

**DESCRIPTION OF H.R. 1026, THE
“TAXPAYER KNOWLEDGE OF IRS INVESTIGATIONS ACT”**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on March 25, 2015

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 1026, The “Taxpayer Knowledge of IRS Investigations Act,” on March 25, 2015. This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 1026, the Taxpayer Knowledge of IRS Investigations Act* (JCX-57-15), March 24, 2015. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

A. Release of Information Regarding the Status of Certain Investigations

Present Law

Section 6103: Rules and penalties associated with the disclosure of confidential returns and return information

In general

Generally, tax returns and return information (“tax information”) are confidential and may not be disclosed unless authorized in the Code.² Return information includes data received, collected or prepared by the Secretary with respect to the determination of the existence or possible existence of liability of any person under the Code for any tax, penalty, interest, fine, forfeiture, or other imposition or offense. Information received, collected, or prepared by the Secretary with respect to a Title 26 offense is the return information of the person being investigated. Thus, generally, the Secretary may not disclose the status of an investigation to a person alleging a violation of their privacy (*i.e.*, an unauthorized disclosure of their return information) or other offense under the Code committed by a third party.

Exceptions to the general rule

Section 6103 provides exceptions to the general rule of confidentiality, detailing permissible disclosures. Among those exceptions are disclosures to specified persons with a “material interest” in the return or return information.³ For example, upon written request, an individual can obtain that individual’s return, joint returns are available to either spouse with respect to whom the return was filed, and the administrator of an estate can obtain the return of an estate. Similarly, return information may be disclosed to those authorized to receive the return. However, the Secretary may withhold return information the disclosure of which the Secretary determines would seriously impair Federal tax administration.⁴

Under section 6103(c), the Secretary may disclose a taxpayer’s return or return information to such person or persons as the taxpayer may designate in a request for or consent to such disclosure. There are no restrictions placed on the recipient of tax information received pursuant to the consent of the taxpayer, and the penalties for unauthorized disclosure or inspection (discussed below) do not apply to persons receiving tax information pursuant to a taxpayer's consent.

Criminal and civil penalties (sections 7213, 7213(A), and 7431)

Criminal penalties apply for the unauthorized inspection or disclosure of tax information. Willful unauthorized disclosure is a felony under section 7213 and the willful unauthorized

² Sec. 6103(a).

³ Sec. 6103(e).

⁴ Sec. 6103(e)(7).

inspection of tax information is a misdemeanor under section 7213A. Under section 7431, taxpayers may also pursue a civil cause of action for disclosures and inspections not authorized by section 6103.⁵

Section 7214: Other offenses by officers and employees of the United States

Section 7214 concerns offenses by officers and employees of the United States. It provides, upon conviction, for the dismissal from office, a \$10,000 fine and/or five years imprisonment of any officer or employee:

1. who is guilty of any extortion or willful oppression under color of law; or
2. who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or
3. who with intent to defeat the application of any provision of this title fails to perform any of the duties of his office or employment; or
4. who conspires or colludes with any other person to defraud the United States; or
5. who knowingly makes opportunity for any person to defraud the United States; or
6. who does or omits to do any act with intent to enable any other person to defraud the United States; or
7. who makes or signs any fraudulent entry in any book, or makes or signs any fraudulent certificate, return, or statement; or
8. who, having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law, fails to report, in writing, such knowledge or information to the Secretary; or
9. who demands, or accepts, or attempts to collect, directly or indirectly as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do.

In the discretion of the court, up to one-half of the amount of fine for a section 7214 violation may be awarded for the use of the informer. In addition, the court is to render judgment against said officer or employee for the amount of damages sustained in favor of the party injured.

⁵ Sec. 7431.

Section 7214 also provides that any internal revenue officer or employee interested, directly or indirectly, in the manufacture of tobacco, snuff, cigarettes, or in the production, rectification or redistillation of distilled spirits is to be dismissed from office and each such officer or employee so interested in any such manufacture or production, rectification, or redistillation of fermented liquors is to be fined not more than \$5,000.

Description of Proposal

The proposal amends section 6103(e) to provide that in the case of an investigation involving the return or return information of an individual alleging a violation of sections 7213, 7213A or 7214, the Secretary may disclose to the complainant (or such person's designee) whether an investigation, based on the person's provision of information indicating a violation of sections 7213, 7213A or 7214 of the Code, has been initiated, is open or is closed. The Secretary may disclose whether the investigation substantiated a violation of sections 7213, 7213A or 7214 of the Code, and whether action has been taken with respect to the individual who committed the substantiated violation, including whether any referral has been made for prosecution of such individual. As under present law, section the Secretary is not obligated to disclose return information the disclosure of which would seriously impair Federal tax administration.

Effective Date

The proposal is effective on the date of enactment.

B. Estimated Revenue Effects

The proposal is estimated to have no effect on Federal fiscal year budget receipts for the period 2015-2025.