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**MEMORANDUM
OF CALL**

TO: _____

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

Dick Albrecht
OF (Organization) _____

☐ PLEASE CALL → PHONE NO. _____
CODE/EXT. _____

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☒ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE _____

*Called 10/11 to
advise of results
of Pres. meeting;
also called Larry S.*

RECEIVED BY _____

DATE _____

TIME _____



Metz
10/10/74
9:00 am

Thursday 10/10/74

6:30 Mr. Metz asked if you had time to look over the briefing material he sent over; he suggests negotiating strategy on the last page. ----- O.K. take our E.O. and put it in the bill in return for your taking going along with the Treasury bill. (which he has cleared informally with Dick Albrecht)

It is tricky legislation and he would like to talk with you about.

Will be in about 8 o'clock tomorrow -- and will call you.



Thursday 10/10/74

MEETING

10/11/74

9:00 - 9:15 a.m.

10:30 Doug Metz called to say he understands from Tom Korologos there will be a meeting with the President and Sen. Weicker and Cong. Litton -- Korologos asked Doug to prepare some material on it. Asked me what the time and day of the meeting would be so he'd have a deadline time.

Checked with Korologos' office ---- it's 9:00 to 9:15 tomorrow morning (Friday 10/11) -- during Congressional Hour. Timmons' office advises that Mr. Korologos mentioned it to you yesterday and they will be sending a paper to you.

I have advised Doug.



THE WHITE HOUSE
WASHINGTON

MEETING WITH SENATOR LOWELL WEICKER (R-CONN)
AND REPRESENTATIVE JERRY LITTON (D-MO)

Friday, October 11, 1974
The Oval Office
9:00 - 9:15 a.m. (15 Minutes)

THRU: William E. Timmons
FROM: Tom C. Korologos *TK*

I. PURPOSE

At Weicker's and Litton's request to discuss pending legislation to protect confidentiality of tax returns and tax information.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

A. Background: The Treasury, on September 11, 1974, sent Congress a comprehensive bill making all tax returns confidential except as provided by statute. The President, on September 20, 1974, issued an Executive Order providing strict limitations on White House access to tax returns. Senator Weicker and Congressman Litton have introduced companion bills which are generally similar in scope and objectives to the Treasury bill, but contain differences noted in TAB-A.

B. Participants:
The President
Senator Lowell Weicker
Representative Jerry Litton
William E. Timmons
Tom C. Korologos
Phil Buchen

C. Press Plan:
Announce Meeting/White House Photo

III. TALKING POINTS

1. Our objectives on this matter are identical and I am sure we can come to a meeting of the minds on how this should be handled.



2. As a practical matter, I assure you that no one ^{in the White House} will look at tax returns except under my personal authorization.

3. If you think legislation is required then let's have legislation, but from my standpoint, I think the Executive Order covers it.

4. (You might instruct Buchen and Korologos to get together with them and work out some kind of compromise on their bill).

NOTE: Additional Talking Points are also in TAB-A, which are from the Privacy Committee.



are:

- Both bills have more similarities than differences. Major differences
1. The scope of the Treasury bill is much broader, protecting tax information that is both required as well as permitted under the IRS Code, such as returns of nontaxable entities, e.g. partnerships and simple trusts.
 2. The Treasury bill would deny disclosure to local tax officials. Weicker/Litton would permit disclosure.
 3. Weicker/Litton would allow disclosure only to the Joint Committee on Revenue Taxation. Other Congressional committees would get statistical information. Treasury would allow access to Finance and Ways and Means Committees, and to other committees by Congressional Resolution.
 4. Weicker/Litton would limit access to the President personally. Treasury will allow access by others by Executive order. The President's order of September 20, spells this out.
 5. Weicker/Litton would deny raw tax data to other agencies (Commerce Labor, Pension Benefit Guaranty Corp.) for compiling statistical reporting and administration of other laws. This would require that IRS develop a major statistical reporting capability to meet other agency needs. Treasury would permit Commerce (largely Census) to continue to process tax data under the protection of existing laws containing strict confidentiality safeguards.
 6. Weicker/Litton would prohibit disclosure of raw tax data for nontax law enforcement purposes. Justice would be denied tax information for prosecution of nontax criminal violations, for impeachment of witnesses, and for providing the defense with exculpatory evidence. Treasury bill permits controlled access by Justice and resolution of access disputes by the President.

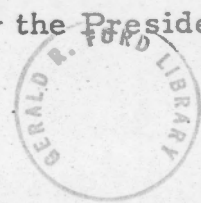
MAJOR ISSUES

The outstanding major issues are:

- Whether the President should be permitted by Executive order to allow others in the White House to have access to tax returns.

Arguments for:

- The President, should he need to see a tax return, should allow members of his immediate staff to assist him in its review and analysis.



An Executive order has the force of law and is binding on future Presidents until modified or revoked. Press exposure and publication in the Federal Register are sufficient deterrents to surreptitious changes in an Executive order on this subject.

Arguments against:

- Past White House abuses require specific statutory prohibition.
- An Executive order can be changed at the will of the President.
- Whether Justice should have access to raw returns for nontax law enforcement purposes.

Arguments for:

- Tax return information provides evidence vital to the prosecution of narcotics violations, organized crime and other important criminal laws.
- Tax information is often indispensable to prosecutions for perjury as well as disclosures of exculpatory information for the defense.
- Whether or not Federal agencies other than IRS should have access to raw returns for statistical-reporting purposes.

Arguments for:

- Commerce's vital operations would be crippled. Most but not all of Commerce's statistical reporting operations are adequately protected by strict confidentiality laws.
- An enormous administrative burden would be imposed on IRS should it be required to develop an internal capability to process enormous quantities of statistical data.

Arguments against:

- Raw tax returns should never be disclosed for purposes other than tax administration.
- Resources should be given to IRS to develop a stronger internal capability to process and provide statistical information.



TALKING POINTS FOR THE PRESIDENT

- A. We both want the strongest, most comprehensive taxpayer protection bill possible. In some respects, I think the Treasury bill is stronger and more comprehensive. I have asked Treasury to prepare a detailed letter on this to send to the Congress within the next day or two. (See attached draft letter.)
- B. I see two principal issues that divide us.
1. The first is whether anyone on the White House staff should have access to raw tax returns.
 2. The second is whether tax returns should be disclosed for any purpose other than tax administration; specifically for statistical reporting and law enforcement purposes.
- C. I believe our principal difference is over the question of limiting White House access to tax returns. (Personally, I can't think of any instance where I would want to see anyone's tax return, but I am ultimately responsible for administration of the tax laws, and, as a matter of management principle, my authority should be as broad as my subordinates.)
1. I understand that you like the language of my recent Executive order limiting White House access, but object to allowing anyone other than the President access to tax returns. You would deny such access by statute.
 2. My position is this:
 - a) It would be an unnecessary burden on a President, should he ever need to see a tax return, to limit access to him personally. He must be permitted to ask others to assist him in evaluating the return in relation to the purpose for which it was obtained. So long as a record in writing is made, subject to disclosure by IRS to the Congress, I see no danger of a secret abuse of power.



- b) I would have no objection to amending the Treasury bill by including the language of my Executive order and making it a part of the statute. As a matter of principle, however, we would have a bill which details Presidential access, but is general on Congressional access. This may raise some Constitutional questions.
- D. I would like your concession on the question of allowing statistical agencies, like Commerce, and law enforcement agencies, like Justice, to have controlled access to tax returns.
1. Ideally, IRS would provide only statistical information to these agencies. Practically, however, agencies in Commerce, like the Census*, are under strict confidentiality laws. Their privacy record is unblemished. IRS will continue its efforts to build up a stronger statistical reporting capability, but to go all the way would be unwise from an administrative and cost standpoint, and unnecessary from the privacy standpoint.
 2. The Justice Department needs tax return information to fight narcotics traffic and organized crime and for other prosecution in the public interest. Under the Treasury bill, Justice must obtain Treasury permission in writing. Disputes would come to me for resolution.
- E. I hope we can arrive at a consensus bill. This will avoid delay. Further dispute only tends to undermine the credibility of our joint objective in protecting the privacy of taxpayer returns.

* The Bureau of Economic Analysis (BEA), a major user of IRS raw data for economic forecasting, is not protected by the Title 13 Census Act. The Privacy Committee is working on a bill to provide general confidentiality protections for agencies like BEA. This bill will be submitted to Congress next year. An immediate alternative would be to amend the Treasury bill to extend confidentiality protections to BEA operations.




DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

October 10, 1974

MEMORANDUM FOR: TOM KOROLOGOS

FROM: DOUG METZ 

SUBJECT: Weicker/Litton Meeting with President
Re: IRS Tax Return Protection Bills

Pursuant to your request this morning, I am attaching the following items for use in the Weicker/Litton meeting tomorrow morning at 9:00 a.m.

- . Proposed talking paper
- . Copy of draft Treasury letter, now being cleared, explaining the differences in the bills
- . Copy of the Treasury bill; copy of the Executive order
- . Copy of the Weicker/Litton bill

Call me if you need additional information or materials.

DWM/fme

Attachments

cc: Phil Buchen



THE WHITE HOUSE

WASHINGTON

October 10, 1974

TALKING PAPER FOR THE PRESIDENT

PURPOSE: Meeting with Senator Lowell Weicker (R-Conn.) and
Congressman Jerry Litton (D-Mo.)

SUBJECT: Pending Legislation to Protect Confidentiality of Tax
Returns and Tax Information

1. BACKGROUND

- . Under present law, tax returns are public records except as provided by Executive order or statute.
- . The Treasury, on September 11, 1974, sent Congress a comprehensive bill making all tax returns confidential except as provided by statute.
- . The President, on September 20, 1974, issued an Executive order providing strict limitations on White House access to tax returns.
- . Senator Weicker and Congressman Litton have introduced companion bills which are generally similar in scope and objectives to the Treasury bill but contain differences noted below.

2. COMPARISON OF TREASURY AND WEICKER/LITTON BILLS

Both bills have more similarities than differences. Major differences are:

1. The scope of the Treasury bill is much broader, protecting tax information that is both required as well as permitted under the IRS Code, such as returns of nontaxable entities, e.g. partnerships and simple trusts.



2. The Treasury bill would deny disclosure to local tax officials. Weicker/Litton would permit disclosure.
3. Weicker/Litton would allow disclosure only to the Joint Committee on Revenue Taxation. Other Congressional committees would get statistical information. Treasury would allow access to Finance and Ways and Means Committees, and to other committees by Congressional Resolution.
4. Weicker/Litton would limit access to the President personally. Treasury will allow access by others by Executive order. The President's order of September 20, spells this out.
5. Weicker/Litton would deny raw tax data to other agencies (Commerce, Labor, Pension Benefit Guaranty Corp.) for compiling statistical reporting and administration of other laws. This would require that IRS develop a major statistical reporting capability to meet other agency needs. Treasury would permit Commerce (largely Census) to continue to process tax data under the protection of existing laws containing strict confidentiality safeguards.
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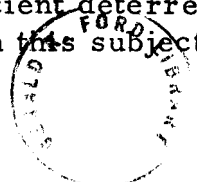
3. MAJOR ISSUES

The outstanding major issues are:

- Whether the President should be permitted by Executive order to allow others in the White House to have access to tax returns.

Arguments for:

- The President, should he need to see a tax return, should allow members of his immediate staff to assist him in its review and analysis.
- An Executive order has the force of law and is binding on future Presidents until modified or revoked. Press exposure and publication in the Federal Register are sufficient deterrents to surreptitious changes in an Executive order on this subject.



Arguments against:

- Past White House abuses require specific statutory prohibition.
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- . Whether or not Federal agencies other than IRS should have access to raw returns for statistical-reporting purposes.

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- An enormous administrative burden would be imposed on IRS should it be required to develop an internal capability to process enormous quantities of statistical data.

Arguments against:

- Raw tax returns should never be disclosed for purposes other than tax administration.
- Resources should be given to IRS to develop a stronger internal capability to process and provide statistical information.



4. TALKING POINTS FOR THE PRESIDENT

- A. We both want the strongest, most comprehensive taxpayer protection bill possible. In some respects, I think the Treasury bill is stronger and more comprehensive. I have asked Treasury to prepare a detailed letter on this to send to the Congress within the next day or two. (See attached draft letter.)
- B. I see two principal issues that divide us.
 - 1. The first is whether anyone on the White House staff should have access to raw tax returns.
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 - 1. I understand that you like the language of my recent Executive order limiting White House access, but object to allowing anyone other than the President access to tax returns. You would deny such access by statute.
 - 2. My position is this:
 - a) It would be an unnecessary burden on a President, should he ever need to see a tax return, to limit access to him personally. He must be permitted to ask others to assist him in evaluating the return in relation to the purpose for which it was obtained. So long as a record in writing is made, subject to disclosure by IRS to the Congress, I see no danger of a secret abuse of power.



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

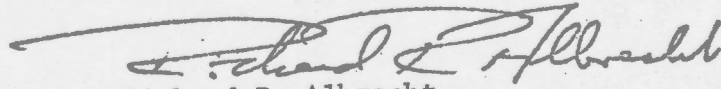
October 8, 1974

Dear Mr. Rommel:

Enclosed is a letter of comment on the Weicker-Litton bill dealing with tax return privacy. If the letter is approved, we would propose to send an identical letter of comment on the House version of the bill.

A copy of this letter and this enclosure is being sent to Doug Metz of the Privacy Committee for his information and comment.

Sincerely,



Richard R. Albrecht

Mr. Wilfred P. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Enclosure





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

Dear Mr. Chairman:

This is in response to your request for the views of the Treasury Department on S. 3982, entitled "A BILL To amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes."

The maintenance of an appropriate level of confidentiality of tax returns and tax data, including the necessary safeguards to ensure such confidentiality, is essential for the continued strength of our self-assessment tax system. This matter has been under study for many months both in the Treasury Department and in the Domestic Council Committee on the Right of Privacy. As a result of that study, we submitted to the Congress on September 11, 1974, a comprehensive legislative proposal to ensure the maximum confidentiality of tax returns consistent with effective state and federal tax administration and the legitimate needs of other federal agencies to obtain tax information for law enforcement and statistical purposes.

The statutory provisions governing inspection and disclosure of tax returns and tax return information, which are presently contained in section 6103 of the Internal Revenue Code of 1954, have remained substantially unchanged for 35 years. Moreover, the statutory provisions are quite general; and in many important cases the applicable rules are set forth in the implementing regulations and in Executive Orders. We believe the time has come for a complete reexamination of the existing rules in light of current needs and values.

A paramount consideration in any such reexamination must, of course, be to safeguard the confidentiality of tax returns. But in determining the appropriate level of confidentiality, due regard must be given to other competing concerns. For example, the law requires the filing of tax returns so that the correct tax liability of taxpayers may be determined, and the use of tax returns to the extent necessary for the enforcement of such liability must be freely allowed even though such use may entail public disclosure of the return in litigation.

Similarly, the interest of tax return confidentiality must be weighed against legitimate needs for access to tax return information in the enforcement of other federal laws. The reporting or non-reporting of gross income may be of material evidentiary value in proving the commission of other federal crimes. Also, fairness to both prosecution and defense may dictate that information in the tax file be made available, so that a perjurer will not stand contradicted or a defendant will have access to exculpatory material as required by decisions of the United States Supreme Court. State governments have legitimate need for tax return information for the administration of their own tax laws.



Tax returns constitute an invaluable resource for statistical studies that is unique in terms of wealth of information, breadth of coverage, and frequency and reliability of reporting. For these reasons, tax return data is presently being used in a number of federal statistical programs. In some cases, termination of such use of tax return data would result, if the statistical programs are to be continued, in very substantial dollar costs and would impose heavy additional reporting burdens on our populace.

Finally, consideration must be given to the ability of recipients of tax data to maintain adequate safeguards for preserving confidentiality, taking into account their past record in that regard.

In its approach to these problems, the provisions of S. 3982 are similar in many respects to the provisions of the Treasury Department's legislative proposals. In some situations, S. 3982 would allow broader access to tax return data; in others, it would provide more restricted access. These are, of course, matters on which judgments may vary. We believe, nevertheless, that our proposal presents a more comprehensive and a sounder resolution of these issues, and we urge that our proposal be adopted in lieu of S. 3982. The balance of this letter compares in greater detail some of the major provisions of the two bills.

1. General approach. Under present law, tax returns are declared to be "public records." In fact, they are treated as confidential records in that they are open to inspection only as provided by statute or by Executive Order. Both S. 3982 and the Treasury Department proposal would recognize the confidential nature of tax returns and would provide that they may be disclosed only as authorized by statute, thus eliminating the Executive Order procedure of present law. We believe it is important that the American taxpayer know who will have access to information reported on his tax returns and that the rules governing such access be specified in the statute itself.

2. Coverage. S. 3982 would cover only a return which is filed by or on behalf of a taxpayer under compulsion of law containing information necessary to determine Federal tax liability, and information contained in any such return. The Treasury Department proposal is much broader and would cover information of all kinds filed by a taxpayer with IRS, as well as information accumulated by IRS in files and reports. If narrowly interpreted, S. 3982 may technically fail to achieve its stated objective in that it would not protect returns that are permitted but not required under the Code (e. g., certain amended returns (Form 1040X)) or, if the concept of determination of tax liability used in the bill refers only to the filing taxpayer's liability, returns of nontaxable entities such as partnerships, simple trust, or subchapter S corporations. In any event, we believe that the mantle of confidentiality should extend to the entire tax file.



3. Disclosure to State Tax Officials. Under present law, tax returns and tax return data may be made available to state and local tax officials at the request of the state Governor. Both S. 3982 and the Treasury proposal would require the request for tax information to come from the principal tax official of the state, rather than the Governor. The principal difference between the two proposals is that S. 3982 would permit continued disclosure of tax data to local officials, while the Treasury proposal would eliminate such disclosure. We believe that local safeguards on confidentiality may not be adequate to provide the level of protection of confidentiality that is required of the Federal government. Also, the opportunities for non-tax use of federal tax information are likely to be more tempting at local levels.

4. Disclosure to Committees of Congress. At present, the Internal Revenue Code provides specific authorization for access to tax returns by the Joint Committee on Internal Revenue Taxation, the Ways and Means Committee, and the Finance Committee. Other committees may and do obtain tax return data by Executive Order or, in the case of select committees and joint committees, by Congressional resolution. The Treasury Department proposal would generally preserve present law, except that the Executive Order procedure would be eliminated, the Congressional Resolution procedure would be broadened, and express authorization would be added for access to tax returns by the Chief of Staff of the Joint Committee on Internal Revenue Taxation. Thus, all committees other than the tax committees could obtain tax data as authorized by Congressional resolution. S. 3982 would limit access to tax returns and tax data to the Joint Committee on Internal Revenue Taxation. The Joint Committee could disclose such tax information to the Congress or another Congressional committee, but only in the form of statistics that do not identify individual taxpayers. We submit that S. 3982 is unduly restrictive, that access to tax data by the tax committees is essential to their informed exercise of their legislative responsibilities, and that it would be appropriate for the Congress to retain power by resolution to authorize other committees to obtain such tax data as may be necessary for particular investigations or legislation.

5. Disclosure to the President. The Internal Revenue Code presently authorizes disclosure of tax return data "upon order of the President." Both S. 3982 and the Treasury proposal would eliminate this Executive Order procedure and would make express provision for access to tax returns by the White House. Under S. 3982, such access would be afforded to:

"The President of the United States, upon his written request specifically naming the taxpayer whose return is to be inspected, provided that the inspection of such return is necessary in the performance of his official duties."

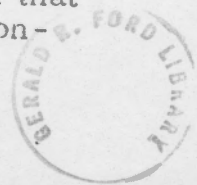


The Treasury proposal provides more broadly that tax returns or tax return information may be made available to such White House employees as the President may designate in a Presidential Order. By Executive Order 11805, issued on September 20, 1974, the President directed that tax returns shall be open to inspection by the President "only upon written request signed by the President personally." Any such request shall identify the taxpayer whose return is to be inspected, the kind of return or returns to be inspected, and the taxable period or periods covered by such return or returns. The President may designate by name an employee or employees of the White House office who are authorized to receive such returns on his behalf, but the employees who may be so designated are only those employees who hold a Presidential commission and whose annual rate of basic pay equals or exceeds \$36,000. No disclosure of the information received may be made by such designated employee except to the President, without the written direction of the President.

It is not entirely clear whether the right of the President to receive tax returns under S. 3982 is intended to be nondelegable or whether the President could designate an employee to receive such tax returns on his behalf. If such right is intended to be delegable, there are no limits established on the extent of delegation. If it is intended to be nondelegable, S. 3982 would impose unrealistic and unduly burdensome restrictions on effective operation of the White House.

The main difference between S. 3982 and the Treasury proposal is that S. 3982 seeks to specify in the statute the rules governing Presidential access to tax returns, while the Treasury proposal leaves the elaboration of such rules to Executive Order. Just as effective operation of the legislative branch requires that Congress retain power to authorize access to tax returns by its committees, so does effective administration of the Executive Branch dictate that the President should retain power, directly or through his immediate subordinates, to scrutinize the activities and files of the Executive agencies including the tax collection agencies.

6. Disclosure for statistical purposes. As noted above, tax returns are a unique and invaluable source of economic data. Tax return data is presently used by the Department of Commerce in the development of the national income accounts (i. e., GNP and similar figures) and by other federal agencies in their statistical programs. The Treasury Department proposal would generally seek to reduce the number of agencies receiving raw tax data for statistical studies by centralizing the preparation of statistical studies in the Internal Revenue Service. However, a general exception is made for the Department of Commerce in view of the enormous volume of essential statistical work done by Commerce, the demonstrated ability of that agency to manage large volumes of sensitive information in a confidential manner, and the questionable ability of IRS to take on all of that responsibility. Moreover, other agencies, as well



as the states and any other person, could contract for IRS to undertake special statistical studies but would, of course, have to bear the cost of such studies. In recognition that facility or other limitations might make it impractical for IRS personnel to conduct all such studies that might be requested, provision is made for the Service to contract with other agencies or persons to perform such studies -- with such contractors being fully subject to all of the safeguards ensuring confidentiality, including the criminal penalties for unlawful disclosure.

S. 3982 limits all statistical uses of tax return data to the IRS but authorizes the IRS to carry out such studies, at cost, upon the request of another federal agency or a State. The IRS would apparently not be authorized to carry out such studies at the request of a private institution, such as the Brookings Institution.

S. 3982 would force the IRS to divert resources to carrying out major statistical programs now the responsibility of the Department of Commerce, and thus would detract from the present ability of the Service to carry out its primary function of tax collection. It would also seriously limit other statistical uses of tax return data and would tend to impose unnecessary and burdensome substitute reporting requirements. We would submit for these reasons that the restrictive approach of S. 3982 is unwarranted and unwise.

7. Disclosure for law enforcement purposes. Both bills would authorize use of tax returns for purposes of the administration and enforcement of the tax laws. In addition, the Treasury draft legislation would permit use of tax returns by the Justice Department and other federal agencies in nontax enforcement activities, at both the investigative and the judicial stage of such an enforcement proceeding, in accordance with specified statutory criteria. S. 3982 would prohibit such use in nontax enforcement activity. This difference between the Treasury proposal and S. 3982 raises a fundamental policy question concerning the extent to which the principle of taxpayer confidentiality should outweigh the demonstrable and legitimate needs of law enforcement agencies. We submit that, while reasonable men may differ concerning where the balance should be struck between these competing interests, the approach of S. 3982 is unduly doctrinaire in denying all use of tax returns for nontax purposes. In many cases, a tax investigation and nontax investigation may be conducted in conjunction, and the use of tax returns to evaluate a possible charge of tax law violation may be essential to a determination whether to commence a nontax proceeding. Or the tax return may disclose a probable nontax criminal violation, and disclosure of tax data to prosecutorial officials may be necessary if the offender is to be held to account for his actions. Similarly one may ask whether the interest in ensuring a fair trial to every accused does not dictate that tax data should be made available to prosecutorial officials, the defense, and the courts to the extent necessary to contradict a lying witness or to provide the defense with exculpatory evidence.



8. Other provisions. Under present law, tax returns may be made available to persons who, because of a personal or transactional relationship with the person making the return, need information contained in such returns in order to determine their own tax liability. For example, in appropriate circumstances a beneficiary of a trust or estate may obtain the return of the trust or estate and the donee of property may obtain the donor's return. These provisions would be retained under the Treasury Department proposal but would be eliminated under S. 3982, which provides only that returns may be disclosed to the taxpayer himself or to his duly authorized representative. The restrictive approach of S. 3982 seems unnecessarily harsh, and we are unaware of any abuse in this area under present regulations.

In conclusion, while the Treasury Department shares the concerns that prompted the introduction of S. 3982, we believe that the proposed legislation which we submitted to the Congress on September 11 presents a more balanced resolution of the problems in this area and we urge your Committee's favorable consideration of that proposal.

Sincerely yours,

Richard R. Albrecht
General Counsel

The Honorable
Russel B. Long
Chairman, Senate Finance Committee
United State Senate
Washington, D. C. 20510



A BILL

TO amend the Internal Revenue Code of 1954 to restrict the authority for inspection of returns and the disclosure of information with respect thereto, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF 1954 CODE.

Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

Section 6103 (relating to publicity of returns and disclosure of information as to persons filing income tax returns) is amended to read as follows:

"SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

"(a) General Rule. --

"(1) Confidentiality and disclosure. --Returns and return information shall be confidential and no person described in section 7213 (a) shall permit inspection of or disclose returns or return information, nor shall a court, administrative body, or other person order such inspection or disclosure, except to such persons and for such purposes as are authorized by this title.

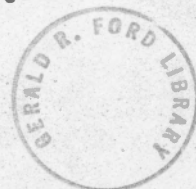


"(2) Definitions. --For purposes of this section--

"(A) Return. --The term 'return' means any tax or information return or declaration of estimated tax required by, or provided for or permitted under, the provisions of this title filed by, on behalf of, or with respect to any person with the Secretary or his delegate, and any amendment or supplement thereto or claim for refund, including supporting schedules, attachments, or lists which are designed to be supplemental to, or become part of, the return so filed.

"(B) Return information. --The term 'return information' means--

(i) any data including a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any particular of any data, in whatever form (whether as a report, investigative file, memorandum or other document, including a registration statement described in section 6057) or manner received by, recorded by, prepared by, or furnished to the Secretary or his



delegate with respect to a return as described in subparagraph (A) or with respect to the existence of the amount of the liability of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, but, for purposes of this subdivision (i), not including any such data (or particular thereof) included in a document (or request or correspondence for or with respect thereto) described in (ii) (without regard to the date limitation therein) or (iii);

(ii) any letter, advice, or other document issued by the Secretary or his delegate pursuant to a request made therefor on or before _____, by, or on behalf of, any person other than an officer or employee of the Department of the Treasury acting in his official capacity, and any such request, or any correspondence for or with respect to such document or any portion thereof, which is intended to be used to determine or affect the application of any rule contained in this title, related law, or tax treaty to the facts and circumstances of a particular transaction, arrangement, or return filed or to be filed by the person to whom such document is furnished;



"(iii) any memorandum, advice, or other document issued by the Secretary or his delegate pursuant to a request by, or on behalf of, any officer or employee of the Department of the Treasury acting in his official capacity, and any such request, or any correspondence for or with respect to such document or any portion thereof, which is intended to be used by him to determine or affect the application of any rule contained in this title, related law, or tax treaty to the facts and circumstances of a particular transaction, arrangement, or return filed or to be filed by any person to whom such document relates or may relate; and

"(iv) any other data of the type described in (i) which is furnished to the Secretary or his delegate in connection with tax administration and accepted as confidential pursuant to regulations prescribed by the Secretary or his delegate, whether or not such data (or particular thereof) described in (i) or such document (or request or correspondence for or with respect thereto) described in (ii) or (iii) may be in any manner inspected or disclosed under the provisions of section 6104 or any other provision of this title.



"(C) Tax administration. --The term 'tax administration' means the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party and the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax treaties, and includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

"(D) State. --The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, possessions of the United States, and other places under the sovereignty of the United States.

"(E) Taxpayer identity. --The term 'taxpayer identity' means the name of a person with respect to whom a return is filed, his mailing address, and his taxpayer identifying number (as described in section 6109) or a combination thereof.

"(F) Inspection. --The terms 'inspected' and 'inspection' mean the visual examination of a return or return information.



"(G) Disclosure. --The term 'disclosure' means the making known to any person in any manner whatever a return or return information.

"(b) Disclosure to State Tax Officials. --Returns and return information, except with respect to taxes imposed by chapters 35 and 53, shall be open to inspection by or disclosure to any State agency, body, or commission lawfully charged with tax administration for the purpose of, and only to the extent necessary in, the administration of a specific tax law of such State and shall be used only for such tax administration. The inspection shall be permitted, or the disclosure made, only upon written request of the head of such State agency, body, or commission, designating the representatives of such agency, body, or commission to make the inspection or to receive the return or return information on behalf of such agency, body, or commission. However, such return information shall not be disclosed to such State agency, body, or commission to the extent that the Secretary or his delegate determines that such disclosure would seriously impair the administration of Federal tax laws.

"(c) Disclosure to Persons Having Substantial Interest. --

"(1) The return of a person with respect to whom the return is filed shall, upon written request, be open to inspection by or disclosure to--

"(A) in the case of the return of an individual,
that individual;



"(B) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

"(C) in the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

"(D) in the case of the return of a corporation--

"(i) any person designated by resolution of its board of directors, or other similar governing body,

"(ii) any officer or employee of such corporation upon written request signed by any principal officer and attested by the secretary or other officer,

"(iii) if the corporation was an electing small business corporation under subchapter S of chapter 1, any person who was a shareholder during any part of the period covered by such return during which an election was in effect, or



"(iv) if the corporation has been dissolved, any person authorized by applicable State law to act for the corporation or any person who the Secretary or his delegate finds to have a material interest which will be affected by information contained therein;

"(E) in the case of the return of an estate--

"(i) the administrator, executor, or trustee of such estate, and

"(ii) any heir at law, next of kin, or beneficiary under the will, of the decedent but only if the Secretary or his delegate finds that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained therein; and

"(F) In the case of the return of a trust--

"(i) the trustee or trustees, jointly or separately, and

"(ii) any beneficiary of such trust but only if the Secretary or his delegate finds that such beneficiary has a material interest which will be affected by information contained therein.



"(2) If an individual described in paragraph (1) is legally incompetent, the applicable return shall be open to inspection by or disclosure to the committee, trustee, or guardian of his estate.

"(3) If an individual described in paragraph (1), other than an individual described in subparagraph (E) (i) or (F) (i) of such paragraph, has died, the applicable return may be inspected by or disclosed to--

"(A) the administrator, executor, or trustee of his estate; and

"(B) any heir at law, next of kin, or beneficiary under the will, of such decedent, or a donee of property, but only if the Secretary or his delegate finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

"(4) If substantially all of the property of the person with respect to whom the return is filed is in the hands of a trustee in bankruptcy or receiver, such return or returns for prior years of such person shall be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary or his delegate finds that such receiver or trustee has a material interest which will be affected by information contained therein.



"(5) Any return to which this subsection applies shall also be open to inspection by or disclosure to the attorney in fact, duly authorized in writing, of any of the persons described in paragraph (1), (2), (3), or (4) to inspect the return or receive the information on his behalf, subject to the conditions provided for therein.

"(6) Return information with respect to any return shall also be open to disclosure to any person authorized by this subsection to inspect such return but only to the extent that the Secretary or his delegate determines that such disclosure would not seriously impair the administration of Federal tax laws.

"(d) Disclosure to Committees of Congress. --

"(1) Committee on Ways and Means, Committee on Finance, and Joint Committee on Internal Revenue Taxation. -- Upon written request from the Chairman of the Committee on Ways and Means of the House of Representatives, the Chairman of the Committee on Finance of the Senate, or the Chairman of the Joint Committee on Internal Revenue Taxation, the Secretary or his delegate shall furnish such committee sitting in closed executive session with any return or return information.

"(2) Chief of Staff of Joint Committee on Internal Revenue Taxation. -- Upon written request from the Chief of Staff of the Joint Committee on Internal Revenue Taxation, the Secretary or his delegate shall furnish him with any return or return information. Such



Chief of Staff shall have the right to submit any relevant or useful information thus obtained to any committee described in paragraph (1) sitting in closed executive session.

"(3) Other committees. --Upon written request from the chairman of a committee of the Senate or House (other than a committee specified in paragraph (1)) specially authorized to inspect returns or return information by a resolution of the Senate or House or, in the case of a joint committee (other than the committee specified in paragraph (1)), by concurrent resolution, the Secretary or his delegate shall furnish such committee sitting in closed executive session with any return or return information which such resolution so authorizes the committee to inspect.

"(4) Agents of committees and submission of information to Senate or House. --Any committee described in paragraph (1), (2), or (3) or the Chief of Staff of the Joint Committee on Internal Revenue Taxation shall have the right, acting directly, or by or through such examiners or agents as the Chairman of such committee or such Chief of Staff may designate or appoint in writing, to inspect returns and return information at such time and in such manner as he may determine. Any relevant or useful information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House, or to both the Senate and the House, as the case may be. The Joint Committee



on Internal Revenue Taxation may also submit such information to any committee described in paragraph (1) sitting in closed executive session.

"(e) Disclosure Pursuant to Executive Order. --Upon order of the President, the Secretary or his delegate shall furnish the President, or such employee or employees of the White House Office as the President may designate in such order to receive on his behalf, any return or return information.

"(f) Disclosure to Certain Federal Officers and Employees for Purposes of Tax Administration, etc. --(1) Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure.

"(2) A return or return information with respect to any tax imposed by this title upon a taxpayer shall, without written request, be open to inspection by or disclosure to attorneys of the Department of Justice (including United States Attorneys) personally and directly engaged in, and solely for their use in, preparation for any proceeding (or investigation which may result in a proceeding) before a Federal grand jury or any Federal or State court in a matter involving tax administration but only--

(A) if the taxpayer is or may be a party
to such proceeding;



(B) if the taxpayer consents; or

(C) if such return or return information has or may have a bearing on the outcome of such proceeding because--

(i) treatment of an item with respect to a person who is or may be a party to such proceeding is or may be determined, in whole or in part, by reference to the treatment of an item on such return;

(ii) such return or return information relates or may relate to an issue in the proceeding; or

(iii) the liability of the party under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, which is or may be the subject of the proceeding is or may be determined, in whole or in part, by reference to such return or return information.

"(g) Disclosure to Federal Officers and Employees for Purposes of Federal Law Administration (Other Than Tax Laws). --(1) Upon request in writing by the Secretary of Commerce, the Secretary or his delegate shall furnish any return or return information reflected on such return to officers or employees of the Social and Economic Statistics Administration (or successor administrations or establishments thereof) of the Department of Commerce for the purpose of research and statistical studies and compilations to be conducted



or prepared by such Administration as authorized by law, provided that no such officer or employee shall publish or otherwise disclose any return or return information except in statistical form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

"(2) A return or return information with respect to any tax imposed by this title upon a taxpayer shall, upon request, be open to officers or employees of a department, agency, or other Executive establishment of the Federal Government personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the enforcement of a specifically designated Federal statute (not involving tax administration) to which the United States (or a department, agency, or other Executive establishment of the Federal Government) is or may be a party before any Federal grand jury, court, department, agency, or other Executive establishment but only--

"(A) if the taxpayer is or may be a party to such proceeding;

"(B) if the taxpayer consents; or

"(C) if such return or return information has or may have a bearing on the outcome of such proceeding because--



"(i) there was or may have been a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer,

"(ii) such person is or may be a successor in interest of the taxpayer, or

"(iii) such return or return information will or may corroborate or contradict other information obtained in such proceeding or investigation.

The inspection or disclosure shall be permitted only upon written request setting forth the reasons for such request, the authority under which the proceeding or investigation is being conducted, and the particular subparagraph of this paragraph upon which the request is based and signed by the head of such department, agency, or establishment or, in the case of the Department of Justice, signed by the Attorney General, Deputy Attorney General, or an Assistant Attorney General, or by the Director of the Federal Bureau of Investigation. However, such return or return information shall not be disclosed to the extent that the Secretary or his delegate determines that such disclosure would seriously impair the administration of Federal tax laws. In the event that the Secretary or his delegate makes such a determination, the Secretary shall consult with the head of the requesting department, agency, or establishment, or, in the case of a



request by the Department of Justice, with the Attorney General. If, after such consultation, the issue has not been resolved, a final determination shall be made by the President or his delegate.

"(3) An officer or employee of the Department of the Treasury participating with officers or employees of another department, agency, or other Executive establishment of the Federal Government in a joint investigation pertaining to the enforcement of Federal criminal laws may, to the extent required by such investigation, disclose to such other officers or employees return information with respect to a tax imposed by this title upon a taxpayer other than return information furnished to the Secretary or his delegate by such taxpayer.

"(h) Disclosure of Certain Returns and Return Information for Tax Administration Purposes. --

"(1) Disclosure by internal revenue officials and employees for investigative purposes. --An internal revenue official or employee may, in connection with his official duties with respect to a tax imposed by this title, disclose return information to the extent that such disclosure is necessary in arriving at a correct determination of tax, liability for tax, or the amount to be collected, or otherwise in the enforcement of any provision of this title.

"(2) Disclosure of accepted offers-in-compromise. --Return information shall be disclosed to members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise under section 7122, relative to the liability for a tax imposed by this title.



"(3) Disclosure of amount of outstanding lien. --If a notice of lien has been filed pursuant to section 6323 (f) or corresponding provision of prior internal revenue laws, the amount of the outstanding obligation secured by such lien is authorized to be disclosed as a matter of public record and may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.

"(4) Disclosure in judicial and administrative tax proceedings. -- A return or return information with respect to any tax imposed by this title upon a taxpayer may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration before any Federal or State grand jury, court, department, or Executive establishment, but only--

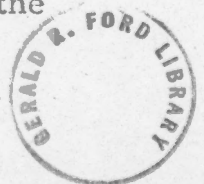
"(A) if the taxpayer is a party to such proceeding;

"(B) if the taxpayer consents;

"(C) if such return or return information has or may have a bearing on the outcome of such proceeding because--

"(i) treatment of an item with respect to a party to the proceeding is or may be determined, in whole or in part, by reference to the treatment of an item on such return,

"(ii) such return or return information relates or may relate to a transaction at issue in the proceeding, or



"(iii) the liability of the party under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense which is the subject of the proceeding is or may be determined by reference to such return or return information;

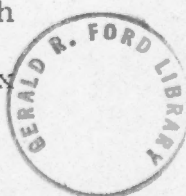
"(D) to the extent necessary to impeach a witness in the proceeding respecting testimony as to a transaction with the taxpayer if the taxpayer is neither a party to, nor a witness in, such proceeding;

"(E) to the extent necessary to impeach the testimony of the taxpayer if the taxpayer is a witness in the proceeding;

"(F) to the extent required by order of a court pursuant to 18 U.S.C. 3500 or Rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to Congressional policy favoring the confidentiality of returns and return information as set forth in this title; or

"(G) to the extent required by the Constitution of the United States.

However, such return or return information shall not be disclosed to the extent that the Secretary or his delegate determines that such disclosure would seriously impair the administration of Federal tax laws. In the event that the Secretary or his delegate makes such a



determination with respect to disclosure in a judicial proceeding to which the United States is a party, the Secretary shall consult with the Attorney General. If, after such consultation, the issue has not been resolved, a final determination shall be made by the President or his delegate.

"(5) Disclosure of return information to correct misstatements of fact. --The Secretary or his delegate may, in his discretion, disclose such return information or any other information with respect to any specific taxpayer as he considers advisable for purposes of tax administration, and to the extent necessary, to correct a misstatement of fact published or disclosed with respect to such taxpayer's return or his dealing with the Internal Revenue Service.

"(6) Disclosure to competent authority under income tax convention. --A return or return information may be disclosed to a competent authority of a foreign government which has an income tax convention with the United States but only to the extent provided in, and subject to the terms and conditions of, such convention.

"(7) Federal and State agencies regulating tax return preparers. --Taxpayer identity information of any tax return preparer (as defined in section 6690 (e)) may be disclosed to any Federal or State agency, body, or commission charged under the laws of the United States or any State or political subdivision of a State with licensing, registration, or regulation of tax return preparers.



"(i) Disclosure of Returns and Return Information for Purposes Other Than Tax Administration. --

"(1) Disclosure in nontax judicial and administrative proceedings. --A return or return information with respect to any tax imposed by this title upon a taxpayer may be disclosed in a judicial or administrative proceeding pertaining to a specifically designated Federal statute (not involving tax administration) to which the United States (or a department, agency, or other Executive establishment of the Federal Government) is a party before any Federal grand jury, court, department, agency, or Executive establishment but only--

"(A) if the taxpayer is a party to such proceeding;

"(B) if the taxpayer consents;

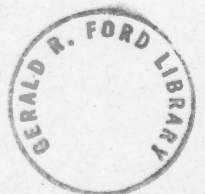
"(C) if such return or return information has or may have a bearing on the outcome of such proceeding because--

"(i) there was a transactional relationship between a party to the proceeding and the taxpayer,

or

"(ii) such party is a successor in interest of the taxpayer;

"(D) to the extent necessary to impeach a witness in the proceeding respecting testimony as to a transaction with the taxpayer if the taxpayer is neither a party to, nor a witness in, such proceeding;



"(E) to the extent necessary to impeach the testimony of the taxpayer if the taxpayer is a witness in the proceeding;

"(F) to the extent required by order of a court pursuant to 18 U.S.C. 3500 or Rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to Congressional policy favoring the confidentiality of returns and return information as set forth in this title; or

"(G) to the extent required by the Constitution of the United States.

However, such return or return information shall not be disclosed to the extent that the Secretary or his delegate determines that such disclosure would seriously impair the administration of Federal tax laws. In the event that the Secretary or his delegate makes such a determination, the Secretary shall consult with the Attorney General if the United States is a party to the proceeding or the Department of Justice represents a department, agency, or other Executive establishment of the Federal Government which is a party to the proceeding, or with the head of such department, agency, or establishment if the Department of Justice does not so represent the department, agency, or establishment. If, after such consultation, the issue has not been resolved, a final determination shall be made by the President or his delegate.

"(2) Disclosure of certain returns and return information to Social Security Administration and Railroad Retirement Board. --The Secretary or his delegate is authorized to disclose returns and return information--

"(A) with respect to taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

"(B) with respect to a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act; and

"(C) with respect to taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

"(3) Disclosure of returns and return information to the Department of Labor and Pension Benefit Guaranty Corporation. --The Secretary or his delegate is authorized to furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of the administration of Titles I and IV of the Employee Retirement Income Security Act.



"(4) Disclosure of return information as to Presidential appointees and certain other Federal Government appointees. --The Secretary or his delegate is authorized to disclose to a duly authorized representative of the Executive Office of the President or to the head of any department, agency, or other Executive establishment of the Federal Government, upon written request of such representative or head, or to the Federal Bureau of Investigation on behalf of such representative or head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the Executive or Judicial Branch of the Federal Government. Such return information shall be limited to whether such an individual--

"(A) has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years;

"(B) has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;

"(C) has been or is under investigation of possible criminal offenses under the internal revenue laws and the result of any such investigation; and

"(D) has been assessed any penalty under this title for fraud.



The official to whom such return information is disclosed is authorized to disclose such information to his superior officers.

"(j) Disclosure of Taxpayer Identity Information. --The Secretary or his delegate is authorized, upon written request, to disclose taxpayer identity information to--

"(1) any Federal agency for purposes of assisting such agency in locating a person with respect to whom a return has been filed;

"(2) any State agency, body, or commission described in section 6103 (b) for purposes of assisting such agency, body, or commission in locating a person with respect to whom a return has been filed or communicating with such person to advise him that he may be entitled to a refund, or to assist such agency, body, or commission in its administration of the tax laws of such State;

"(3) the Department of Health, Education, and Welfare, or appropriate State and local welfare agencies reporting to such Department, for purposes of assisting Federal, State, and local welfare agencies in locating an individual described in 42 U.S.C. 610 with respect to whom a return has been filed; and



"(4) the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary or his delegate, after reasonable effort and lapse of time, has been unable to locate such persons.

"(k) Disclosure of Returns and Return Information to Designee of Taxpayer. --The Secretary or his delegate may, subject to such requirements and conditions as may be prescribed by regulations, disclose the return of any taxpayer, or return information with respect to such return, to such person or persons as such taxpayer may designate in a written request for such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons to the extent that the Secretary or his delegate determines that such disclosure would seriously impair the administration of Federal tax laws.

"(1) Certain Other Persons. --The Secretary or his delegate is authorized to disclose returns and return information to any person, including any person described in section 7513 (a), to the extent necessary in connection with contractual procurement of services or property for purposes of tax administration.

"(m) Disclosure of Return Information Concerning Prospective Jurors and Possible Criminal Activities. --



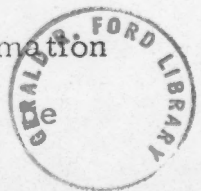
"(1) Prospective Jurors. --

"(A) Return information with respect to any tax imposed by this title upon a taxpayer shall be disclosed to an attorney of the Department of Justice (including a United States attorney) in connection with a judicial proceeding described in paragraph (h)(4) or (i)(1) of this section to the extent necessary to answer an inquiry by such attorney as to whether a prospective juror has, or has not, been investigated by the Secretary or his delegate.

"(B) Return information with respect to any tax imposed by this title upon a taxpayer shall, upon request, be disclosed to an attorney of the Department of Justice (including a United States attorney) in connection with a judicial proceeding described in paragraph (h)(4) or (i)(1) of this section for use by him solely for purposes of impeaching a prospective juror upon examination of such prospective juror, and such return information may, in the discretion of such attorney, be delivered to the court for such use or action by the court as the court may deem appropriate.

"(2) Possible Criminal Activities. --

"(A) Return information with respect to any tax imposed by this title upon a taxpayer shall, if such return information comes to the attention of the Secretary or his delegate,



disclosed by the Secretary or his delegate to the Attorney General or his delegate to the extent necessary to apprise the Attorney General or his delegate of activities which may constitute, or may have constituted, a violation of Federal criminal laws.

"(B) Return information with respect to any tax imposed by this title upon a taxpayer may, if such return information comes to the attention of the Secretary or his delegate, be disclosed, in the discretion of the Secretary or his delegate, to an officer of any department, agency, body, or commission of a State (or political subdivision of a State) charged with the enforcement of criminal laws of such State to the extent necessary to apprise such officer of activities which may constitute, or may have constituted, a violation of such criminal laws.

"(n) Disclosure of Returns and Return Information With Respect to Taxes Imposed by Subtitle E. --Returns and return information with respect to taxes imposed by subtitle E of this title (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a department, agency, or other Executive establishment of the Federal Government whose official duties require such inspection or disclosure.



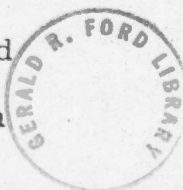
"(o) Remedy for Unauthorized Disclosure. --The exclusive remedy for an alleged violation of this section shall be a proceeding under section 7213, and no court shall have jurisdiction to review a determination that a return or return information is or is not open to inspection or disclosure or to determine the lawfulness of any such inspection or disclosure except in such a proceeding.

"(p) Procedures. --

"(1) Manner, time, and place of inspections. --Request for inspection and the disclosure of a return or return information shall be made in such manner and at such time and place as shall be prescribed by the Secretary or his delegate.

"(2) Copies of returns. --A copy or certified copy of a return shall, upon written request, be furnished to any person to whom disclosure of such return is authorized or who is authorized to inspect the return. Such copy shall have the same legal status as the original; and any such copy shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence. A reasonable fee may be prescribed for furnishing such copy.

"(3) Disclosure of return information. --Return information disclosed to any person under the provisions of this subchapter may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically-produced tapes, disks or records, or by any other mode or means which, in



the opinion of the Secretary or his delegate, are necessary or appropriate. A reasonable fee may be prescribed for disclosing such return information.

"(4) Records of inspection and disclosure. --The Secretary or his delegate shall maintain a record of all requests for inspection and disclosure of returns and requests for return information and of returns inspected and return information disclosed under this section (other than returns and return information inspected or disclosed under the authority of subsection (f), (h), (i) (1) or (j)), and such records shall be available for examination by the Joint Committee on Internal Revenue Taxation or the Chief of Staff of such Joint Committee. The Secretary or his delegate shall, at the request of such Chief of Staff, furnish to him a summary of such records at such time or times and in such form and containing such information as the Chief of Staff may designate in such request.

"(5) Safeguards. --Any department, agency, or other Executive establishment of the Federal Government described in subsection (f) (2) or (g) or any State agency, body, or commission described in subsection (b) shall, as a condition for receiving returns or return information--

"(A) establish and maintain a secure area or place in which such returns or return information shall be stored;



"(B) restrict access to the returns or return information only to those persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title,

"(C) provide such other safeguards as are necessary or appropriate to protect the confidentiality of the returns or return information; and

"(D) when the returns or the return information provided by the Secretary or his delegate in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically-produced tapes, disks or records has served its purpose--

"(i) in the case of a State agency, body, or commission described in subsection (b), return to the Secretary or his delegate such returns or return information (along with any copies made therefrom) or furnish a written report to the Secretary or his delegate that the returns or return information has been destroyed or otherwise made undisclosable in any manner whatever; and

"(ii) in the case of a department, agency, or establishment described in subsection (f) (2) or (g), either--

"(a) return to the Secretary or his delegate such returns or return information (along with any copies made therefrom),

"(b) otherwise make such returns or return information undisclosable in any manner whatever, or

"(c) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), and (C) of this paragraph continue to be met with respect to such returns or return information, except that the conditions of subparagraphs (A), (B), (C), and (D) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course, or made a part of the record, of any judicial or administrative proceeding described in paragraph (h)(4) or (i)(1) of this section.

"(6) Regulations.--The Secretary or his delegate is authorized to prescribe such regulations as are necessary to carry out the provisions of this section."



SEC. 3. STATISTICAL PUBLICATIONS AND STUDIES

Section 6108 (relating to publication of statistics of income) is amended to read as follows:

SEC. 6108. STATISTICAL PUBLICATIONS AND STUDIES

"(a) Publication or Other Disclosure of Statistics of Income. --

The Secretary or his delegate shall prepare and publish annually, and may in his discretion publish or otherwise disclose at any time, statistics reasonably available with respect to the operations of the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

"(b) Special Statistical Studies. --The Secretary or his delegate is authorized, upon written request by any person or persons, to make special statistical studies and compilations of return information (as defined in section 6103 (a) (2) (B)), and to furnish to such person or persons any data obtained from such special statistical studies and compilations in statistical form. The cost of performing such special statistical studies and compilations shall be paid by such person or persons.

"(c) Other Publications. --The Secretary or his delegate may prepare and publish such official rulings, procedures, and similar information of the Internal Revenue Service as he, in his discretion, considers necessary to promote uniform application of the tax laws.



"(d) Taxpayer Identity. --No publication or other disclosure of statistics or other information required or authorized by subsection (a), special statistical study authorized by subsection (b), or information authorized by subsection (c) shall in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed to be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

SEC. 4. INSPECTION OF CERTAIN RECORDS BY LOCAL OFFICERS.

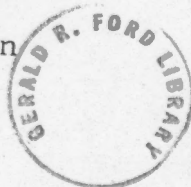
Section 4102 (relating to inspection of records, returns, etc., by local officers) is amended to read as follows:

"SEC. 4102. INSPECTION OF RECORDS BY LOCAL OFFICERS.

Under regulations prescribed by the Secretary or his delegate, records required to be kept with respect to taxes under this part shall be open to inspection by such officers of a State, the Commonwealth of Puerto Rico, the District of Columbia, a possession of the United States, or a political subdivision of any of the foregoing, as shall be charged with the enforcement or collection of any tax on gasoline or lubricating oils."

SEC. 5. PENALTY FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.

Section 7213 (relating to unauthorized disclosure of information) is amended by striking out subsection (c), redesignating subsections (d) and (e) as (c) and (d) respectively, and by amending subsection (a) to read as follows:



"(a) Returns and Return Information. --

"(1) Federal employees and other persons. --It shall be unlawful for any officer or employee of the United States or any person described in section 6103 (1) (or an officer or employee of any such person), or any person who was formerly any of the foregoing, to disclose or make known in any manner whatever to any person, except as authorized in this title, any return or return information (as defined in section 6103(a)(2)); and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any return or return information as so defined; and any person committing an offense against the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution, and if the offender be an officer or employee of the United States, he shall be dismissed from office or discharged from employment.

"(2) State employees. --Any officer, employee, or agent, or former officer, employee, or agent, of any State (as defined in section 6103 (a) (2)) who discloses or makes known in any manner whatever to any person, except as authorized in this title, any return or return information (as defined in section 6103 (a) (2)) acquired by him or



another person under section 6103 (b) shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

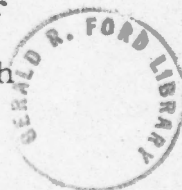
SEC. 6. PROCESSING OF RETURNS, RETURN INFORMATION, AND OTHER DOCUMENTS.

Section 7513 (relating to reproduction of returns and other documents) is amended to read as follows:

"SEC. 7513. MAKING SPECIAL STATISTICAL STUDIES OR PROCESSING OR REPRODUCING OF RETURNS, RETURN INFORMATION, AND OTHER DOCUMENTS.

"(a) In General. --The Secretary or his delegate is authorized to contract, in accordance with regulations to be prescribed by the Secretary or his delegate, with any department, agency, or other Executive establishment of the Federal Government, any State agency, or any person for the purpose of making special statistical studies (as defined in section 6108 (b)) or of processing or making reproductions by any means whatever of any return or return information (as defined in section 6103 (a) (2)), document, or other matter. For purposes of this section, the term 'processing' includes services involving system design; advice, maintenance, and training in connection with such systems (and operation to the extent necessary or desirable for such purposes); or other assistance in connection with such processing.

"(b) Regulations. --The Secretary or his delegate is authorized to prescribe regulations to provide such safeguards as in the opinion



of the Secretary or his delegate are necessary or appropriate to protect returns, return information, documents, or other matter (and reproductions of any of the foregoing in any form whatever) described in subsection (a) against any unauthorized use or any unauthorized disclosure.

"(c) Penalty. --For penalty for unauthorized use or unauthorized disclosure of information contained in returns, return information, documents, or other matter, see section 7213.

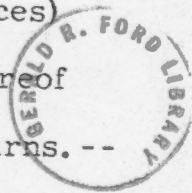
SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 6106 (relating to publicity of unemployment tax returns) is hereby repealed.

(2) Section 6110 (relating to cross-references) is amended by striking out paragraphs (2), (3), (4), and (5), and by inserting in lieu thereof "(2) For inspection of certain records concerning gasoline or lubricating oils by local officers, see section 4102."

(3) Section 6323 (relating to validity and priority of tax liens against certain persons) is amended by striking out paragraph (3) of subsection (i).

(4) Subsection (e) of section 7213 (relating to cross-references) is amended by striking out paragraph (1) and inserting in lieu thereof "(1) Penalties for disclosure of information by preparers of returns. -- For penalty for disclosure or use of information by preparers of returns, see section 7216."



(5) Section 7515 (relating to special statistical studies and compilations and other services on request) is hereby repealed.

(6) Subsection (c) of section 7809 (relating to deposit of collections) is amended by striking out in paragraph (1) the words "section 7515 (relating to special statistical studies and compilations for other services on request;" and inserting in lieu thereof "section 6103 (p) (relating to furnishing of copies of returns or of return information) and section 6108 (b) (relating to special statistical studies and compilations;"

Technical changes to change table of contents to be added.

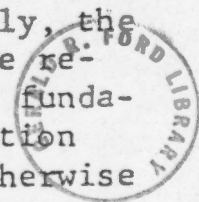


PROPOSAL TO AMEND SECTION 6103 AND
RELATED CODE SECTIONS HAVING TO DO
WITH DISCLOSURES OF FEDERAL TAX
RETURNS AND RETURN INFORMATION

As a general rule, section 6103(a) of the Code presently makes tax returns a matter of public record but authorizes inspection only upon order of the President and under regulations based upon his Executive Orders. Section 6103(b) specifically authorizes disclosure of income tax returns to State and local tax authorities upon request by a State governor for purposes of State or local tax administration. Section 6103(c) authorizes inspection of corporate income tax returns by shareholders owning 1 percent or more of the corporate taxpayer's stock. Section 6103(d) authorizes inspection of returns or return information by the tax writing committees of Congress and by any select committee authorized to inspect returns or return information by Congressional resolution. Finally, section 6103(f) compels the Secretary or his delegate to tell any inquirer whether or not a person has filed an income tax return for a particular year.

Section 7213(a) imposes criminal penalties on any Federal officer or employee who makes an unlawful disclosure of income tax return information and on any person who unlawfully prints or publishes income tax return information. Section 7213(b) imposes corresponding penalties on officers, employees, or agents of a State or political subdivision of a State who unlawfully disclose such information.

The maximum effort has been made under the existing statute and regulations to assure the confidentiality of tax returns and tax return information consistent with effective Federal tax administration and the legitimate needs of other Federal agencies for tax information for Law enforcement and statistical purposes and of the States for purposes of their own tax administration. Nevertheless, the existing statutory and regulatory apparatus does not adequately inform the American taxpayer as to who will have access to his tax return and tax return information and for what purposes. Accordingly, the proposed revision of section 6103 reflects a complete re-examination of the present rules and is based on the fundamental principle that tax returns and return information should be held confidential and private except as otherwise clearly provided by statute.



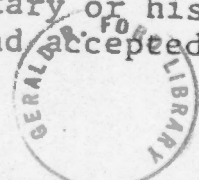
Set out below is a description of existing law and practice under sections 6103 and 7213 in major areas and an explanation of how this proposal would affect the present situation.

1. Definition of Tax Return and Return Information

Existing regulations define "return" to include information returns, schedules, lists, and other written statements which are designed to be a supplement to a return or a part of a return. The term is also defined to include "[o]ther records, reports, information received orally or in writing, factual data, documents, papers, abstracts, memoranda, or other evidence . . . relating to [a return]."

Because disclosure standards properly applicable to a return itself may, in varying circumstances, be different from those applicable to Internal Revenue Service files relating to a return and to information in Service files relating to a taxpayer's past, present, or future tax liability, the legislative proposal makes a definitional distinction between a tax return and tax return information.

The proposed definition of "return" is not significantly different from the basic definition of "return" in existing regulations. The proposed new definition of "return information," however, is considerably more specific and detailed than the existing supplemental definition of "return" quoted above from existing regulations. The proposed new definition of "return information" is intended to cover information of any kind filed with, or compiled by, the Service which relates to a taxpayer's past, present, or future tax liability. The new definition would specifically cover private letter rulings issued pursuant to a request made before enactment of this legislative proposal and all requests for technical advice made by Service personnel to the National Office, regardless of when made. Future private ruling letters generally would be confidential only to the extent permitted by the Freedom of Information Act or other Federal legislation. Also protected is tax information furnished to the Secretary or his delegate in connection with tax administration and accepted by him as confidential pursuant to regulations.



2. Federal Tax Law Administration

Under existing regulations, tax returns and return information are freely available to officers and employees of the Treasury Department whose official duties require such access. By the same token, tax returns and return information are open to Justice Department attorneys and U.S. attorneys where necessary in the performance of official duties relating to Federal tax administration.

While the existing rule applicable to Treasury Department officers and employees has been retained, the rule applicable to Justice Department attorneys and U.S. attorneys has been clarified. The use to which tax returns and return information are appropriately put by these attorneys in a tax context is in preparation for tax litigation or in an investigation pointing toward tax litigation. As will be described below, the proposal restricts actual disclosure in an administrative or judicial tax proceeding of a third party's return or return information as to a third party. Accordingly--and logically--access by Justice Department attorneys and U.S. attorneys to returns and return information in preparation for tax litigation should be limited in a similar fashion. These attorneys would have access, of course, to returns of, and return information regarding, a taxpayer who is or may be a party to litigation. In the case of a third party, returns and return information would be made available only if the third party consents or if such returns and return information have or may have a bearing on the outcome of the possible or actual litigation for particular reasons specified by the statute.

3. Federal Non-Tax Law Administration

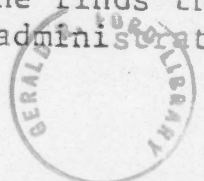
By regulation based upon an Executive Order, any Federal department or agency may, upon request and subject to the approval of the Secretary or his delegate, inspect tax returns and return information in connection with a matter officially before that department or agency.



This access to tax returns and return information has resulted in extensive disclosure of tax returns and return information for use in a variety of Federal activities. While access to tax returns is undoubtedly useful, and perhaps essential, to the proper functioning of some Federal departments and agencies, the volume of data and other information obtainable has reached such proportions as to prompt legitimate concern over the ability to maintain the appropriate degree of confidentiality.

Because of the obviously demonstrable need of the Social and Economic Statistics Administration for returns and return information for research and for statistical purposes, the legislative proposal would make returns and return information available for such purposes upon request by the Secretary of Commerce. No statistical study could be made public, however, if it in any way identified a particular taxpayer or could be so used. Likewise, because of the close relationship between the collection of Social Security taxes and administration of the Social Security Act by the Department of Health, Education, and Welfare, the legislative proposal would continue existing HEW access to returns and return information for this purpose; and access would also be extended to the Labor Department and the Pension Benefit Guaranty Corporation for purposes of administering the Employee Retirement Income Security Act.

In the case of other Federal departments and agencies, access to returns and return information in something other than statistical form would be limited to returns and return information which, for particular reasons specified by statute, have or may have a bearing upon the outcome of an administrative or judicial proceeding (or investigation leading to such a proceeding) in a matter relating to the enforcement of a Federal statute. Because the actual use of returns and return information in such a proceeding is restricted as described below, the initial access by the Federal department or agency for purposes of preparing for a proceeding is restricted in a similar fashion. This pattern thus corresponds generally to that proposed for disclosure to Justice Department attorneys and U.S. attorneys in tax matters which has just been described. It is further provided that the Secretary or his delegate may withhold requested returns and return information to the extent that he finds that disclosure would seriously impair Federal tax law administration.



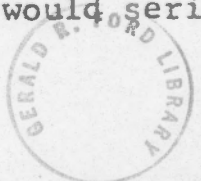
In the event that such a determination were made, the proposed statute calls for a consultation on the matter between the head of the requesting Federal department or agency and the Secretary of the Treasury. If, after such consultation, the issue of disclosure has not been resolved, a final determination would be made by the President or his delegate.

Because a number of Federal departments and agencies may well need tax return information in statistical form for various purposes, new section 6108 would authorize the Commissioner to provide statistical studies upon request, provided such statistics did not reveal, directly or indirectly, any taxpayer's identity. Further, a proposed amendment to section 7513 would authorize the Commissioner to contract with any Federal agency including the requesting agency, to prepare the statistical study if the Internal Revenue Service were unable to do the work itself.

4. State and Local Tax Law Administration

Under section 6103(b) of existing law, income tax returns and income tax return information are, upon the written request of a State governor, open to inspection by any official, body, or commission lawfully charged with the administration of State tax laws for the purpose of such administration. Further section 6103(b) authorizes the governor to direct that tax returns and return information be furnished to local taxing authorities for use in administering local tax laws.

Tax returns and return information which are supplied to tax officials at, say, a county or city level may not be invariably subject to appropriate safeguards on confidentiality which the Service has the right to expect and a duty to protect. Likewise, political considerations may produce unwarranted interest in tax information at even higher levels for non-tax purposes. The legislative proposal would limit access to tax returns and return information to a State body, agency, or commission lawfully charged with State tax law administration and only for purposes of such administration. It is further provided that returns and return information would be available to State tax officials only to the extent that the Secretary or his delegate does not determine that disclosure would seriously impair Federal tax law administration.



5. Judicial and Administrative Tax Proceedings

Under existing regulations, tax returns and return information are available upon request by attorneys of the Justice Department and U.S. attorneys for use in any Federal or State tax litigation if the Federal Government is interested in the result. This broad right of access can result in seriously breaching the confidentiality of tax returns and return information relating to taxpayers who are not parties to the litigation. This can come about through the introduction in evidence of third party returns and return information where such returns or information may be considered relevant in some way to the outcome of the litigation.

For this reason, the legislative proposal imposes strict conditions upon the use of third party returns and return information in Federal tax litigation where the third party does not consent to such use. Essentially, the proposal would restrict the use of third party returns and return information to those instances where the return or return information has or may have a bearing on the outcome of the litigation for reasons specified by the proposal, and then only to the extent of such bearing. Additionally, third party returns and return information (a) could be used to impeach the testimony of the third party if he were a witness in the proceeding or to impeach the testimony of any other witness regarding a transaction with the third party and (b) could be disclosed to the extent required by the Constitution or, in a criminal proceeding, 18 U.S.C. 3500 or Rule 16 of the Federal Rules of Criminal Procedure. Even if a third party's return and return information could otherwise be disclosed by application of these rules, they could not be used if the Secretary or his delegate determined that disclosure would seriously impair Federal tax law administration. Once again, any such determination would be subject to the procedure described above calling for consultation between the Attorney General and the Secretary of the Treasury with a final determination to be made, if necessary, by the President or his deleg

6. Judicial and Administrative Non-Tax Proceedings

Here again, present regulations effectively provide that the Department of Justice may, upon request, use third party

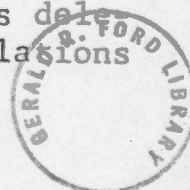
returns and return information in non-tax litigation where the Federal Government is interested in the result.

The necessity for protecting any taxpayer's right to privacy with respect to his tax affairs is even more acute in this area than in that of tax litigation since Federal tax administration is in no way involved in the litigation. Accordingly, the proposal would limit the use of any taxpayer's returns and return information in non-tax judicial and administrative proceedings to a Federal proceeding to which the United States is a party and then only if the taxpayer himself is a party to the proceeding or consents to the use or if the information has a bearing upon the outcome of the proceeding because of a transactional relationship between the taxpayer and a party to the proceeding. As in tax litigation, a third party's return or return information could also be used in the litigation under certain circumstances to impeach a witness and to the extent required by the Constitution, 18 U.S.C. 3500, or Rule 16 of the Federal Rules of Criminal Procedure. Once again, the returns and return information could be withheld, subject to the procedure outlined above, upon a finding by the Secretary or his delegate that Federal tax law administration would be seriously impaired.

7. Prospective Jurors and Possible Criminal Activities

Under existing regulations, attorneys of the Department of Justice cannot have access to tax returns for purposes of examining prospective jurors but are authorized to determine from the Internal Revenue Service whether or not a prospective juror has been under tax investigation. The statutory proposal would broaden these rules to permit use of return information by these attorneys to impeach a prospective juror in Federal litigation, while retaining the present rule applicable to inquiries regarding tax investigations of prospective jurors.

In the interest of serving the basic ends of criminal justice, the proposal would direct the Secretary or his delegate to notify the Attorney General as to possible violations



of Federal criminal laws which come to his attention as the result of his own access to return information. The proposal would also give the Secretary or his delegate discretionary authority to so notify State or local law enforcement agencies of a possible violation of State criminal laws.

8. Strike Force Participation

The proposal would specifically authorize disclosure of certain return information by Treasury Department employees who participate jointly with another Federal agency in an enforcement activity relating to Federal criminal laws. This proposal is principally directed to Service participation with the Department of Justice in the Federal Organized Crime Strike Force program. The statute would only permit disclosure by participating Service employees to other Federal employees involved in the enforcement program of return information received or developed from sources other than the taxpayer himself and then only to the extent required by the investigation.

9. Congressional Committees

Section 6103(d) authorizes unlimited disclosure of returns and return information to the three tax writing committees of Congress and to any select committee authorized by Congressional resolution to inspect returns and return information. Returns and return information may be furnished to any such committee sitting in executive session. Numerous Congressional committees other than those referred to in section 6103(d) have traditionally sought and obtained returns and return information through specific Executive Orders.

The legislative proposal would tighten existing law in some respects and broaden it in others. The three tax writing committees of Congress would continue to have access to any tax returns and return information upon request, and this right would be specifically extended to the Chief of Staff of the Joint Committee on Internal Revenue Taxation. Any other Congressional committee's access to tax returns and return



information, however, would have to be by way of a resolution of the appropriate house of Congress. Further, returns and return information furnished to any Congressional committee would have to be furnished in closed executive session.

10. The President

Since tax returns and return information are presently disclosable to the extent authorized by the President, it stands to reason that he now has the right to inspect such returns and return information as he may determine. Because the proposal removes Presidential discretion in the disclosure of tax returns and return information, it grants to him specific authority to see returns and return information pursuant to Executive Order and grants to him the further authority to designate in his Executive Order an employee or employees of the White House Office to receive the returns or return information on his behalf.

11. Persons With a Material Interest

Section 6103(c) authorizes the inspection of a corporation's income tax returns by any holder of 1% or more of the corporation's stock. In an attempt to head off possible mischief, the regulations deny this right to a shareholder who acquired his stock interest for that purpose. Income, estate, gift, unemployment, and certain excise tax returns are presently open to the filing taxpayer, the beneficiary of a trust, a trustee in bankruptcy, and a member of a partnership. Income tax returns of a deceased taxpayer are also open to the representative of his estate and, along with estate and gift tax returns, to certain other persons upon a satisfactory showing of a material interest.

The proposal deletes the "1% stockholder" rule of section 6103(c) because the rule encourages inherently improper and severely damaging disclosures and because SEC rules now require much of the information contained in many corporate returns to be made public. The regulatory rules regarding disclosure to persons with a material interest have been largely retained

but tightened to prohibit disclosure of tax return information where disclosure would seriously impair Federal tax law administration.

12. Contractors

Under the authority of section 7513, the Secretary or his delegate may contract for the photographic reproduction of tax returns and return information, and disclosure is, of course, authorized for this purpose. At the same time, disclosure must necessarily be made to certain other contractors and their employees who furnish property and services in connection with the general administration of the tax laws by the Treasury Department and the Internal Revenue Service.

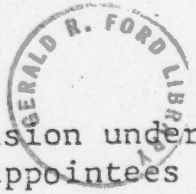
The legislative proposal deals with this problem under current law by specifically authorizing the disclosure of tax returns and return information to any person to the extent necessary in, or to facilitate, the contractual procurement of property or services by the Treasury Department or the Service for tax administration purposes. At the same time, however, the proposal would amend section 7213 to extend to these persons the criminal penalties provided for unauthorized disclosure.

13. Misstatements of Fact

Existing law does not provide clear authority permitting the Secretary or his delegate to disclose return information with respect to a particular taxpayer in order to correct a misstatement of fact published or disclosed with respect to that taxpayer's return or his dealing with the Service. The proposal would permit the Secretary or his delegate to disclose tax return information, or any other information, with respect to that taxpayer under these circumstances to the extent necessary to correct his public misstatement in the interests of Federal tax administration.

14. Tax Checks

Although there is no specific authorizing provision under existing law, tax check information on prospective appointees



to, and employees of, the Federal Government is presently being furnished upon request. Occasionally, such information is also furnished to a State Government in connection with a prospective appointee to State office.

The legislative proposal restricts tax checks to prospective appointees of the Executive or Judicial branch of the Federal Government, and then only upon written request of the White House, a cabinet officer, or the head of a Federal establishment. The information to be disclosed in a requested tax check is then limited to whether the individual has filed income tax returns for the last 3 years, has failed in the current year or preceding 3 years to pay any tax within 10 days after notice and demand or has been assessed a negligence penalty during this period, has been under any criminal tax investigation and the result of any such investigation, and has been assessed a civil penalty for fraud or negligence.

15. Taxes Imposed by Subtitle E

Existing law affords no specific statutory protection to returns and return information relating to alcohol, tobacco, and firearms taxes imposed by subtitle E of the Internal Revenue Code. In connection with its own law enforcement programs, the Department of Justice has traditionally had access to such returns and return information. Accordingly, the proposal would grant specific statutory access to these returns and return information by a Federal officer or employee whose official duties require such access.

16. Waivers of Confidentiality

No authority presently exists which would permit the Secretary or his delegate to disclose returns or return information with respect to a taxpayer to someone to whom the taxpayer himself wanted his return or return information disclosed. The legislative proposal would permit disclosure in the discretion of the Secretary or his delegate if requested

by the taxpayer involved but then only to the extent that such disclosure would not seriously impair Federal tax law administration.

17. Section 6103(f)

The required disclosure to any person of information as to whether another taxpayer has filed an income tax return for a particular year is plainly contrary to the most basic principle of taxpayer privacy. For this reason, the proposal would delete present section 6103(f) of the Code.

18. Judicial Review

The proposal provides that the exclusive remedy for an alleged violation of section 6103 shall be a proceeding under section 7213. Judicial review of any determination permitted or provided by statute to disclose or not to disclose a return or return information is thus limited to a proceeding under section 7213.

19. Penalties for Unauthorized Disclosure

Section 7213 makes it unlawful for any Federal or State official or employee to make a disclosure of income tax return information which the Code does not authorize and makes it unlawful for any person to print or publish any such information except as authorized by the Code.

The legislative proposal expands the scope of section 7213 in three significant respects. First, section 7213 would apply to unauthorized disclosure of any tax returns or return information. Second, the criminal sanctions are extended to former officials or employees of the Federal or a State Government. Third, the criminal sanctions are extended to private contractors and their officers and employees (or former officers and employees) who make unauthorized disclosure of returns and return information to which they have been given statutory access.



September 20, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

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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 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

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S. 3982

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 1974

Mr. WEICKER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. LIMITATIONS ON INSPECTION OF RETURNS
4 AND DISCLOSURE OF INFORMATION.

5 (a) Section 6103 of the Internal Revenue Code of 1954
6 (relating to publicity of returns, etc.) is amended to read as
7 follows:

8 "SEC. 6103. CONFIDENTIALITY OF RETURNS.

9 "(a) PROHIBITION ON INSPECTION AND DISCLO-
10 SURE.—All returns made with respect to the taxes imposed



1 by this title are confidential records. Except as provided in
2 this title—

3 “(1) no such return shall be open to inspection,
4 and

5 “(2) no information contained in any such return
6 shall be disclosed.

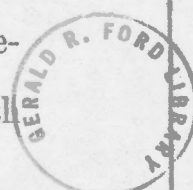
7 Paragraph (2) shall not preclude the publication by the
8 Commissioner of statistics derived from such returns, except
9 that no such publication shall disclose the identity of any
10 taxpayer or of any return.

11 “(b) DEFINITION OF RETURN.—For purposes of this
12 section, the term ‘return’ means any form or other docu-
13 ment, prepared by or on behalf of a taxpayer and filed under
14 compulsion of law, containing information necessary to de-
15 termine tax liability under this title.

16 “(c) AUTHORIZED INSPECTIONS.—Returns of the taxes
17 imposed by this title shall be open to inspection, in such
18 manner, at such times and places, and subject to such con-
19 ditions consistent with the provisions of subsection (a) as
20 the Commissioner shall prescribe by regulations, by the
21 following persons:

22 “(1) The taxpayer by or for whom a return was
23 made or his authorized representative.

24 “(2) Officers and employees of the Internal Reve-
25 nue Service, the Department of the Treasury, and, with



1 respect to matters referred to the Department of Justice
2 by the Commissioner, the Department of Justice, in each
3 case solely for purposes of the administration and en-
4 forcement of this title.

5 “(3) Officers and employees of Department of
6 Justice, solely for purposes of the administration and
7 enforcement of this title (other than matters referred
8 to the Department of Justice by the Commissioner),
9 and only upon the written request of the Attorney Gen-
10 eral of the United States specifically naming the tax-
11 payer whose return is to be inspected.

12 “(4) Any official, body, or commission, lawfully
13 charged with the administration of any State tax law, if
14 the inspection is for the purpose of such administration or
15 for the purpose of obtaining information to be furnished
16 to local taxing authorities as provided in this para-
17 graph. The inspection shall be permitted only upon
18 written request of the principal tax official of such State,
19 designating the representative of such official, body, or
20 commission to make the inspection on behalf of such offi-
21 cial, body, or commission. Any information thus secured
22 by any official, body, or commission of any State may be
23 used solely for the administration of the tax laws of such
24 State, except that upon written request of the principal
25 tax official of such State any such information may be

1 furnished to any official, body, or commission of any
2 political subdivision of such State, lawfully charged with
3 the administration of the tax laws of such political sub-
4 division, but may be furnished only for the sole pur-
5 pose of, and may be used only for, the administration of
6 such laws.

7 “(5) The President of the United States, upon his
8 written request specifically naming the taxpayer whose
9 return is to be inspected, provided that the inspection of
10 such return is necessary in the performance of his official
11 duties.

12 The Commissioner shall, within thirty days after the close of
13 each calendar quarter, submit a report to the Joint Commit-
14 tee on Internal Revenue Taxation listing the returns fur-
15 nished for inspection during that quarter under paragraphs
16 (3), (4), and (5), the date on which the request for in-
17 spection of each such return was received, and, in the case of
18 returns furnished under paragraph (4), the name and posi-
19 tion of the individual making such request. The Joint Com-
20 mittee may make public such portions of such reports, or
21 information derived therefrom, as it deems advisable.

22 “(d) JOINT COMMITTEE ON INTERNAL REVENUE
23 TAXATION.—The Joint Committee on Internal Revenue
24 Taxation shall have the right to obtain data and to inspect
25 returns and to submit any relevant or useful information



1 thus obtained to the Senate, the House of Representatives,
2 or any committee of the Senate or the House, except that
3 information obtained from such returns may be disclosed in
4 statistical form only without disclosing the identity of any
5 taxpayer or of any return. Any decision of the Joint Com-
6 mittee to request any data or to inspect any return shall be
7 determined by a majority vote of the members present and
8 voting, a quorum being present.

9 “(e) DISCLOSURE OF CERTAIN INFORMATION.—

10 “(1) SOCIAL SECURITY AND RAILROAD RETIRE-
11 MENT TAXES.—The Commissioner shall furnish to the
12 Social Security Administration and the Railroad Retire-
13 ment Board information derived from returns of the taxes
14 imposed by chapters 2, 21, and 22.

15 “(2) FEDERAL AGENCIES AND STATE TAX AU-
16 THORITIES.—Upon the request of the head of any de-
17 partment or agency of the Federal Government or of
18 the principal tax official of a State, the Commissioner is
19 authorized to furnish statistical information derived from
20 returns to such department or agency or such State,
21 except that no information so furnished shall disclose the
22 identity of any taxpayer or of any return. Any infor-
23 mation so furnished shall be compiled by employees of
24 the IRS and the Commissioner may prescribe a reason-
25 able fee for furnishing such information.

1 “(f) FURNISHING OF COPIES.—Whenever a return
 2 is open to the inspection of any person, a certified copy
 3 thereof shall, upon request, be furnished to such person under
 4 regulations prescribed by the Commissioner who may also
 5 prescribe a reasonable fee for furnishing such copy.

6 “(g) DISCLOSURE OF INFORMATION AS TO PERSONS
 7 FILING INCOME TAX RETURNS.—The Commissioner shall,
 8 upon inquiry as to whether any person has filed an income
 9 tax return in a designated internal revenue district for a par-
 10 ticular taxable year, furnish to the inquirer, in such manner
 11 the Commissioner may determine, information showing that
 12 such person has, or has not, filed an income tax return in
 13 such district for such taxable year.”.

14 (b) The table of sections for subchapter B of chapter
 15 61 of such Code is amended by striking out the item relating
 16 to section 6103 and inserting in lieu thereof the following:

“Sec. 6103. Confidentiality of returns.”

17 SEC. 2. UNEMPLOYMENT TAX RETURNS.

18 (a) Section 6106 of the Internal Revenue Code of 1954
 19 (relating to publicity of unemployment tax returns) is
 20 repealed.

21 (b) The table of sections for subchapter B of chapter 61
 22 of such Code is amended by striking out the item relating to
 23 section 6106.



1 SEC. 3. UNAUTHORIZED DISCLOSURE OF INFORMATION.

2 (a) Section 7213 of the Internal Revenue Code of 1954
3 (relating to penalties for unauthorized disclosure of informa-
4 tion) is amended—

5 (1) by striking out “misdemeanor” each place it
6 appears in paragraphs (1), (2), and (3) of subsection
7 (a) and inserting in lieu thereof “felony”;

8 (2) by striking out “\$1,000” each place it appears
9 in such paragraphs and inserting in lieu thereof
10 “\$10,000”;

11 (3) by striking out “1. year” each place it appears
12 in such paragraphs and inserting in lieu thereof “5
13 years”; and

14 (4) by redesignating subsection (e) as (f) and
15 inserting after subsection (d) the following new sub-
16 section:

17 “(e) UNAUTHORIZED RECEIPT.—Any person who
18 knowingly receives any information or material which is dis-
19 closed or furnished in violation of the provisions of subsection
20 (a) shall be guilty of a felony and, upon conviction thereof,
21 shall be fined not more than \$10,000, or imprisoned for not
22 more than 5 years, or both, together with the costs of prose-
23 cution.”.

1 SEC. 4. EFFECTIVE DATES.

2 The amendments and repeal made by sections 1 and 2
3 shall take effect on the first day of the third month which
4 begins after the date of the enactment of this Act. The
5 amendments made by section 3 shall take effect on the date
6 of the enactment of this Act.

93^d CONGRESS
2^d Session

S. 3982

A BILL

To amend the Internal Revenue Code of 1954 to
restrict the authority for inspection of tax
returns and the disclosure of information
contained therein, and for other purposes.

By Mr. WEICKER

SEPTEMBER 11, 1974

Read twice and referred to the Committee on Finance

