

Unauthorized inspection of tax returns or tax return information

Present Law

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding \$5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431).

There is no explicit criminal penalty in the Internal Revenue Code for unauthorized inspection (absent subsequent disclosure) of tax returns and return information. Such inspection is, however, explicitly prohibited by the Internal Revenue Service¹. In a recent case, an individual was convicted of violating the Federal wire fraud penalties (18 U.S.C. 1343 and 1346) for unauthorized inspection. However, the U.S. First Circuit Court of Appeals overturned this conviction². Unauthorized inspection of information of any department or agency of the United States (including the IRS) via computer was made a crime under 18 U.S.C. 1030 by the Economic Espionage Act of 1996³. This provision does not apply to unauthorized inspection of paper documents.

Description of Proposal

The proposal would create a new criminal penalty in the Internal Revenue Code. The penalty would be imposed for willful inspection (except as authorized by the Code) of any tax return or return information by any Federal employee or IRS contractor. The penalty would also apply to willful inspection (except as authorized) by any State employee or other person who acquired the tax return or return information under specific provisions of section 6103. Upon conviction, the penalty would be a fine in any amount not exceeding \$1,000⁴, or imprisonment of not more than 1 year, or both, together with the costs of prosecution. In addition, upon conviction, an officer or employee of the United States would be dismissed from office or discharged from employment.

Effective Date

The proposal would be effective for violations occurring on or after the date of enactment.

¹IRS Declaration of Privacy Principles, May 9, 1994.

²U.S. v. Czubinski, DTR 2/25/97, p. K-2.

³P.L. 104-294, sec. 201 (October 11, 1996).

⁴Pursuant to 18 U.S.C. sec. 3571 (added by the Sentencing Reform Act of 1984), the amount of the fine is not more than the greater of the amount specified in this new Code section or \$100,000.