECUTIVE ORDER

*Draft of
8/22/74
from IRS
OMB
must circulate*

- - - - -
INSPECTION BY PRESIDENT
AND CERTAIN DESIGNATED
EMPLOYEES OF THE WHITE
HOUSE OFFICE OF TAX RETURNS
MADE UNDER THE INTERNAL
REVENUE CODE OF 1954

By virtue of the authority vested in me as President of the United States, and in the interest of protecting the right of taxpayers to privacy and confidentiality regarding their tax affairs consistent with proper internal management of the Government, and in the further interest of maintaining the integrity of the self-assessment system of Federal taxation, it is hereby ordered that any return, as defined in § 301.6103 (a)-1 of the Regulations on Procedure and Administration (26 CFR 301) and as such regulations may be amended from time to time, made by a taxpayer in respect of any tax described in § 301.6103 (a)-1 (a) (2) of such Regulations on Procedure and Administration, and as such regulations may be so amended, shall be open to inspection by the President only upon his written application signed by him personally.

Any such application for inspection shall be addressed to the Secretary of the Treasury or his delegate and shall state: (i) the name and address of the taxpayer whose return



is to be inspected, (ii) the kind of return or returns which are to be inspected, and (iii) the taxable period or periods covered by such return or returns. The President may personally disclose such return or data relating to or contained in such return to any officer or employee of the United States for any governmental purpose.

omit

The President may in any such application for inspection authorized by this Executive Order designate by name an employee or employees of the White House Office who are authorized on behalf of the President to make such inspection or to receive any such return provided that no employee may be so designated unless he is the holder of a Presidential commission and his annual rate of basic pay equals or exceeds the annual rate of basic pay prescribed by 5 U.S.C: 5316. Such employee so designated to inspect or receive such return shall not disclose or make known in any manner whatever to any person other than the President any return or data relating to or contained in such return except upon, and to such other employees ^{and} ~~of the White House Office~~ and to such extent as may be named or described in, the written direction of the President signed by him personally.

Federal



It is further ordered that^{any}/return or data relating
to or contained in such return furnished pursuant to
this Executive Order shall not be otherwise disclosed
or made public except as provided by law.

*Backwards
& should
cite
section*

THE WHITE HOUSE



Draft of
8/22/74
from IRS

EXECUTIVE ORDER

- - - - -

INSPECTION BY PRESIDENT
AND CERTAIN DESIGNATED
EMPLOYEES OF THE WHITE
HOUSE OFFICE OF TAX RETURNS
MADE UNDER THE INTERNAL
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- 3 -

It is further ordered that/^{any}return or data relating to or contained in such return furnished pursuant to this Executive Order shall not be otherwise disclosed or made public except as provided by law.

THE WHITE HOUSE



THE WHITE HOUSE

WASHINGTON

File with O.B.S. Draft Privacy Bill 8/30
TO: PHIL BUCHEN

FROM: GEOFF SHEPARD

FYI _____

COMMENT _____

Phil -- I think you might enjoy the
reaction of one of the OMB divisions to
the IRS Privacy Bill. It shows that
even OMB can get enthusiastic
about a principle.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

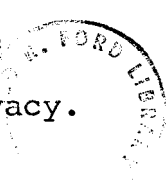
DATE: August 28, 1974
REPLY TO:
ATTN OF: ISD
SUBJECT: ISD Position on Treasury/IRS Tax Disclosure Bill

• Mr. Skidmore

Per my discussion with Jay Brenneman at the end of our meeting today on the Treasury tax disclosure bill, this letter conveys the Information Systems Division position.

We oppose the Treasury IRS bill because it conflicts with a number of the basic privacy principles embodied in the OMB privacy legislation submitted to the House and Senate Government Operations Committees on June 19 and the proposed executive order on privacy which was circulated to the agencies for comment by OMB on August 21, 1974. To elaborate this point let me cite three specific instances (although others exist):

1. One of the fundamental principles which came out of the HEW Report on Privacy and which was embodied in the OMB legislation was the notion that individually identifiable information which was provided to the Government for one purpose should not be used for other unrelated purposes without the consent of the individual or in the event there was an overriding public need through some legislation or judicial process. In Section 6103 (g) (2) and (i) (1) a fundamental principle is embodied that individually identifiable tax information should be available for administrative, judicial and investigative proceedings in nontax civil law enforcement situations. We oppose such blanket disclosure authorities. Let me make it clear that we do not oppose use of individual returns or return information for tax administration purposes or in that nontax law enforcement situation where specific legislation authority for access to tax data has been granted by the Congress. These seem to be within the stated purposes for which the information was collected. However, to use individual tax data for purposes quite remote from tax administration, and possibly even in situations that are adverse to interest of the individual providing the information without specific legislative authority or judicial process is we believe in conflict with principles embodied in the OMB Bill and the proposed Executive Order. We do not believe that the objective of effective law enforcement, in all cases, categorically overrides the individuals right to privacy.



2. A second illustration revolves around Section 6103 (m) (4). On first reading this Section appears to implement one of the privacy principles - that the agency maintaining individually identifiable data should record the occasion and nature of all disclosures of such data to third parties. This is commendable. However, as you read further in the Section it goes on to make several substantial categorical exemptions to this record keeping requirement. These exemptions include disclosure for tax administration purposes, disclosure for nontax judicial and administration proceedings, disclosure of taxpayer identity information when it benefits the taxpayer. We find the last two to be particularly objectionable because they appear to be outside the implicit agreement made with the taxpayer that data collected for one purpose should not be used for other unrelated purposes without consent.
3. A third illustration of how the IRS bill violates privacy principles, is in the area of notification. In the OMB bill and the proposed Executive Order, the principle is embodied that the agency after documented showing of compelling circumstances for disclosure may disclose individually identifiable records only after an effort has been made to notify the individual to whom the record pertains. Section 6103 (i) (4) provides that disclosure of tax return information can be made on any individual being considered for Presidential or certain other Federal appointments after approval of the Secretary of Treasury and written request by an agency head. This provision fails to provide any notification to the taxpayer that such disclosure has taken place. We believe if such disclosure is necessary at an absolute minimum, the taxpayer involved should be notified.

In effect we see the Treasury/IRS bill as an "anti-privacy" bill which provides the IRS with a broad organizational exemption from the privacy procedures required by the OMB bill. In summary, we believe the President was serious in his address to Congress where he said that he welcomes "tough" privacy laws. We believe the IRS bill is not "tough." We are seriously concerned that without substantial modification, submission of the IRS bill will lead to serious public and Congressional questioning of the sincerity of the President's commitment to the notion of protecting individual privacy.

John P. McNicholas
John P. McNicholas



MEMORANDUM
OF CALL

TO:

☐ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

OF (Organization)

☐ PLEASE CALL —→ ☐ IS WAITING TO SEE YOU
☐ WILL CALL AGAIN ☐ WISHES AN APPOINTMENT
☐ RETURNED YOUR CALL

PHONE NO.
CODE/EXT.

Treas
964-2093

MESSAGE

Talked to him
8/30 + he agreed
to changes proposed
by Trudnow & is
sending him & others
revised draft.
P

RECEIVED BY

DATE

TIME



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

August 30, 1974

Re: Executive Order on Inspection
of Tax Returns by White House
Employees

Dear Mr. Ebner:

At the request of Mr. Philip Buchen, Counsel to the President, we have prepared a draft Executive Order dealing with inspection by the President and certain designated employees of the White House Office of tax returns made under the Internal Revenue Code of 1954. Mr. Buchen has reviewed an earlier draft, and the current draft contains changes reflecting his comments. At the request of Mr. Buchen, the attached proposed Executive Order is transmitted for appropriate action.

Also transmitted herewith is a draft of a possible press release to accompany issuance of the Executive Order.

Mr. Buchen's copies of this memo and draft Executive Order and press release are being sent to him simultaneously in order to expedite handling of the proposed Executive Order.

Sincerely yours,

Richard R. Albrecht
Richard R. Albrecht

The Honorable
Stanley Ebner
General Counsel
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Enclosures



PROPOSED WHITE HOUSE NEWS RELEASE

By Executive Order, President Ford today placed strict limitations on White House access to federal tax returns and tax return information.

Present law (Sec. 6103 of the Internal Revenue Code) provides that tax return and return information are disclosable to the extent authorized by the President, and places no limitations on access by White House staff members. The Executive Order was issued within the framework of this law.

Proposed legislation, developed by the Treasury Department and the IRS and now being reviewed for submittal to Congress shortly, would provide substantially greater taxpayer privacy. The Executive Order is designed to complement this legislative proposal, _____ said.

"The President is extremely interested in ensuring that tax returns and return information are used only as necessary for the legitimate purposes of Government," _____ said.

"This interest in privacy for Americans which Mr. Ford expressed when, as Vice President, he headed the Domestic Council Committee on the Right of Privacy, continues as strongly as before," he added.

A copy of Executive Order _____ is attached.



EXECUTIVE ORDER

- - - - -

INSPECTION BY PRESIDENT
AND CERTAIN DESIGNATED
EMPLOYEES OF THE WHITE
HOUSE OFFICE OF TAX RETURNS
MADE UNDER THE INTERNAL
REVENUE CODE OF 1954

By virtue of the authority vested in me as President of the United States, and in the interest of protecting the right of taxpayers to privacy and confidentiality regarding their tax affairs consistent with proper internal management of the Government, and in the further interest of maintaining the integrity of the self-assessment system of Federal taxation, it is hereby ordered that any return, as defined in § 301.6103 (a)-1 of the Regulations on Procedure and Administration (26 CFR 301) as amended from time to time, made by a taxpayer in respect of any tax described in § 301.6103 (a)-1 (a)(2) of such Regulations on Procedure and Administration, as so amended, shall be *delivered to or* open to inspection by *or deliver* the President only upon his written *request* application signed by him personally.

Any such *request* application for inspection shall be addressed to the Secretary of the Treasury or his delegate and shall state: (i) the name and address of the taxpayer whose return



is to be inspected, (ii) the kind of return or returns which are to be inspected, and (iii) the taxable period or periods covered by such return or returns.

~~The President may~~ ^{request} ^{delivery or} In any such application for inspection ^{the President} ~~authorized by this Executive Order~~ designate by name an employee or employees of the White House Office who are authorized on behalf of the President to make such inspection or to receive any such return provided that no employee may be so designated unless he is the holder of a Presidential commission and his annual rate of basic pay equals or exceeds the annual rate of basic pay prescribed by 5 U.S.C. 5316. No disclosure of such return, or any data contained therein or relating thereto, shall be made by such employee, except to the President, without the written direction of the President.

All persons obtaining access to such return, or any data contained therein or relating thereto, shall in all respects be subject to the provisions of 26 U.S.C. 6103, as amended.

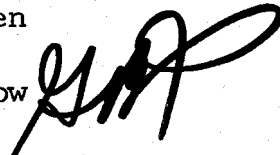
THE WHITE HOUSE



DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY
WASHINGTON, D.C. 20504

August 29, 1974

TO: Philip W. Buchen

FROM: George B. Trubow 

SUBJECT: Draft Executive Order re Presidential Access to
Tax Returns

I have reviewed the above-referenced draft of August 28, and have some comments which should be read in connection with the attached edited copies of pages one and two of the draft; I have no specific comment as to page three.

Page One

1. The draft order applies to "any return, as defined...", of course citing the current code. The IRS legislative proposal also defines "return information" which is, of course, far more extensive than "return". Possibly the Executive Order should include broader language now to avoid the need to amend it if new definitions of "return" are included in code revisions.

2. The phrase "or delivered to" makes it clear that the return may be delivered into the custody of the President, and is consistent with the balance of the Order which refers to receipt by White House designees.

Page Two

3. I believe the last sentence of the top paragraph should be deleted. What the President does with the return or information once he gets it is within his discretion, and we should not call attention to the fact that he may make further disclosure.

4. In the first sentence of the second paragraph, the phrase "for inspection" should be supplemented by "or delivery" if you are in agreement with my comment no. 2, above. Also, I think that "pursuant to" is a more apt phrase than "authorized by", considering the nature of this Order.

5. The last sentence of the closing paragraph should be amended; the draft phrasing is awkward and unclear. I believe that the revised language accomplishes the purpose, which is to establish a written disclosure record internal to the White House, but not one that necessarily is given to the Secretary of the Treasury. Of course, if the Order relates to "return information" as well as to "any return", then the language of this sentence and the rest of the Order should be amended appropriately.

Note: There is no reference to current penalties for confidentiality violations, and I thought that was to be included.

cc: Mr. Ebner
Mr. Metz
Mr. Shepard

Attachment



8/28/74
from IRS

EXECUTIVE ORDER

INSPECTION BY PRESIDENT
AND CERTAIN DESIGNATED
EMPLOYEES OF THE WHITE
HOUSE OFFICE OF TAX RETURNS
MADE UNDER THE INTERNAL
REVENUE CODE OF 1954

By virtue of the authority vested in ^{me}~~my~~ as President of the United States, and in the interest of protecting the right of taxpayers to privacy and confidentiality regarding their tax affairs consistent with proper internal management of the Government, and in the further interest of maintaining the integrity of the self-assessment system of Federal taxation, it is hereby ordered that any return, as defined in § 301.6103 (a)-1 of the Regulations on Procedure and Administration (26 CFR 301) and as such regulations may be amended from time to time, made by a taxpayer in respect of any tax described in § 301.6103 (a)-1 (a) (2) of such Regulations on Procedure and Administration, and as such regulations may be so amended, shall or delivered to be open to inspection by the President only upon his written application signed by him personally. ?

Any such application for inspection shall be addressed to the Secretary of the Treasury or his delegate and shall state: (i) the name and address of the taxpayer whose return



is to be inspected, (ii) the kind of return or returns which are to be inspected, and (iii) the taxable period or periods covered by such return or returns. The

President may personally disclose such return or data relating to or contained in such return to any officer or employee of the United States for any governmental purpose.

The President may in any such application for inspection ~~or delivery pursuant to~~ ~~authorized by this~~ Executive Order designate by name an employee or employees of the White House Office who are authorized on behalf of the President to make such inspection or to receive any such return provided that no employee may be so designated unless he is the holder of a Presidential commission and his annual rate of basic pay equals or exceeds the annual rate of basic pay prescribed by 5 U.S.C. 5316. ~~Such~~ ^{Any} employee ~~so~~ designated to inspect or receive ~~such~~ ^{any} return shall not disclose or make known in any manner whatever to any person other than the President any return or data relating to or contained in such return except ~~upon, and to such other~~ ^{in accord with} ~~employees of the White House Office and to such extent~~ as ~~may be named or described in~~ the written direction

by the President, signed ~~by~~ personally,



Department
of the Treasury

to, Hon. Philip Buchen

Office of the
General Counsel

room, _____ date, 9/3/74

*File with
rest of
material on
this Q.R. & E.O.*



General Counsel
Richard R. Albrecht

room 3000

ext. 2093



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

September 3, 1974

Re: Executive Order on Inspection
of Tax Returns by White House
Employees

Dear Mr. Ebner:

At the request of Mr. Philip Buchen, Counsel to the President, we have made some editorial changes in the draft Executive Order as sent to you on August 30. Enclosed is a further draft which is submitted for appropriate action by your office. All of the changes have been discussed with Mr. Buchen.

Sincerely yours,



Richard R. Albrecht

The Honorable
Stanley Ebner
General Counsel
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Enclosure



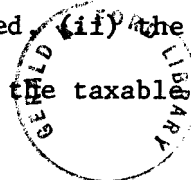
EXECUTIVE ORDER

- - - - -

INSPECTION BY PRESIDENT
AND CERTAIN DESIGNATED
EMPLOYEES OF THE WHITE
HOUSE OFFICE OF TAX RETURNS
MADE UNDER THE INTERNAL
REVENUE CODE OF 1954

By virtue of the authority vested in me as President of the United States, and in the interest of protecting the right of taxpayers to privacy and confidentiality regarding their tax affairs consistent with proper internal management of the Government, and in the further interest of maintaining the integrity of the self-assessment system of Federal taxation, it is hereby ordered that any return, as defined in § 301.6103 (a)-1 of the Regulations on Procedure and Administration (26 CFR 301) as amended from time to time, made by a taxpayer in respect of any tax described in § 301.6103 (a)-1 (a)(2) of such Regulations on Procedure and Administration, as so amended, shall be delivered to or open to inspection by the President only upon written request signed by the President personally.

Any such request for delivery or inspection shall be addressed to the Secretary of the Treasury or his delegate and shall state: (i) the name and address of the taxpayer whose return is to be inspected, (ii) the kind of return or returns which are to be inspected, and (iii) the taxable period or periods covered by such return or returns.



In any such request for delivery or inspection, the President may designate by name an employee or employees of the White House Office who are authorized on behalf of the President to receive any such return or make such inspection, provided that the President will not so designate an employee unless such employee is the holder of a Presidential commission whose annual rate of basic pay equals or exceeds the annual rate of basic pay prescribed by 5 U.S.C. 5316. No disclosure of such return, or any data contained therein or relating thereto, shall be made by such employee, except to the President, without the written direction of the President.

All persons obtaining access to such return, or any data contained therein or relating thereto, shall in all respects be subject to the provisions of 26 U.S.C. 6103, as amended.

THE WHITE HOUSE

Tuesday 9/10/74

10:30 Mr. Dick Albrecht at Treasury needs to talk with
you re an Executive Order on the right of privacy.

964-2093

11:00 Mr. Metz called to say he has a series of phone calls from
Albrecht. Mr. Metz said he encourages that there be
approval to send the IRS bill to the Hill tomorrow in view
of the fact that Senator Weicker is going to introduce his
bill. Question of jumping the gun and getting all the credit
for him. Provided however the President indicates that he
will or intends or plans to issue an E. O. in the very near
future concerning White House access to IRS records.

There are people working on the EO and people working on the
bill.

(This was Simon asked Albrecht to get the bill accompanied by the Presidential
vague to Message released at least so it arrives on the Hill the same day.
me -- but
I think that's the way
it was worded ---- had to answer a phone)

*Seoff will call
back on the*





THE GENERAL COUNSEL OF THE TREASURY

WASHINGTON, D.C. 20220

SEP 10 1974

Re: Legislation and Executive Order
Dealing With Privacy of Tax
Returns

Dear Mr. Buchen:

Enclosed is a copy of the legislation proposed by Treasury dealing with confidentiality and disclosure of tax returns, which contains all of the changes that have been agreed upon as a result of the discussions between the Justice Department and Treasury. We have been informed by the Justice Department that they can support the legislation in its present form. It is being transmitted this afternoon to OMB with that representation.

I invite your attention to subparagraph (e) on page 12 of the enclosed draft referring to disclosure at the request of the President pursuant to executive order. In view of the constitutional questions raised in our discussions, we thought it appropriate to include only a general reference to an executive order in that section. Please let us know if you would prefer a different approach.

I also invite your attention to paragraph 10 of the explanation of the bill which we propose to transmit with the legislation. You may have some suggestions for changes to that paragraph.

Secretary Simon would like to send the proposed legislation to Congress tomorrow. Because of our earlier discussions on the subject of access by White House employees to tax return information, we have assumed that you would prefer not to have the legislation sent to the Congress until an executive order on White House access has been issued or is ready to be issued, and until the requested opinion from the Justice Department has been obtained. I would appreciate knowing whether either of those two items would present an obstacle to Secretary Simon's indicated objective.

Sincerely yours,


Richard R. Albrecht

The Honorable
Philip Buchen
Counsel to the President
The White House

Enclosures



Wednesday 9/11/74

IRS

2:45 Geoff Shepard advises the IRS bill was cleared --
transmittal at 3 p. m. Anticipate signing of the
E. O. tomorrow.



Department
of the Treasury

to: Mr. Buchen

room, _____ date, 9/11/74

Office of the
General Counsel



General Counsel
Richard R. Albrecht

room 3000

ext. 2093



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

September 11, 1974

Re: Treasury Proposed Legislation
on Privacy of Tax Returns

Dear Mr. Ash:

Enclosed are six copies each of a revised version of Treasury's proposed legislation, an explanation of that legislation, and a proposed letter by which the legislation would be transmitted to the Congress.

The Justice Department has advised us that the changes that have been made in the present draft have dealt with all of the objections raised by that Department, with the exception of an additional requested change to section 6103 (p)(5)(D)(ii). The additional requested change is solely for clarification and we have agreed to make the change. We will send substitute pages for each of your copies reflecting the change later today.

Copies of the enclosures are being sent to Mr. Buchen at the White House, Mr. Shepard at the Domestic Council and Mr. Metz of the Privacy Committee. We understand Mr. Buchen may wish to coordinate release of the proposed legislation with the issuance of a proposed executive order on White House access to tax returns.

Secretary Simon would like to send the proposed legislation to Congress today. If there is anything that I or others in the Treasury Department can do to assist in expediting its clearance, please call me promptly.

Sincerely,


Richard R. Albrecht

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503

Enclosures



THE WHITE HOUSE

WASHINGTON

Sept. 11, 1974

7:55 a.m.

PHIL:

Treasury's draft of their new agreement with Justice was still not here by 7:30 last night. There are still a couple of other problems with the Bill, and one in particular which has to do with the tax payers own access to his file.

Although we can have the Executive Order by today, it is unlikely we could have the Bill. Timmons' office disagrees with Simon and thinks Weicker's introduction is not important.

Geoff

Mr. Buchen

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 12 1974

MEMORANDUM FOR JERRY H. JONES

SUBJECT: Proposed Executive order entitled "Inspection by President and Certain Designated Employees of the White House Office of Tax Returns Made Under the Internal Revenue Code of 1954"

Enclosed are a proposed Executive order entitled "Inspection by President and Certain Designated Employees of the White House Office of Tax Returns Made Under the Internal Revenue Code of 1954" and a proposed Fact Sheet.

The proposed Order was originally submitted by the General Counsel of the Treasury and has been modified in this office to accommodate the views of the Department of Justice and the Domestic Council Committee on the Right of Privacy. The Department of the Treasury does not object to the changes.

Yesterday, September 12, the Department of the Treasury submitted to the Congress a draft bill concerning restrictions upon disclosure of tax return and tax return information generally. There is a strong desire that the President issue this related Executive order today.

This proposed Executive order has the approval of the Director of the Office of Management and Budget.

Stanley Ebner
Stanley Ebner
General Counsel

Enclosures

cc: Phil Buchen ✓
Geoff Shepard

*Told S.F.
this was O.K.
9/12/74*



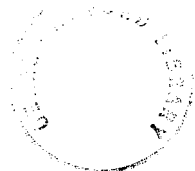
EXECUTIVE ORDER

INSPECTION BY PRESIDENT AND CERTAIN DESIGNATED
EMPLOYEES OF THE WHITE HOUSE OFFICE OF TAX
RETURNS MADE UNDER THE
INTERNAL REVENUE CODE OF 1954

By virtue of the authority vested in me as President of the United States, and in the interest of protecting the right of taxpayers to privacy and confidentiality regarding their tax affairs consistent with proper internal management of the Government, and in the further interest of maintaining the integrity of the self-assessment system of Federal taxation, it is hereby ordered that any return, as defined in Section 301.6103(a)-1 of the Treasury Regulations on Procedure and Administration (26 CFR Part 301) as amended from time to time, made by a taxpayer in respect of any tax described in Section 301.6103(a)-1(a)(2) of such regulations shall be delivered to or open to inspection by the President only upon written request signed by the President personally.

Any such request for delivery or inspection shall be addressed to the Secretary of the Treasury or his delegate and shall state: (i) the name and address of the taxpayer whose return is to be inspected, (ii) the kind of return or returns which are to be inspected, and (iii) the taxable period or periods covered by such return or returns.

In any such request for delivery or inspection, the President may designate by name an employee or



employees of the White House Office who are authorized on behalf of the President to receive any such return or make such inspection, provided that the President will not so designate an employee unless such employee is the holder of a Presidential commission whose annual rate of basic pay equals or exceeds the annual rate of basic pay prescribed by 5 U.S.C. 5316. No disclosure of such return, or any data contained therein or derived therefrom shall be made by such employee except to the President, without the written direction of the President.

All persons obtaining accesss to such return, or any data contained therein or derived therefrom shall in all respects be subject to the provisions of 26 U.S.C. 6103, as amended.

THE WHITE HOUSE

, 1974

FACT SHEET

On Executive order entitled "Inspection by President and Certain Designated Employees of the White House Office of Tax Returns Made Under the Internal Revenue Code of 1954"

An Executive order limiting White House access to tax returns was issued by the President today, pursuant to authority vested in him by the Constitution.

While in the past, regulations issued by the Treasury Department and approved by the President pursuant to Section 6103 of the Internal Revenue Code have placed strict limitations upon agency and public access to tax return information, there have been no explicit legal restrictions upon White House access. The Executive order sets forth strict and legally binding procedures by which the President's access will be governed as well as access by members of his staff.

Under this Order, the President must personally specify in writing the specific returns desired and must personally designate in writing the member of his staff who is authorized to see the returns on his behalf.

Yesterday, September 11, 1974, the Secretary of the Treasury submitted to Congress proposed legislation to limit generally access to tax returns and related information. The Order issued today complements this proposal, but is effective immediately.



September 20, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

INSPECTION BY PRESIDENT AND CERTAIN DESIGNATED
EMPLOYEES OF THE WHITE HOUSE OFFICE OF TAX
RETURNS MADE UNDER THE
INTERNAL REVENUE CODE OF 1954

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All persons obtaining access to such return, or any data contained therein or derived therefrom shall in all respects be subject to the provisions of 26 U.S.C. 6103, as amended.

GERALD R. FORD

THE WHITE HOUSE,
September 20, 1974

#

SEPTEMBER 20, 1974

RS

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

On Executive order entitled "Inspection by President and Certain Designated Employees of the White House Office of Tax Returns Made Under the Internal Revenue Code of 1954"

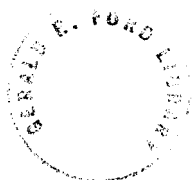
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file
Privacy

THE WHITE HOUSE
WASHINGTON

Sept. 25, 74

Mr. Buchen:

Attached was
received from a
newspaper friend
who says there
is a spreading
doubt about the
privacy protection
intentions of our
Administration

Milt Friedman



Wider Access to Tax Files ^{West} Sought Despite Ford's Claim

By ALAN EMORY
Times Washington Correspondent

WASHINGTON — The Ford Administration, while claiming to tighten the privacy on individual federal income tax returns, has asked Congress to pass a bill that

help friends and fight enemies.

President Ford said Monday night he would issue an executive order tightening the security around individual tax returns, but insiders say

to come to him for approval shortly, but the measure was actually sent to Congress last week by Treasury Secretary William E. Simon after being disclosed only to a handful of reporters.

name the taxpayer whose return is sought — a specific requirement of the Litton-Weicker measure — and it continues the possibility the White House could seek returns of whole classes of persons or occupational groups. This was a suggestion by former White House Counsel John Dean.

— The three tax-writing committees of Congress

THE WHITE HOUSE

WASHINGTON

September 27, 1974

MEMORANDUM FOR: MR. WILLIAM E. TIMMONS

FROM: Philip W. Buchen *P.W.B.*

SUBJECT: Legislation Protecting IRS Tax Returns

In response to your memo of September 23, 1974, Wilf Rommel, OMB, has been asked to prepare a letter containing the Administration's position on the Weicker-Litton legislation. Wilf is getting initial input from Treasury and Justice. I have asked Doug Metz to coordinate this for me.

As you know, Secretary Simon sent our bill to the Hill September 11, 1974, followed by issuance of an Executive order on September 20, establishing specific restrictions on White House access to tax returns. We should take immediate steps to assure that the advantages of our bill and our specific objections to the Weicker-Litton measure are more widely publicized on the Hill. We have been unnecessarily on the defensive.

cc: Richard Albrecht, DOL
Douglas Metz, Privacy Committee
Wilf Rommel, OMB
Laurence Silberman, Justice



THE WHITE HOUSE
WASHINGTON

September 27, 1974

MEMORANDUM FOR: MR. WILLIAM E. TIMMONS
FROM: Philip W. Buchen *P.W.B.*
SUBJECT: Status of General Privacy Legislation

This responds to your memorandum of September 18, relative to the status of general privacy legislation exclusive of specialized bills dealing with criminal justice information, Federal employees rights, IRS tax returns and military surveillance.

The House negotiations conducted by OMB and Privacy Committee staff with the majority and minority leadership of the House Government Operations Committee, resulted in an offer of the Administration's support for H.R. 16373, reported unanimously from the Government Operations Committee, September 24, provided that the exemption for Federal personnel investigatory records is restored to the bill. Congressman Erlenborn is prepared to lead the floor fight for restoration. Every effort should be made to assure passage of an appropriate amendment.

On the Senate side, OMB and the Privacy Committee have submitted extensive detailed comments on S. 3418. This bill is close to the more acceptable House version, but significant changes must be made before we can consider supporting this measure. The Senate has made significant progress in the direction of the House bill by eliminating from its scope the private sector, contractors and grantees, and by watering down significantly the powers of the Privacy Commission.



Our position is that there should be no slackening of effort to secure legislative action for this session. We are committed to issuing an Executive order only in the event that Congress fails to act this year. OMB, I believe, has been dealing effectively in allaying certain agency concerns about privacy legislation. Having first-hand knowledge of the extensive inter-agency dialogue of the past four or five months, I do not believe that we will have a significant problem in dealing with agency comments, particularly if Civil Service and Defense can make a persuasive case for their exemption.

Doug Metz can give you a more detailed and up to the minute run-down on the foregoing matters. I suggest that you convene a legislative strategy session involving Doug and those with whom he has worked closely at OMB, including Walter Haase, Bob Marik and Stan Ebner.

cc: Robert Marik
Douglas Metz



FROM THE DESK OF

10/1/74

JAY T. FRENCH

Note PWB handed
IRS matter to Ken Lazans



October 3, 1974

To: Don Rumsfeld

From: Phil Buchen

Bill Casselman is also familiar with this problem and has a copy of a memo I once had prepared for then Vice President Ford which analyzes the income tax consequences and reaches a conclusion different from that of the Congressional Committee on Taxation.

cc: John Marsh



October 2, 1974

FOR: Don Rumsfeld

FROM: Jack Marsh |¹

A word of caution on passenger selection for Air Force One. You should be aware there are some serious tax implications on air travel for guests on Air Force One unless they fall into an official status. There is considerable background I can give you or someone you designate which came to our attention in handling Vice Presidential travel.

Since I assumed the expenses of the attached flight will be covered by the RNC the question does not occur, but it is important to keep in mind in the use of any federal aircraft where the charges are not underwritten by the RNC.

It is not unlikely to expect on non-political trips that guests not in an official status will be chargeable to the President or aircraft host for income tax purposes at the rate of a first-class fare. Therefore, it is essential that the President be consulted before adding passengers who are guests without official status.

General Lawson in the Military Office is much aware of this situation and has been helpful in establishing rules and guidelines.

cc: Phil Buchen ✓

JOM:sc

