

**BACKGROUND REGARDING THE CONFIDENTIALITY  
AND DISCLOSURE OF FEDERAL TAX RETURNS**

Scheduled for a Public Hearing  
Before the  
HOUSE COMMITTEE ON WAYS AND MEANS  
On February 7, 2019

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 hearing on February 7, 2019, regarding legislative proposals and tax law relating to Presidential and Vice Presidential tax returns. This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides an overview of the confidentiality and disclosure of Federal tax returns.

Part I of this report discusses the background and purpose of section 6103 of the Internal Revenue Code (“the Code”).<sup>2</sup> Section 6103 begins with the general rule that returns and return information are confidential. The definition of “return information” is very broad and includes any information collected, received, recorded or prepared by the Internal Revenue Service (‘IRS’) with respect to the determination of the existence, or possible existence, of a person’s liability (or amount thereof) or potential liability under the Code for any tax, penalty, interest, fine, forfeiture, or other imposition or offense.

Returns and return information cannot be disclosed unless a specific exception for such disclosure is provided for in the Code. Section 6103 contains a number of specific exceptions to the general rule of confidentiality. Among the exceptions are authorizations to furnish information to Congress, the Department of Justice, and certain designees of the taxpayer pursuant to taxpayer consent. Section 6103 authorizes the chairmen of the Senate Committee on Finance, the House Committee on Ways and Means, and the Joint Committee on Taxation to request confidential returns and return information. These committees may submit information to the Senate, the House of Representatives, or to both. Other committees generally must be specially authorized by a resolution of the Senate or the House of Representatives to inspect a return or return information. These other committees are permitted to submit information to the Senate, the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, a particular taxpayer can be furnished to the Senate or House of Representatives only when sitting in closed executive session unless such taxpayer consents in writing to such disclosure. Section 6103 permits the disclosure of returns and return information by consent, and to persons designated by the taxpayer. The Department of Justice is authorized to receive and request confidential returns and return information for matters involving tax administration and for non-tax criminal matters if certain conditions are met.

To protect the confidentiality of returns and return information, section 6103 imposes recordkeeping and safeguard requirements. In addition, the willful unauthorized disclosure of a return or return information is a felony, punishable under section 7213 by up to five years imprisonment, a fine of not exceeding \$5,000, or both, together with the costs of prosecution. Willful unauthorized inspection is a misdemeanor under section 7213A punishable by up to one year in prison and a fine not exceeding \$1,000. If the offense is committed by an officer or employee of the United States, upon conviction that person is required to be dismissed from

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, Background Regarding the Confidentiality and Disclosure of Federal Tax Returns (JCX-3-19), February 4, 2019. This document can be found on the Joint Committee on Taxation website at [www.jct.gov](http://www.jct.gov).

<sup>2</sup> Unless otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended.

office or discharged from employment, in addition to any other punishment. In addition to criminal penalties, the Code permits a taxpayer to bring a civil suit against the United States for unauthorized disclosure or inspection.

Part II of this report discusses compliance and disclosure regarding the tax returns of the President and Vice President. Section A provides an overview of the Internal Revenue Manual, which is a compilation of the policies, procedures, instructions, and guidelines governing the IRS's organization and operations. This section also summarizes the specific provisions relating to the processing, safeguarding, and auditing of the President's and Vice President's individual income tax returns.

Section B of Part II recounts several instances in which Congress reviewed Federal tax information as part of its duties prior to the various legislative and administrative changes described in Parts I and II.B. During the short period in 1973 and 1974 in which both Vice-President Spiro Agnew and President Richard Nixon resigned, questions about the tax compliance of the President, Vice President and their successors became an issue of public concern. Mr. Nixon publicly requested an independent investigation of his returns by the Joint Committee on Internal Revenue Taxation.<sup>3</sup> The resignation of Mr. Agnew and the subsequent resignation of Mr. Nixon also meant that both chambers of Congress were required for the first time to exercise their authority under Amendment XXV of the U.S. Constitution to fill a vacancy when the office of Vice-President is vacant. As part of those duties, Congress undertook a review of the tax returns and compliance of Gerald Ford (nominated to replace Mr. Agnew) and of Nelson Rockefeller (nominated to replace Mr. Ford upon Mr. Ford's elevation to President after the resignation of Mr. Nixon). The process, scope and conclusions of these Congressional inquiries into the tax matters of Messrs. Nixon, Ford, and Rockefeller are generally described, as is the extent to which information was provided to the public.

Appendix A contains a report assembled by the Congressional Research Service ("CRS") identifying individual income tax returns disclosed by Presidents and Vice Presidents while candidates for office.<sup>4</sup> Within the report are two tables. Table 1 identifies the Federal income tax returns disclosed by party nominees for President since 1916. Table 2 identifies the Federal income tax returns disclosed by party nominees for Vice President since 1916. Table 1 does not include disclosure information for President Gerald Ford and Table 2 does not include disclosure information for Vice President Nelson Rockefeller, both of whom were not elected but appointed and confirmed by Congress. The tables do not include disclosure information for candidates for President or Vice President once in office, other than in an election year. Each table lists as separate columns the applicable election year, the President's or Vice President's name, if and to what extent the individual disclosed his tax returns (*i.e.*, if the individual fully or partially

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<sup>3</sup> The Joint Committee on Internal Revenue Taxation was re-named the Joint Committee on Taxation in 1976. The Tax Reform Act of 1976, Pub. L. No. 94-455, sec. 1907(a)(1), October 4, 1976.

<sup>4</sup> CRS reported on all Democrat and Republican candidates for President and Vice President since 1916 as well as independent candidates for President and Vice President since 1960 who garnered more than ten percent of the popular vote.

disclosed the return), whether the source of information included any estimates or summaries regarding the return, and which tax years of returns were disclosed.

Appendix B contains excerpts of the IRS Internal Revenue Manual (“IRM”) relating to the President’s and Vice President’s individual income tax returns.

Appendix C contains the *Disclosure Report For Public Inspection Pursuant To Internal Revenue Code Section 6103(p)(3)(C) For Calendar Year 2017* (JCX-29-18). Section 6103(p)(3)(C) of the Code provides that the Secretary of the Treasury shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report which provides, with respect to each Federal agency and certain other entities, the number of: (1) requests for disclosure of returns and return information (as such terms are defined in section 6103(b)); (2) instances in which returns and return information were disclosed pursuant to such requests or otherwise; and (3) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests. In 2017, there were approximately 11 billion disclosures made that were required to be accounted for pursuant to section 6103(p)(3)(A).

## PART I: BACKGROUND AND PURPOSE OF SECTION 6103

Section 6103 governs the confidentiality and disclosure of Federal tax returns and return information of individuals and businesses. Section 6103 reflects the policy that returns are confidential, and provides that returns and return information may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to the information except as provided pursuant to a number of exceptions that authorize disclosure in particular circumstances. Rules governing disclosure date back to the earliest days of the income tax, which was first levied during the Civil War. The current statutory framework of section 6103, reflecting the policy of confidentiality with enumerated exceptions, was enacted in the Tax Reform Act of 1976 (the “1976 Act”).<sup>5</sup>

### A. Historical Background

#### Disclosure law prior to 1976

Prior to 1976, tax returns were designated public records, but disclosure was permitted only pursuant to the statute or by executive order and Treasury regulations.<sup>6</sup> For returns of a corporation, the law also permitted access to State officers and to one-percent shareholders of the corporation.<sup>7</sup> The law, in its various forms, required that lists of tax information (such as taxpayer name, address, and, at times, the amount of tax due or the amount of tax paid) be made available to the general public for inspection.<sup>8</sup> Proponents of publication of this information argued that it kept taxpayers honest, while opponents argued that publication was needlessly invasive and merely served to satisfy idle curiosity.<sup>9</sup>

Congress was given access to return information in 1924. Under the Revenue Act of 1924, the Committee on Ways and Means of the House of Representatives (“House Committee on Ways and Means”), the Committee on Finance of the Senate (“Senate Committee on Finance”), or a special committee of the Senate or House, could request returns or data contained

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<sup>5</sup> Pub. L. No. 94-455 (1976), sec. 1202.

<sup>6</sup> See, e.g., Revenue Act of 1913, 38 Stat. 114, 177; Revenue Act of 1924, 43 Stat. 253, 293, sec. 257(A). The first income tax was levied during the Civil War, but it was repealed after the war. What became the modern-day income tax was enacted in 1913 following the ratification of the Sixteenth Amendment. See Boris I. Bittker and Lawrence Lokken, History, *Federal Taxation of Income, Estates, and Gifts* (2d/3d ed. 1993-2018) par. 1.1.1, 1.1.2.

<sup>7</sup> Revenue Act of 1913, 38 Stat. 114, 177; Revenue Act of 1918, 40 Stat. 1057, 1086-87, sec. 257.

<sup>8</sup> See, e.g., Act of July 1, 1862, 12 Stat. 432, 436-437, 439, secs. 14, 15, 19; Revenue Act of 1918, 40 Stat. 1057, 1086-87, sec. 257; Revenue Act of 1924, 43 Stat. 253, 293, sec. 257(B).

<sup>9</sup> See U.S. Congressional Research Service, Library of Congress, *Legislative History of Tax Return Confidentiality: Section 6103 of the Internal Revenue Code of 1954 and Its Predecessors*, 74-211A (1954) at 6-7; *Report on Administrative Procedures of the Internal Revenue Service to the Administrative Conference of the United States*, S. Doc. 94-266 at 842-43, 1039 n. 51 (1975) quoting *Hearings on Revenue Revision 1925 Before the House Ways and Means Comm.*, 69th Cong., 1st Sess., at 8-9 (1925).

therein from the Secretary of the Treasury.<sup>10</sup> The committees could inspect this information through designated examiners or agents and could submit relevant and useful information obtained by the committee to the House or Senate. In 1926, the Joint Committee on Internal Revenue Taxation was established with the same right to obtain data and inspect returns as the House Committee on Ways and Means and the Senate Committee on Finance.<sup>11</sup>

Although returns were classified as public records throughout this period, the President, through executive order and by Treasury regulations approved by his appointees, controlled access to returns and return information other than the access specifically permitted by statute, such as to Congress or to State officers. The regulations are of two general types, those allowing inspection on a case-by-case basis and those allowing general inspection. On a case-by-case basis, every Federal agency could access tax returns in connection with official business, at the discretion of the Secretary or Commissioner, via written request by the head of the agency detailing why inspection was necessary.<sup>12</sup> Under these regulations, returns were made available to a number of agencies, and the returns generally were used for investigative purposes in connection with matters within the agency's jurisdiction.<sup>13</sup> The regulations allowing for general inspection of tax returns applied to a few specific agencies and provided that the agency could obtain returns for given purposes. For example, the Department of Health, Education, and Welfare could obtain tax information to administer title II of the Social Security Act.<sup>14</sup> Other regulations provided access to returns and return information for persons with a material interest and for use in legal proceedings where the United States was a party to the proceedings.<sup>15</sup> However, perceived executive branch overreach during the 1970s, as described below, led Congress to re-examine tax return confidentiality and disclosure.

### **1976 Reforms to Section 6103**

Congressional interest and inquiries during the 1970s brought out allegations regarding impropriety on the part of the White House regarding return information. For example, the Watergate hearings revealed that White House Counsel John Dean had sought to use the IRS to harass political "enemies."<sup>16</sup> In addition, a former special consultant to President Kennedy

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<sup>10</sup> Revenue Act of 1924, 43 Stat. 253, 293, sec. 257(A).

<sup>11</sup> Revenue Act of 1926, 44 Stat. 9, 127-28, sec. 1203(a), (d). The Joint Committee on Internal Revenue Taxation was re-named the Joint Committee on Taxation in the 1976 Act. See Pub. L. No. 94-455, sec. 1907(a)(1).

<sup>12</sup> See Treas. Reg. sec. 301.6103(a)-1(f) (1975).

<sup>13</sup> See Senate Report to accompany H.R. 10612, Tax Reform Act of 1976, S. Rep. No. 94-938 Part I, June 10, 1976, p. 316 and n. 3.

<sup>14</sup> Treas. Reg. sec. 301.6103(a)-100 (1975).

<sup>15</sup> See Treas. Reg. sec. 301.6103(a)-1(c), (g) (1975).

<sup>16</sup> Senate Select Committee on Presidential Campaign Activities, The Final Report, S. Rep. No. 93-981, at pp. 7-9 (1974).

received tax returns in 1961 while conducting investigations for the White House.<sup>17</sup> This publicity regarding possible misuse of return information on the part of the executive branch helped provide impetus for the 1976 Act changes to the disclosure rules.<sup>18</sup> Congress also noted in the legislative history to the 1976 Act that “the IRS has more information about more people than any other agency in this country. Consequently, almost every other agency that has a need for information about U.S. citizens, therefore, logically seeks it from the IRS. However, in many cases the Congress has not specifically considered whether the agencies which have access to tax information should have that access.”<sup>19</sup>

The 1976 Act eliminated executive branch control over access to returns and return information and replaced it with a statutory regime governing disclosure.<sup>20</sup> In contrast to the prior presumption that returns were public records, the 1976 Act provided that returns and return information are confidential. The 1976 Act also included a variety of exceptions to this general rule. These exceptions allowed disclosure for tax administration purposes, including the development of tax policy, as well as for purposes unrelated to the administration of the tax laws.

The 1976 Act maintained the statutory exception for disclosure to the House Committee on Ways and Means, the Senate Committee on Finance, the Joint Committee on Taxation, and for other committees that were specially authorized to inspect a return or return information by a resolution of the Senate or House, but it amended certain features of the statutory exception.<sup>21</sup> In enacting these amendments, the legislative history explains: “While the Congress, particularly its tax-writing committees, requires access in certain instances to returns and return information in order to carry out its legislative responsibilities, it was decided that the Congress could continue to meet these responsibilities under more restrictive disclosure rules than those provided under prior law.”<sup>22</sup> For example, the 1976 Act required that a request for disclosure come from the chairman of the relevant committee, not the committee itself as under prior law.

Congress adopted many of the other statutory exceptions to the general rule of confidentiality from regulations in existence prior to enactment, such as disclosure to a member of a partnership with respect to the partnership’s return and disclosure to the Department of Justice for use in grand jury proceedings or litigation if the United States is interested in the result.<sup>23</sup> The 1976 Act also required the IRS to maintain standardized records on the use and

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<sup>17</sup> *Practice by Executive Branch of Examining Individual Tax Returns*, Cong. Record, April 16, 1970, p. 12219.

<sup>18</sup> See S. Rep. No. 94-938 Part I, pp. 317-18.

<sup>19</sup> *Ibid.* at p. 317.

<sup>20</sup> Pub. L. No. 94-455 (1976), sec. 1202.

<sup>21</sup> Compare sec. 6103(d) (1975) to Pub. L. No. 94-455, sec. 1202 (codified at sec. 6103(f)).

<sup>22</sup> S. Rep. No. 94-938 Part I, pp. 320.

<sup>23</sup> See, *e.g.*, Treas. Reg. sec. 301.6103(a)-1(c)(1)(iv), (h) (1975).



disclosure of returns and return information and to report to Congress annually regarding all requests for disclosure and the reasons for such requests.

Since the enactment of the 1976 Act, the general rule that returns and return information are confidential has remained, and the basic statutory structure of section 6103 remains largely intact. However, additional exceptions to this rule have been added by subsequent changes in the law where the need for returns and return information has been determined to outweigh the taxpayers' interest in privacy and other purposes served by nondisclosure.

## B. Overview of Present Law and Policy Considerations

### Present law

Section 6103 sets forth the general rule that returns and return information are confidential and cannot be disclosed unless authorized by specific exceptions under the Code.<sup>24</sup> Criminal and civil sanctions apply to the unauthorized disclosure of returns and return information by Federal officers or employees and other persons.<sup>25</sup> Section 6103 also imposes recordkeeping and safeguard requirements to protect the confidentiality of returns and return information.<sup>26</sup>

Under section 6103, a “return” is defined to include any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for, or permitted under the provisions of the Code, that is filed with the IRS.<sup>27</sup> A “return” encompasses any amendment or supplement to the filed return, including any supporting schedules, attachments, or lists which are supplemental to, or part of, the filed return.

“Return information” includes 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.<sup>28</sup> Information as to whether a taxpayer’s return was, is being, or will be examined is also considered return information. Further, the definition of return information broadly includes any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under the Code for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense.<sup>29</sup> Data that cannot be associated with or otherwise

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<sup>24</sup> Sec. 6103(a).

<sup>25</sup> Section 7431 provides a civil remedy for unauthorized disclosure or inspection. Section 7213 makes unauthorized disclosure a felony subject to a fine of up to \$5,000 and imprisonment of up to five years. Section 7213A makes unauthorized inspection a misdemeanor subject to a fine of up to \$1,000 and imprisonment of up to one year. Federal officers or employees shall be dismissed for an offense under sections 7213 and 7213A.

<sup>26</sup> Sec. 6103(p).

<sup>27</sup> Sec. 6103(b)(1). Where the term “Secretary” is used in the Code, the term means the Secretary of the Treasury or his delegate. Sec. 7701(a)(11)(B). Delegate is defined as “any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.” Sec. 7701(a)(12)(A)(i). The Commissioner of Internal Revenue has been delegated responsibility for the administration and enforcement of the Internal Revenue laws, so references to the Secretary in section 6103 can be read to refer to the IRS. See Department of the Treasury, *Treasury Department Order No. 150-10*, April 1982, available at <https://www.treasury.gov/about/role-of-treasury/orders-directives/Pages/to150-10.aspx>.

<sup>28</sup> Sec. 6103(b)(2)(A).

<sup>29</sup> Return information also includes any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110; any advance pricing agreement entered into by a taxpayer and the Secretary and any

identify a particular taxpayer is not return information. However, the mere removal of the taxpayer's identifying information from a return does not place it beyond the protection of section 6103.<sup>30</sup>

Section 6103 does not protect copies of returns retained by the taxpayer. The Code subjects only that information which is filed with the IRS to the rules of confidentiality.<sup>31</sup> For that same reason, information collected under grand jury subpoena or by IRS agents assisting in a nontax grand jury proceeding that is not filed with the IRS falls outside the definition of return information.<sup>32</sup>

Section 6103 contains thirteen subsections with exceptions to the general rule that returns and return information cannot be disclosed. Many of these subsections contain multiple subparts. For example, the category of disclosure of returns and return information for purposes other than tax administration consists of 22 separate subparagraphs, each covering a different purpose. The thirteen general categories of exceptions include disclosure, under certain conditions, to:<sup>33</sup>

1. a designee of the taxpayer upon the taxpayer's request or consent;
2. a designated representative of any State agency, body or commission charged with the administration of State tax laws, upon the written request of the head of such agency;
3. persons having a material interest in the return;<sup>34</sup>

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background information related to such agreement or any application for an advance pricing agreement; and any agreement under section 7121 (relating to closing agreements), and any similar agreement, and any background information related to such an agreement or request for such an agreement. Sec. 6103(b)(2)(B) through (D).

<sup>30</sup> *Church of Scientology v. IRS*, 484 U.S. 9 (1987).

<sup>31</sup> *Stokwitz v. United States*, 831 F.2d 893 (9th Cir. 1987).

<sup>32</sup> *Baskin v. United States*, 96-2 USTC ¶ 50,424 (S.D. Tex. 1996); *Ryan v. United States*, 74 F.3d 1161 (11th Cir. 1996) (presence of IRS special agents assisting a grand jury does not convert grand jury information into return information).

<sup>33</sup> These exceptions are contained in subsections (c) through (o) of section 6103. Several of these exceptions are discussed in more detail in Part One, C, below.

<sup>34</sup> Persons having a material interest in a return include either of the individuals with respect to whom a joint return is filed; a member of a partnership in the case of the partnership's return; a one-percent shareholder, a person designated by the board of directors, or an officer or employee designated by a principal officer in the case of a corporation's return; the administrator, executor, trustee, or heir (subject to additional conditions) in the case of an estate; and the trustee in a title 11 case in the case of the debtor's return. For a complete list of persons and conditions, see section 6103(e).

4. certain Congressional committees;<sup>35</sup>
5. the President and certain employees of the White House Office as designated by the President;<sup>36</sup>
6. officers and employees of the Treasury and Justice Departments for purposes of tax administration;
7. Federal officers or employees for the administration of nontax criminal laws or to investigate or respond to terrorist activities;
8. Federal officers and employees for statistical use;<sup>37</sup>
9. certain persons for tax administration purposes;<sup>38</sup>
10. certain persons for purposes other than tax administration;<sup>39</sup>
11. certain persons with respect to taxpayer identity information;

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<sup>35</sup> The authorized Congressional committees are the Senate Committee on Finance, the House Committee on Ways and Means, the Joint Committee on Taxation, and other committees if specially authorized by a resolution of the Senate or House, as described in Part One, C, below, and section 6103(f).

<sup>36</sup> If the President requests a return or return information under section 6103(g), he must file a quarterly report with the Joint Committee on Taxation setting forth the taxpayer, the return or return information involved, and the reason for the request. Sec. 6103(g)(2).

<sup>37</sup> Authorized Federal officers and employees for statistical use include the Department of Commerce for purposes of structuring the censuses and national economic accounts, the Federal Trade Commission for the purpose of legally authorized economic surveys of corporations, the Department of Treasury for the purpose of economic or financial forecasts, the Department of Agriculture for purposes of the census of agriculture; and the Congressional Budget Office for purposes of modeling of the Social Security and Medicare programs. See sec. 6103(j).

<sup>38</sup> Disclosure to certain persons for tax administration purposes includes disclosure of accepted offers-in-compromise to members of the general public, disclosure of the amount of an outstanding obligation secured by a notice of lien to any person who has a right in the subject property, disclosure to a competent authority of a foreign government under a tax convention, disclosure to State agencies regulating tax return preparers regarding identity information and whether certain penalties have been assessed against such preparer, and disclosure to the Department of State for purposes of passport revocation for a seriously delinquent tax debt under section 7345. For a complete list of persons and conditions, see section 6103(k).

<sup>39</sup> Disclosure to certain persons for purposes other than tax administration includes disclosure to the Social Security Administration for purposes of administration of the Social Security Act; disclosure to the Department of Labor and Pension Benefit Guaranty Corporation for purposes of administration of the Employee Retirement Income Security Act of 1974; disclosure to the head of a Federal agency administering a Federal loan program regarding whether the applicant for a loan has a tax delinquent account; and disclosure to Federal, State, and local child support enforcement agencies regarding an individual with respect to whom child support obligations are sought to be established or enforced. For a complete list of persons and conditions, see section 6103(l).

12. contractors for purposes of tax administration; and

13. certain other persons with respect to certain taxes.

Section 6103(p) requires the IRS to keep a standardized system of permanent records on the use and disclosure of returns and return information.<sup>40</sup> However, these recordkeeping requirements do not apply in certain situations, such as returns or return information open to the public generally, disclosures to the Department of Treasury or Department of Justice for tax administration and litigation purposes, and taxpayer consent disclosures.<sup>41</sup> Each year, the IRS is required to furnish to the Joint Committee on Taxation for disclosure to the public a report of all agencies receiving returns and return information, the number of cases in which disclosures were made to them during the year, and the general purposes for which the requests were made.<sup>42</sup> As shown in Appendix C, there were approximately 11 billion disclosures made that were required to be accounted for in 2017. Of these disclosures, 9.2 billion were made to States. An additional 92 million disclosures were made to the U.S. Government Accountability Office (“GAO”) as an agent to the Congressional committees pursuant to section 6103(f).

The Freedom of Information Act (“FOIA”), enacted in 1966, also is relevant to disclosure of returns and return information.<sup>43</sup> While the purpose of section 6103 is to restrict access to returns and return information, the basic policy of FOIA favors public disclosure. Unless the requested material falls within one of nine statutory exemptions, FOIA requires that records and material in the possession of Federal agencies be made available on demand to any member of the general public.<sup>44</sup> In general, FOIA provides that any person has a right of access to Federal agency records, but that right is subject to specified exemptions and exclusions.<sup>45</sup> Returns and return information that cannot be disclosed under section 6103 also cannot be disclosed under FOIA.<sup>46</sup> However, persons seeking access to information have used FOIA as an alternative method to attempt to compel disclosure of information protected under section 6103.<sup>47</sup>

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<sup>40</sup> Sec. 6103(p)(3)(A).

<sup>41</sup> See sec. 6103(p)(3)(A) for a complete list of exceptions to the recordkeeping requirement.

<sup>42</sup> See sec. 6103(p)(3)(C).

<sup>43</sup> 5 U.S.C. sec. 552.

<sup>44</sup> See *NLRB v. Robbins Tire & Rubber Co.*, 437 US 214, 220 (1978).

<sup>45</sup> 5 U.S.C. sec. 552(b), (c).

<sup>46</sup> See 5 U.S.C. sec. 552(b)(3) (exemption 3 of FOIA, which allows the withholding of information prohibited from disclosure by another statute if certain requirements are met); see also *Tax Analysts v. IRS*, 117 F.3d 607, 611 (D.C. Cir. 1997) (holding that section 6103 is the type of nondisclosure statute contemplated by FOIA exemption 3).

<sup>47</sup> See, e.g., *Electronic Privacy Information Center v. Internal Revenue Service*, 910 F.3d 1232 (D.C. Cir. 2018) (plaintiff sought President’s individual income tax returns through a FOIA request).

## **Policy Considerations**

Determining whether to allow disclosure of returns and return information involves a balancing of sometimes competing policy objectives.<sup>48</sup> In support of confidentiality are a taxpayer's right to privacy, the concern that disclosure will undermine voluntary compliance, the belief that the government should not disclose information that taxpayers are required by law to provide, and concerns regarding misuse of the information. On the other hand, a variety of State and Federal agencies seek access to Federal returns and return information in order to monitor compliance with both tax and nontax laws. In some cases, Federal returns and return information may be the best source of information needed by the agency.

The present-law rules regarding confidentiality and disclosure of returns and return information reflect a balancing of these competing policy objectives. As described above, the basic policy embodied in section 6103 is that returns and return information are confidential, subject to exceptions where the need for returns and return information outweighs the policy of confidentiality. While providing access to returns and return information in certain cases, section 6103 attempts to guard confidentiality by providing access only to the extent necessary and by applying safeguards to prevent the misuse or subsequent disclosure of the information.

As noted above, section 6103 has many exceptions to the general rule that returns and return information are confidential. The next section discusses three of these exceptions: (1) disclosures to Congress; (2) disclosures to the Department of Justice and other agencies for tax administration and nontax criminal law enforcement; and (3) disclosure pursuant to a taxpayer's consent.

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<sup>48</sup> For a discussion of some of the policy considerations, see S. Rep. No. 94-938, Part I, p. 316-17 and Joint Committee on Taxation, *General Explanation of the Tax Reform Act of 1976* (JCS-33-76), December 1976, pp. 314-15.

## C. Disclosure to the Legislative and Executive Branches and by Consent

### 1. Disclosures to Congress

Section 6103(f) provides Congressional committees access to returns and return information under certain conditions and restrictions.

#### **Tax committee authorization**

Upon written request from the chairman of the House Committee on Ways and Means, the chairman of the Senate Committee on Finance, or the chairman of the Joint Committee on Taxation, the Secretary (IRS) shall furnish such committee with any returns and return information specified in such request.<sup>49</sup> Unless the taxpayer consents otherwise, a return or return information that can be associated with, or otherwise identifies, directly or indirectly, a particular taxpayer shall be furnished to such committee only in closed executive session. The IRS also must disclose returns and return information upon the written request of the Chief of Staff of the Joint Committee on Taxation.<sup>50</sup>

Section 6103 authorizes the chairman of the House Committee on Ways and Means, the chairman of the Senate Committee on Finance, the chairman of the Joint Committee on Taxation, and the Chief of Staff of the Joint Committee on Taxation to designate examiners and agents to inspect returns and return information.<sup>51</sup> For example, certain employees of the GAO have been designated as agents for purposes of conducting certain audits and investigations.

Any return or return information obtained by or on behalf of the Senate Committee on Finance or the House Committee on Ways and Means may be submitted by the committee to either the Senate or the House of Representatives, or to both.<sup>52</sup> Such submission does not require the Senate or House of Representatives to be sitting in closed executive session.

#### **Non-tax committee authorization**

By a resolution of the Senate or House of Representatives, other committees, or duly-authorized subcommittees, may be specially authorized to inspect returns and return information.<sup>53</sup> The resolution must specify the purpose for which the return or return information is to be furnished and that such information cannot be reasonably obtained from any other source. Then, upon written request of the committee chair, the IRS will provide the return

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<sup>49</sup> Sec. 6103(f)(1).

<sup>50</sup> Sec. 6103(f)(2).

<sup>51</sup> Sec. 6103(f)(4)(A).

<sup>52</sup> *Ibid.*

<sup>53</sup> Sec. 6103(f)(3). Concurrent resolutions are required for joint committees other than the Joint Committee on Taxation.

or return information to the committee when sitting in closed executive session. Unlike the tax committees, other committees are permitted a maximum of four agents or examiners designated or appointed in equal numbers by the chairman and ranking minority member of such committee or subcommittee to inspect returns and return information on its behalf.<sup>54</sup>

Such other committees may submit returns or return information to the Senate or House of Representatives, or to both. However, any return or return information that identifies, directly or indirectly, any taxpayers may be furnished to the Senate or House of Representatives only in closed executive session unless the taxpayer consents to the disclosure.<sup>55</sup>

## **2. Disclosures to the Department of Justice and other agencies**

Section 6103 provides several exceptions to allow the disclosure of returns and return information to the Department of Justice and other agencies for tax administration purposes and for the enforcement of Federal nontax criminal laws.

### **Disclosure for tax administration purposes**

In matters involving tax administration, section 6103(h)(2) permits certain officers and employees of the Department of Justice (including United States attorneys) to have access to returns and return information for purposes of Federal grand jury proceedings or proceedings before any Federal or State court or preparation for such proceedings (or investigations which may result in such a proceeding). The disclosure is limited to officers or employees personally and directly engaged in, and solely for the use in, the aforementioned proceedings or preparation for such proceedings. In order to receive a taxpayer's return or return information, one of the following three requirements must be met:

1. The taxpayer is or may be a party to the proceeding or the proceeding arose out of or in connection with determining the taxpayer's civil or criminal liability, or the collection of such civil liability, as imposed by the Code;
2. The treatment of an item reflected on the return is or may be related to the resolution of an issue in the proceeding or investigation; or
3. Such return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer which affects, or may affect, the resolution of an issue in such proceeding or investigation.<sup>56</sup>

Under the provision, the Department of Justice may have access to the return and return information of third parties as well as of the taxpayer who is a party to the proceeding.

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<sup>54</sup> Sec. 6103(f)(4)(B).

<sup>55</sup> *Ibid.*

<sup>56</sup> Sec. 6103(h)(2)(A), (B), and (C).



The Department of Justice may secure the returns and return information described above for its use in tax administration proceedings via two methods. First, on its own motion, the IRS may make disclosures to the Department of Justice for cases the IRS has referred to the Department of Justice, and for cases described in subchapter B of Chapter 76 of the Code (*e.g.*, civil actions for refund, unauthorized disclosure of returns and return information, or unauthorized collection actions).<sup>57</sup> Second, the Department of Justice can obtain returns and return information for tax administration cases initiated by the Department of Justice (rather than referred to the Department of Justice by the IRS).<sup>58</sup> Where the Department of Justice initiates the case, the Department of Justice must make a written request that (1) identifies the person whose return or return information is sought, and (2) sets forth the need for the disclosure. The request must be made by the Attorney General, Deputy Attorney General, or Assistant Attorney General.

A return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration if requirements similar to, but more restrictive than, the requirements for disclosure noted above are met.<sup>59</sup>

### **Disclosure for enforcement of nontax criminal law**

In nontax criminal cases, any return and return information with respect to any specified taxable period is open for inspection pursuant to and upon the grant of an *ex parte* court order.<sup>60</sup> The return or return information may be inspected by or disclosed to a Federal officer or employee who is personally and directly engaged in any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute to which the United States or a Federal agency is or may be a party, any investigation which may result in such a proceeding, or any Federal grand jury proceeding pertaining to enforcement of such criminal statute solely for the use in such preparation, investigation, or grand jury proceeding. Only the Attorney General, Deputy Attorney General, Associate Attorney General, Assistant Attorney Generals, United States Attorneys, Independent Counsels, or an attorney in charge of an organized crime strike force may authorize an application for the order.<sup>61</sup>

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<sup>57</sup> Sec. 6103(h)(3)(A).

<sup>58</sup> Sec. 6103(h)(3)(B).

<sup>59</sup> Sec. 6103(h)(4). For example, rather than using the words “is or may be,” “is” is the standard for disclosure in a judicial or administrative proceeding related to tax administration. See Sec. 6103(h)(4)(B)(“the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding”). In addition, returns and return information may be disclosed in such proceedings to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, 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. Sec. 6103(h)(4)(D).

<sup>60</sup> Sec. 6103(i)(1). Because the order is *ex parte*, meaning it is done for the benefit of one party without notice to the other party, the subject of the investigation has no rights of notice or participation in the process.

<sup>61</sup> Sec. 6103(i)(1)(B).

For a judge or magistrate to grant such an order, the application must demonstrate that (1) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed; (2) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act; (3) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act; and (4) the information sought cannot reasonably be obtained, under the circumstances, from another source.

Without a court order, Federal agencies can obtain return information (other than “taxpayer return information” *i.e.*, information received from a source other than the taxpayer or his or her representative<sup>62</sup>) upon written request that meets certain requirements. For nontax criminal purposes, the head of a Federal agency and other persons specifically identified by section 6103 may make a written request for return information.<sup>63</sup> The written request must contain: the taxpayer’s name and address; the taxable period or periods for which the information is sought; the statutory authority under which the criminal investigation or proceeding is being conducted; and the specific reasons why such disclosure is or may be relevant to the investigation. The requesting agency does not have to demonstrate that the information sought is not reasonably available elsewhere.

Section 6103 permits the IRS to disclose return information (other than taxpayer return information) which may constitute evidence of a crime.<sup>64</sup> The IRS may make the disclosure in writing to the head of a Federal agency charged with enforcing the laws to which the crime relates. The IRS may also disclose return information to apprise appropriate officials of emergency circumstances and under special rules disclosures made with respect to terrorist activities.<sup>65</sup>

### **3. Disclosures made with the consent of the taxpayer**

Section 6103(c) allows the IRS to disclose returns and return information to a third party designated by the taxpayer in a request for or consent to such disclosure, subject to the requirements of the applicable Treasury regulations.<sup>66</sup> It also permits disclosure by the IRS to any other person at the taxpayer’s request to the extent necessary to comply with the taxpayer’s

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<sup>62</sup> “Taxpayer return information” is specifically defined as “return information . . . which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom the return information relates.” Sec. 6103(b)(3). For this purpose, a taxpayer’s identity is not treated as “taxpayer return information.” Sec. 6103(i)(2)(C).

<sup>63</sup> Sec. 6103(i)(2).

<sup>64</sup> Sec. 6103(i)(3)(A).

<sup>65</sup> Sec. 6103(i)(3)(B) and (C).

<sup>66</sup> See Treas. Reg. sec. 301.6103(c)-1 for the requirements for a valid consent or designation. IRS Form 8821, *Tax Information Authorization*, may be used by a taxpayer to provide consent to the disclosure of tax information. However, a request or consent may be nonwritten if the requirements of the Treasury regulation are met.

request to such other person for information or assistance. The IRS is not obligated to disclose information if it determines that such disclosure would seriously impair Federal tax administration.<sup>67</sup>

The taxpayer and any other person with a material interest may execute a consent to disclose information to third parties.<sup>68</sup> Generally if the taxpayer is a legal entity, any officer of the entity with authority under applicable State law to legally bind the entity may execute a consent. In the case of a partnership return, the IRS will accept consent from any person who was a partner during any part of the period covered by the return.<sup>69</sup> A taxpayer's representative or power of attorney may not execute a consent for disclosure unless the designation of representation or power of attorney specifically delegates such authority.<sup>70</sup> Third parties eligible to be designated to receive the return information include individuals, trusts, estates, corporations, partnerships, government agencies, or the general public.<sup>71</sup> When disclosures are to be made in a public forum, the request for disclosure must describe the circumstances surrounding the public disclosure, for example, for a congressional hearing, in a judicial proceeding, or to the media, and the dates for disclosure.

Although section 6103(g)(2) authorizes a duly authorized representative of the Executive Office of the President or the head of an agency to request certain return information relating to the tax compliance of a potential appointee to an executive or judicial branch position, tax background checks are generally performed by obtaining written authorization for disclosure from the potential appointee pursuant to section 6103(c).<sup>72</sup>

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<sup>67</sup> Sec. 6103(c).

<sup>68</sup> Treas. Reg. sec. 301.6103(c)-1(e)(4). See sections 6103(e)(1) through (5), defining persons with a material interest.

<sup>69</sup> See sec. 6103(e)(1)(C).

<sup>70</sup> Treas. Reg. sec. 301.6103(c)-1(e)(4). IRS Form 2848, *Power of Attorney and Declaration of Representative*, may be used by a taxpayer to authorize an individual to represent the taxpayer before the IRS.

<sup>71</sup> Treas. Reg. sec. 301.6103(c)-1(e)(3).

<sup>72</sup> Internal Revenue Service, Internal Revenue Manual, *Tax Check Reports on Federal Appointees*, Ch. 11.3, sec. 11.3.31 (October 13, 2017).

## PART II: PRESIDENT AND VICE PRESIDENT TAX RETURNS

### A. IRS Mandatory Examination of the President's and Vice President's Individual Income Tax Returns

#### 1. Overview of the IRM

The IRM is the primary, official compilation of instructions to employees that relate to the administration and operation of the IRS.<sup>73</sup> The IRM's text and exhibits are separated into 39 parts, which cover various subject matters (*e.g.*, how to audit tax returns, collect taxes, process returns, and assess penalties). The parts are then divided into chapters that, in turn, are separated into sections and subsections.

The IRM is primarily used by the IRS as a source of approved policies to carry out its responsibilities in administering the tax laws and other obligations of the IRS consistently and fairly to all taxpayers.<sup>74</sup> However, the IRM is not law, and the procedures set forth within it are not mandatory or binding on the IRS.<sup>75</sup>

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<sup>73</sup> IRM 1.11.2.2; Michael I. Saltzman, Leslie Book, *IRS Practice and Procedure* (Rev. 2<sup>nd</sup> 3d. (2019)), par. 3.04[6]. The IRM fulfills the IRS's FOIA obligation imposed on each agency to maintain and make available for public inspection records of policies, authorities, procedures, and organizational operations. 5 U.S.C. sec. 552(a)(2)(c); IRM 1.11.6.1.2; IRM 1.11.2.1.2. The IRM in its current form is available on the IRS's website at <https://www.irs.gov/irm>. Not all sections of the IRM are made public, such as information designated as "Official Use Only." Information carries such designation when it requires protection from the public due to the risk and magnitude of loss or harm to the IRS or the privacy to which individuals are entitled under the Privacy Act (5 U.S.C. sec. 552). IRM 1.11.2.5.3.

<sup>74</sup> IRM 1.11.2.2.

<sup>75</sup> See, *e.g.*, *Shwarz v. United States*, 234 F.3d 428, 433-34 (9th Cir. 2000); *United States v. McKee*, 192 F.3d 535, 540-41 (6th Cir. 1999) (internal citations omitted); *Whiting v. United States*, 2016 U.S. Dist. LEXIS 98633, CV 15-01472-AB (DTBx), at \*9-10 (U.S. Dist. Ct., June 21, 2016). Taxpayers have generally been unsuccessful in raising challenges based on an IRS employee's failure to follow or otherwise act in compliance with provisions in the IRM based on violations of constitutional rights. See *United States v. Caceres*, 440 U.S. 741, 743, 754-55 (1979) (the Supreme Court refused to exclude taped conversations obtained in violation of an IRM provision that required Justice Department approval for such actions. The Court concluded that none of defendant's constitutional rights had been violated, either by the actual recording or by the IRS's violation of its own regulations and held that the evidence was not required to be excluded); *United States v. Peters*, 153 F.3d 445, 446, 452-53 (9th Cir. 1998) (the Ninth Circuit refused to suppress evidence obtained by an investigation not accomplished in accordance with the IRM); *United States v. Rutherford*, 555 F.3d 190, 195-96 (6th Cir. 2009) (the Sixth Circuit refused to exclude evidence obtained in violation of an IRM provision. The Court reasoned that an IRS employee's failure to refer an investigation to the fraud unit after a "firm indication" required such was not on its face a violation of the taxpayer's constitutional rights, even though such action was in violation of the IRM).

The IRS reviews the IRM annually to ensure its accuracy and to implement any necessary changes.<sup>76</sup> Updates generally reflect changes related to the issuance of new or modified Treasury regulations, newly enacted legislation, IRS guidance, or employee recommendations.<sup>77</sup>

## **2. IRM provisions relating to the President’s and Vice President’s individual income tax returns**

### **In general**

The IRM provides detailed instructions relating to processing, safeguarding, and auditing all taxpayer returns. The IRM also contains a specific set of instructions for the individual income tax returns of the President and Vice President of the United States.<sup>78</sup>

Generally, all individual and business tax returns received by the IRS go through the “processing pipeline.”<sup>79</sup> Returns are sorted, marked with identifying tracking numbers, processed for accuracy, and refunds are issued as necessary. Even if information reported on a return appears accurate, the IRS may still perform an audit.<sup>80</sup> An audit is an examination of an individual’s or business’s tax return and related account and financial information to ensure information is reported correctly under applicable tax laws and to verify the reported amount of tax is correct.<sup>81</sup>

An audit is generally conducted through written correspondence, interviews, and/or field examinations.<sup>82</sup> The approach chosen depends on the complexity of the tax return. At the conclusion of the audit, the IRS either accepts the return as filed or determines there is a deficiency. The taxpayer is provided a copy of the report detailing the IRS’s findings from the

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<sup>76</sup> IRM 1.11.2.2.

<sup>77</sup> IRM 1.11.2.2.2. When immediate, time-sensitive, or temporary instructions are needed, the IRS will issue interim guidance to modify a procedure in a currently published IRM section. IRM 1.11.2.2; IRM 1.11.10. An IRS employee can request a new or revision to an IRM chapter, section, or title. IRM 1.11.2.4.1 & Ex. 1.11.2-3. The request then undergoes a multi-step review prior to publication. IRM 1.11.9.2.

<sup>78</sup> IRM 3.28.3.1; IRM 3.28.3.2.

<sup>79</sup> Information on the processing pipeline is available at <https://www.irsvideos.gov/Professional/IRSWorkProcesses/SubmissionProcessingPipeline>.

<sup>80</sup> IRM 4.1.3.2. Typically, a computer process assigns a return a numeric score based on confidential mathematical formulas that correspond to its audit potential, known as the Discriminant Index Function. Generally, the higher the Discriminant Index Function score, the greater the audit potential. Returns with a Discriminant Index Function score higher than an annually established cutoff then undergo manual classification by IRS examiners. This manual classification controls which returns are audited.

<sup>81</sup> Information on IRS audits is available at <https://www.irs.gov/businesses/small-businesses-self-employed/irs-audits>.

<sup>82</sup> Michael I. Saltzman, Leslie Book, IRS Practice and Procedure (Rev. 2<sup>nd</sup> 3d. (2019), par. 8.01[2]); IRM 4.2.2; IRM 4.2.6.

audit, which includes the appropriate actions available to the taxpayer based on the IRS's conclusions.

### **President's and Vice President's individual income tax returns**

The President's and Vice President's individual income tax returns<sup>83</sup> are subject to different processing, safeguarding, and auditing rules than other tax returns.<sup>84</sup> The President's and Vice President's individual income tax returns are processed as follows. The returns are required to be mailed to the Field Director at the Austin Submission Processing Campus, as opposed to the service center location based on their residence.<sup>85</sup> The Field Director of Austin, or a designated subordinate, will process the returns.<sup>86</sup> The returns are processed according to processing procedures applicable to all taxpayers and entities.<sup>87</sup> Each original processed income tax return is then mailed to the Deputy Commissioner for Services and Enforcement<sup>88</sup> where it becomes a permanent record of the National Archives.<sup>89</sup>

The IRM outlines detailed procedures to ensure the privacy and safekeeping of the President's and Vice President's individual income tax returns while in IRS control.<sup>90</sup>

Once the President's and Vice President's individual income tax returns are processed, they undergo a mandatory examination.<sup>91</sup> This examination originated in, or around, April 1977,

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<sup>83</sup> Other returns, including gift and estate tax returns, are processed in accordance with the same procedures relating to all taxpayers. IRM 4.2.1.11.

<sup>84</sup> The IRM provisions relating to the President's and Vice President's returns are provided in their entirety in Appendix B.

<sup>85</sup> IRM 3.28.3.2.

<sup>86</sup> *Ibid.*

<sup>87</sup> IRM 3.28.3.4.

<sup>88</sup> IRM 3.28.3.4.1.

<sup>89</sup> IRM 3.28.3.2. The returns are subject to the disclosure limitations of section 6103. See <https://www.irs.gov/pub/irs-utl/records-cntrl-Sch-d2990-1.pdf>. See also sec. 6103(l)(17).

<sup>90</sup> IRM 4.2.1.11. The locations of the President's and Vice President's income tax returns are monitored at all times, the returns must be kept in an orange folder (the highest priority designation under the IRS color scheme), and the returns can only be viewed by authorized IRS employees and when not being worked on, are to be secured in a drawer or cabinet. IRM 4.1.5.2.5; IRM 4.8.4.2.5.

<sup>91</sup> Regardless of the Discriminant Index Function score, the returns are examined. See generally, IRM 3.28.3; IRM 3.28.3.4.3. The IRM uses the words audit and examination interchangeably throughout the IRM, including in the various provisions relating to the President's and Vice President's income tax returns. See Appendix B.

and applies to returns filed from 1976 forward.<sup>92</sup> IRS spokesperson Leon Levine stated that the IRS added this policy to the IRM on its own initiative “in the interest of sound tax administration.”<sup>93</sup> The IRS rationalized that “automatically auditing the returns of the President and Vice President . . . removes from any particular employee of the IRS the necessity of having to make a decision as to whether to audit the particular returns involved.”<sup>94</sup> The Carter administration endorsed this policy and commented that it “helps to allay any concerns in the public about the President’s payments of taxes.”<sup>95</sup>

The IRM provides various steps for the IRS to take before the audit of the President’s and Vice President’s individual income tax returns begins. The Small Business/Self-Employed Director of Examination is responsible for assigning and transferring the tax returns to a Planning and Special Programs Territory Manager who then assigns the audit responsibility to a group of auditors within 10 business days.<sup>96</sup> The audit of the President’s and Vice President’s individual income tax returns is conducted in a process similar to the audit of any taxpayer, as discussed above.<sup>97</sup> The President’s and Vice President’s audit and associated investigation, return adjustments, and conclusion are protected “return information” and remain confidential.<sup>98</sup>

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<sup>92</sup> “IRS auditing Carter, Mondale tax returns,” *Chicago Tribune*, June 21, 1977; Bill Curry, “Yearly Audits Set for Carter, Mondale,” *Washington Post*, June 21, 1977; “President, Vice President to Have Annual Tax Audits,” *Los Angeles Times*, June 21, 1977.

<sup>93</sup> See *supra* note 78, *Chicago Tribune* (“[T]he decision was made by the IRS but refused to say whether it was at [President] Carter’s request.”).

<sup>94</sup> *Ibid.* (quoting IRS spokesperson Leon Levine).

<sup>95</sup> See *supra* note 78, *Washington Post* (quoting White House press secretary Jody Powell).

<sup>96</sup> IRM 3.28.3.4.3; IRM 4.2.1.11.

<sup>97</sup> *Ibid.* The IRS also audits its employees’ returns per its comprehensive employee tax compliance program which subjects all employees to examination, under reporting, and annual delinquency check procedures. IRM 4.2.6. The audit of an IRS employee is performed in a manner similar to the audit of any taxpayer but it is done on an expedited basis and in accordance with special safeguarding procedures. *Ibid.*

<sup>98</sup> See generally, sec. 6103.

The IRM provides that IRS employees must never initiate, terminate, or in any way modify their work on the President's and Vice President's individual income tax returns based on requests from Executive Branch employees.<sup>99</sup> Along similar lines, the Code generally prohibits any applicable person (including the President, Vice President, and any employee of the executive office of the President or the Vice President) from requesting that any officer or employee of the IRS conduct or terminate an audit or otherwise investigate or terminate the investigation of any particular taxpayer with respect to the tax liability of that taxpayer.<sup>100</sup>

Following the audit, the President's and Vice President's individual income tax returns undergo a final mandatory review by the Employee Audit Reviewer at Baltimore Technical Services.<sup>101</sup> The final mandatory review verifies the audit was conducted in accordance with established procedures and the appropriate conclusion were reached. Following this review, the processing and auditing of the President's and Vice President's individual income tax returns is complete.<sup>102</sup> There is no requirement to make these mandatory reviews public and such information generally is treated as confidential under section 6103.

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<sup>99</sup> IRM 4.10.2.2.3 (the IRM specifically mentions requests from the President, Vice President, employees of the executive offices of the President or Vice President, or any other cabinet level official with the exception of the Attorney General. Any such requests must be reported to the Treasury Inspector General for Tax Administration).

<sup>100</sup> Sec. 7217. Any IRS officer or employee receiving a request to conduct or terminate an audit of any taxpayer is required to report the request to the Treasury Inspector General for Tax Administration. *Ibid.*

<sup>101</sup> IRM 4.2.1.11; IRM 4.8.4.2.5; and IRM 4.8.1.4.

<sup>102</sup> IRM 4.2.1.11.



## **B. Congressional Investigations of Federal Tax Returns of Presidents, Vice Presidents and Nominees**

This section recounts several instances in which Congress reviewed the Federal tax information of individual public officials as part of its duties prior to the various legislative and administrative changes described above. During the short period in 1973 and 1974 in which both Vice President Spiro Agnew and President Richard Nixon resigned, questions about the tax compliance of the President, Vice President and their successors became an issue of public concern. Mr. Nixon publicly requested an independent investigation of his returns by the Joint Committee on Internal Revenue Taxation. The resignation of Mr. Agnew and the subsequent resignation of Mr. Nixon also meant that both chambers of Congress were required for the first time to exercise their authority under Amendment XXV of the U.S. Constitution to fill a vacancy when the office of Vice-President is vacant. As part of those duties, Congress undertook a review of the tax returns and compliance of Gerald Ford (nominated to replace Mr. Agnew) and of Nelson Rockefeller (nominated to replace Mr. Ford upon Mr. Ford's elevation to President after the resignation of Mr. Nixon). The process, scope and conclusions of these Congressional inquiries into the tax matters of Messrs. Nixon, Ford, and Rockefeller are generally described below.

### **1. Investigation of President Nixon's Federal income tax returns**

In the summer of 1973, concerns about the tax compliance of both Mr. Nixon and Mr. Agnew became an issue of public concern. First, in the course of the hearings of the Select Committee on Presidential Campaign Activities (the Watergate Committee)<sup>103</sup> and in related civil litigation, there were references to a previously undisclosed gift of Nixon's presidential papers to the National Archives. Questions about the bona fides of such a gift, its reported value in excess of \$500,000, and its tax consequences were soon raised, including speculation that Mr. Nixon may have paid little income tax during his years in office.<sup>104</sup> Second, in August 1973, reports surfaced that Mr. Agnew was under criminal investigation for activities while governor of Maryland prior to becoming Vice President in 1969. He resigned approximately two months later, on October 10, 1973, as part of an agreement under which he agreed to resign and not to contest a single charge of tax evasion in return for the government agreeing not to pursue the other charges. He entered his plea of *nolo contendere* in Federal court shortly after the

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<sup>103</sup> The Select Committee was formed pursuant to Senate Resolution 60, approved unanimously on February 7, 1973, to investigate campaign activities related to the presidential election of 1972. See, Senate Resolution 60, 93d Congress, available at <https://www.congress.gov/bill/93rd-congress/senate-resolution/60>. Public hearings began in May 1973. Senate Select Committee on Presidential Campaign Activities, The Final Report, S. Rep. No. 93-981, at pp. xxix (1974).

<sup>104</sup> Nick Kotz, "Nixon Gift Raises Questions," *The Washington Post*, p. 10, June 10, 1973. A more detailed recounting of the details surrounding the Agnew plea agreement can be found in "Agnew: Second Vice President in U.S. History to Resign." *CQ Almanac 1973*, 29th ed., 1054-59. Washington, DC: Congressional Quarterly, 1974, available at <http://library.cqpress.com/cqalmanac/cqal73-867-26366-1225812>.

resignation, on the same date, and the court entered its judgment of a felony conviction and sentenced him to three years on probation and a fine of \$10,000.<sup>105</sup>

As a consequence, public interest in Mr. Nixon's taxes intensified through autumn of 1973, during which reports were published that appeared to be based on confidential information that may have been leaked from within the IRS. Mr. Nixon generally denied any impropriety with respect to his taxes. In a question and answer session before a meeting of newspaper editors in November 1973, he addressed the public interest in knowing whether or not the President had complied with the tax laws, acknowledged that his tax liabilities for 1970-1971 were "nominal" and announced his intention to publish additional information about his personal finances and tax compliance in the near future.<sup>106</sup> Shortly thereafter, he invited Congressional inquiry into his tax returns.

In a letter to Chairman Wilbur D. Mills dated December 8, 1973, Mr. Nixon noted that he sought "... to answer these questions and to dispel public doubts," and asked that the Joint Committee on Internal Revenue Taxation ("Joint Committee") conduct an independent investigation. He identified two issues as the subject of the requested investigation, stating, "The IRS has also reviewed these items and has advised me that they were correctly reported." The two issues were the deduction for the aforesaid donation of papers and memorabilia and treatment of the disposition of 23 acres of his real estate in San Clemente, California. His letter to Chairman Mills included his Federal income tax returns for taxable years 1969 through 1972, along with copies of his real and property taxes, and an analysis of finances from January 1, 1969, through May 1973. The letter also included Mr. Nixon's promise to pay any additional tax that may be due.<sup>107</sup>

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<sup>105</sup> James N. Naughton, Agnew Quits Vice Presidency and Admits Tax Evasion in "67" *New York Times*, page 1, (Oct. 11, 1973). Archived copy available at <http://movies2.nytimes.com/learning/general/onthisday/big/1010.html#article>.

<sup>106</sup> See, House Judiciary Committee, *Statement of Information on Hearings before the Committee on the Judiciary, House of Representatives, pursuant to H. Res. 803, A Resolution Authorizing and Directing the Committee on the Judiciary to Investigate whether Sufficient Grounds Exist for the House of Representatives to Exercise its Constitutional Power to Impeach Richard M. Nixon, President of the United States*, 93d Congress, 2d sess., (1974) Book X, pp. 17-18 (a description of the sequence of events that led the IRS to reopen the audits of the 1971 and 1972 returns on December 7, 1973) and pp. 32-33 (a partial transcript of the President's remarks before the Associated Press Managing Editors Association on November 17, 1973, from volume 9 of Presidential Documents, pp. 1349-1350). For a full description of the press interest in Mr. Nixon's taxes, see Joseph J. Thorndike, "JCT Investigation of Nixon's Tax Returns," *U.S. Capital Historical Society Symposium on The History and Role of the Joint Committee on Taxation*, February 2016, available at <https://uschs.org/explore/historical-articles>, reprinted at 151 Tax Notes 1527.

<sup>107</sup> The letter is reproduced at pages 1-2 of the report submitted by the Joint Committee staff. The full Joint Committee staff report, including all tax returns and exhibits, was published by the Joint Committee by transmitting the report for publication as a report of the Senate. In its letter of transmittal, the Joint Committee stated that in releasing the report it was not expressing its own views on the report nor had it reached any conclusions about the report. See, "Examination of President Nixon's Tax Returns for 1969 through 1972 prepared for the Joint Committee on Internal Revenue Taxation by its staff," (JCS 9-74), published as Senate Report 93-768, April 3, 1974 (hereinafter "Nixon Report").

The members of the Joint Committee met in executive session to decide how to respond. Due to the interrelatedness of items reported on a tax return, and in light of the great number of questions raised publicly about Mr. Nixon's returns, they decide that a thorough investigation of the returns was appropriate and could not be limited to the two issues identified in Mr. Nixon's letter. The Committee agreed that the investigation would result in a report to the both Mr. Nixon and Congress. The Joint Committee instructed the staff to conduct a thorough examination of each of the returns for years 1969 through 1972, and prepare a report to the Joint Committee.

The Nixon Report was submitted to the Joint Committee on April 3, 1974. As explained therein, the work of the Joint Committee staff did not attempt to draw conclusions about the appropriateness of penalties against Mr. Nixon or his advisers.<sup>108</sup> The work proceeded with the cooperation of the Mr. Nixon's attorneys and in coordination with the IRS, but without access to Mr. Nixon himself. The IRS had begun a formal audit of the return for 1970 and reopened the tax years 1971 and 1972 at about the same time as the Joint Committee staff investigation. Although they on occasion exchanged information or conducted joint interviews, the Joint Committee staff and IRS reached their conclusions independently of one another. The Joint Committee had no authority to assess tax or require payment of tax consistent with any of its recommendations and calculations.

The Nixon Report concluded that numerous items were incorrectly reported on the returns filed by Mr. and Mrs. Nixon, including --

- gifts of presidential papers,
- purchase of property at San Clemente and subsequent sale of a portion thereof to the B&C Investment Company,
- nonrecognition of gain on the 1969 sale of their personal residence in New York City,
- itemized deductions for business use of their residence,
- depreciation of certain furniture and expenses of official presidential functions,
- sale of Florida land,
- personal use of government aircraft by their family and their friends,
- expenditures of Federal funds at their properties in Key Biscayne and San Clemente,
- sales tax deduction,
- gasoline tax deduction, and
- miscellaneous items.

In its discussion of each of these areas, the Joint Committee staff identified the potential factual and legal issues, followed by its analysis and recommendations. In each area, the staff

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<sup>108</sup> Nixon Report, at page 4.

concluded that there were errors that, with several minor exceptions, had resulted in underreporting of the taxes for the years under investigation. The Nixon Report includes a schedule summarizing the type and amount of adjustment to each erroneous item, and shows possible deficiencies in tax and interest totaling \$477,431 through the date of the report.<sup>109</sup> The IRS audit also concluded with proposed adjustments resulting in substantial deficiencies. It was subsequently revealed that Mr. Nixon paid the deficiencies determined by the IRS for each of the years 1970 through 1972, with interest. In addition, because collection of tax for the 1969 tax year was barred by the three-year limitations period generally applicable, Mr. Nixon voluntarily paid the taxes for 1969 that the Joint Committee staff had calculated, but did not pay interest with respect to that year.<sup>110</sup>

## **2. Tax investigations as part of the exercise of the Amendment XXV to fill the Office of Vice President**

The resignation of Mr. Agnew was the first occasion in which the plan for succession ratified as Amendment XXV was invoked. Under section 2 of that Amendment, “Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.”<sup>111</sup> In order to discharge their duties, the two chambers agreed that each chamber should separately undertake a thorough investigation of the nominee, including financial and public life. In the House, the leadership assigned the task to the Judiciary Committee (“House Judiciary Committee”). In the Senate, the Committee on Rules and Administration (“Senate Rules Committee”) assumed responsibility. As part of a thorough review, a review of the tax returns and tax compliance was desired.<sup>112</sup>

### **Investigation and confirmation of Gerald R. Ford**

On October 13, 1973, President Nixon submitted to Congress the name of Gerald R. Ford to be Vice President. To facilitate the investigation, Mr. Ford provided copies of seven years of Federal income tax returns to both the Senate Rules Committee and the House Judiciary Committee for use in their deliberations.

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<sup>109</sup> Nixon Report, pages 4 (summary of the tax increases) and 7 (a table reflecting all proposed corrections to the tax returns).

<sup>110</sup> Thorndike, pages 12-13.

<sup>111</sup> U.S. Constitution, amend. XXV, sec. 2.

<sup>112</sup> Thomas H. Neale, Congressional Research Service, “*Vice Presidential Vacancies Congressional Procedures in the Ford and Rockefeller Nominations*,” (Report for Congress) August 21, 1998. The report includes an overview of the history of the Twenty-Fifth Amendment and the processes followed in the nominations of Gerald Ford and Nelson Rockefeller. See also, Ronald C. Moe, Congressional Research Service, *Presidential Succession: A Short History*, (CRS Report No. 78-244), January 25, 1979.

In his submission to the Senate Rules Committee, he included a copy of a letter submitted to the Commissioner of the IRS requesting that the IRS conduct an audit of those returns.<sup>113</sup> In his letter, he asked that the privacy of his returns be maintained generally, but agreed that a summary of pertinent amounts should be published as the Senate Rules Committee saw fit. The Senate Rules Committee voted to request further tax information from the IRS. At the hearings in November 1973, the Committee determined that only the members and the most senior staff could have access to the returns. They subsequently voted to recommend confirmation. The full Senate voted to confirm Mr. Ford on November 27, 1973.

The House Judiciary Committee also had access to the tax returns, as well as the results of the IRS audit. In its report recommending confirmation, the House Judiciary Committee noted that it had directed the staff of the Joint Committee, on loan to the House Judiciary Committee, to conduct an independent investigation of the returns. After reviewing all such information, the House Judiciary Committee reported that it found nothing in the reports to be prejudicial to the nominee.<sup>114</sup> The House voted on December 6, 1973, to confirm Mr. Ford, who took the oath of office shortly after the vote.<sup>115</sup>

### **Investigation and confirmation of Nelson A. Rockefeller**

Nelson Rockefeller was nominated on August 20, 1974, to replace Mr. Ford upon Mr. Ford's elevation to President after the resignation of Mr. Nixon on August 9, 1974. The processes established during the confirmation of Vice President Ford were generally followed again to fill the vacancy in accordance with Amendment XXV, with the Senate Rules Committee and the House Judiciary Committee taking the lead on the confirmation process in their respective chambers. However, the complex and expansive nature of the financial affairs of Nelson Rockefeller and his extended family posed issues unlike those in either the Nixon or Ford investigations. Accordingly, the chairman of the Senate Rules Committee requested that the Joint Committee staff conduct an independent investigation and prepare a report on the nominee's Federal tax returns, including both income and gift tax returns and "any other information which might bear directly on the nominee's income or holdings," as well information bearing on Mr. Rockefeller's qualifications.<sup>116</sup>

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<sup>113</sup> Letter dated October 22, 1973, Exhibit 2 to Senate Rules Committee Hearing on Nomination Gerald Ford, at pp. 371-372.

<sup>114</sup> House Judiciary Committee, *Report on Confirmation of Gerald R. Ford as Vice President of the United States, together with Separate, Supplemental and Dissenting Views*, H. Rpt. No. 93-695. See appendices, *passim*.

<sup>115</sup> Marjorie Hunter, Special to the New York Times, "Ford Sworn as Vice-President after House Approves, 387-35, He Vows Equal Justice for All," *New York Times*, (December 7, 1973), available at <https://www.nytimes.com/1973/12/07/archives/ford-sworn-as-vice-president-after-house-approves-38735-he-vows.html>.

<sup>116</sup> Letter from Chairman Cannon of Senate Rules Committee to Chairman Russell Long requesting assistance of Joint Committee staff, Senate Rules Committee, "*Nomination of Nelson A. Rockefeller of New York to be Vice President of the U.S Hearing Date: Sep. 23-26, Nov. 13-15, 18, 1974*," at p. 1046 ("Senate Hrg. Print"). See

Mr. Rockefeller and his wife provided income tax returns for seven years, and gift tax returns for 17 years. In addition, a summary of his Federal tax liabilities over a period of 10 years was provided. The financial analysis he provided included listing of investments that he held directly as well as those held indirectly by him through trusts.<sup>117</sup> In his letter dated October 18, 1974, submitting an update of information, Mr. Rockefeller alluded to the “customary audit” of his returns by the IRS, and included relevant IRS audit reports with the information he was providing. In the audit reports, the IRS claimed that Rockefellers owed \$820,718 in Federal income tax deficiencies and \$83,000 gift tax deficiencies, or \$903,718. They agreed to pay in full, with interest at a rate of six percent. However, the Rockefellers reserved the right to pursue claims for refunds with respect to tax adjustments with which they disagreed.<sup>118</sup>

Senate Rules Committee held hearings on the confirmation on September 23, 24, 25, and 26 and November 13, 14, 15, and 18, 1974. The subject of Mr. Rockefeller’s Federal taxes was discussed briefly at the hearing on September 23, but was deferred for in-depth discussion until after delivery of the report from the Joint Committee staff to the Senate Rules Committee.

The Joint Committee staff report was delivered to the nominee and to the chairs of the House Judiciary Committee and Senate Rules Committee on October 22, 1974. The Rockefellers did not agree to public disclosure of the returns or the report. Their waiver of privacy with respect to their returns did not extend beyond the members of the House Judiciary Committee, Senate Rules Committee and Joint Committee and relevant staff. That is, no member or employee of a member of the Committee with access to the report could in turn disclose the report or information therein.

When the hearing resumed in November 1974, prior to the nominee’s opening statement, the Chairman introduced for the record a letter in which the Rockefellers agreed to waive their privacy with respect to the tax information developed during the investigation, in order to enable the Senators to question Mr. Rockefeller about the information provided. Mr. Rockefeller expressly excluded from that waiver any questions about family members.<sup>119</sup> The letter authorized the members to review the tax information developed over the course of the confirmation investigation and to ask questions with respect to that information during the public hearings, including about the report prepared by the Joint Committee staff.

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generally, “*Rockefeller Becomes 41<sup>st</sup> Vice President*,” CQ Almanac 1974, 30th ed., 917-35. Washington, DC: Congressional Quarterly, 1975.

<sup>117</sup> The information was obtained from the Rockefellers in a series of letters to the Committee chairs, August 29, 1974, October 11, 1974, and October 18, 1974. The Rockefellers at the same time published lists of assets, including trusts in which he was a beneficiary, and summaries of all taxes for the preceding 10 years. See generally, “*Rockefeller Becomes 41<sup>st</sup> Vice President*,” CQ Almanac 1974, 30th ed., 917-35. Washington, DC: Congressional Quarterly, 1975.

<sup>118</sup> Linda Charlton, “Rockefeller Owes \$903,718 to the IRS for Last 5 Years,” *New York Times*, (October 19, 1974); Senate Hrg. Prt., pp. 505-506.

<sup>119</sup> See, Senate Hrg. Prt., p. 477, 512-513.

During his testimony, Mr. Rockefeller identified four adjustments accounting for the bulk of the large deficiencies and characterized them as legal questions.<sup>120</sup> The four issues were reasonableness of investment expenses; the correct limitation applicable to charitable contributions claimed with respect expenses paid for the benefit of the U.S. government; whether his primitive art collection was property or investment held for profit; and whether an exchange gain upon repayment of bank loans should be treated as income or reduction in the cost of the investment for which the loan proceeds had been used.

On November 22, 1974, the Senate Rules Committee voted unanimously to recommend confirmation, despite noting in its report<sup>121</sup> that there were multiple areas of concern. Chief among these concerns were the potential and possibly unavoidable conflicts of interest between “his and his family’s broad financial and business holdings” and the interest of the United States. His long history as an elected official in New York without serious conflict of interest accusations allayed the concerns, as did his extensive public disclosures regarding his financial holdings.<sup>122</sup> His great wealth also lead the Senators to place greater weight on gaining assurances for the public that he was in compliance with the Federal tax law. Both the IRS audits and the work by the Joint Committee staff on behalf of the Senate Rules Committee reviewing those audits supported the conclusion that Mr. Rockefeller was fully current in his Federal tax obligations.<sup>123</sup> The Senate Rules Committee report also discussed other possible areas of concern unrelated to tax issues. The full Senate approved the nomination on December 10, 1974.

House Judiciary Committee recommended confirmation on December 12, 1974. In its report, it noted that “The staff of the Joint Committee presented to the members of this Committee a sixty-nine page report on its examination of these tax returns and financial records. The report was supplemented by a briefing of the Committee members by those staff members of the Joint Committee who were directly involved in its preparation. The material contained in the report served as the basis for many questions asked of Mr. Rockefeller and other witnesses during the Committee hearings.”<sup>124</sup> The full House voted to approve the nomination on December 19, 1974.

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<sup>120</sup> Senate Hrg. Prt., p. 478.

<sup>121</sup> Senate Exec. Rpt. 93-34 (December 4, 1974).

<sup>122</sup> *Ibid*, p. 175.

<sup>123</sup> *Ibid.*, p. 179.

<sup>124</sup> House Judiciary Report, “*Confirmation of Nelson A Rockefeller as V-P of the United States*, Report together with Supplemental, Dissenting and Separate Views to accompany House Resolution 1511,” House Rpt. 93-1609, December 17, 1974. For detailed lists of the financial issues, loans, gifts, and investments, see appendices, at pp. 1063-1411.

**PART III: APPENDICES**

**APPENDIX A**

**Congressional Research Service Report of Tax Return Disclosure  
by Candidates for President and Vice President**



**MEMORANDUM**

January 30, 2019

**Subject:** Federal Tax Returns Disclosed by Selected Nominees for President and Vice President Since 1916

**From:** Julie Jennings, Senior Research Librarian, [jjennings@crs.loc.gov](mailto:jjennings@crs.loc.gov), 7-5896

**This memorandum was prepared to enable distribution to more than one congressional office.**

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This memorandum provides a list of major presidential and vice presidential nominees for each election held between 1916 and 2016, and the federal tax documents that they officially disclosed while running for office and while in office, if applicable and identified.

The data appears in two tables:

**Table 1.** Federal Tax Returns Disclosed by Selected Nominees for President Since 1916

**Table 2.** Federal Tax Returns Disclosed by Selected Nominees for Vice President Since 1916

### Methodology

The Tables are presented in reverse chronological order by election year, beginning with the most recent presidential election in 2016, and ending with the 1916 election.<sup>1</sup> To identify nominees, the three-volume work *The History of American Presidential Elections, 1789-2008* was used for elections from 1916-2008, and U.S. Electoral College data was used for 2012 and 2016.<sup>2</sup>

Nominees include Democrats, Republicans, and any other nominees who received more than 10% of the popular vote in the noted election. This represents 39 unique individuals who earned their party's nomination for President, and 44 unique individuals who earned their party's nomination for Vice President. In the tables below, each individual is listed each time he or she was nominated.<sup>3</sup>

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<sup>1</sup> The 1916 election was the first after the ratification of the 16<sup>th</sup> Amendment to the Constitution (1913), which created a permanent income tax.

<sup>2</sup> *History of American Presidential Elections 1789-2008* (4th Ed.), edited by Gil Troy, Arthur M. Schlesinger, Jr., and Fred L. Israel, published by Facts on File, 2012. United States Electoral College records are available from the National Archives and Records Administration, see specifically <https://www.archives.gov/federal-register/electoral-college/2012/popular-vote.html> and <https://www.archives.gov/federal-register/electoral-college/2016/popular-vote.html> (accessed 1/18/2019).

<sup>3</sup> Eleven individuals are listed twice in the presidential nominee list. Richard M. Nixon is listed three times, and Franklin D. Roosevelt is listed four. Ten individuals are listed twice in the vice presidential list. Four individuals were nominated for both

For each of these nominees, CRS searched for news articles mentioning disclosure of the nominee’s federal tax return, including the timing of any disclosure and types of documents disclosed.<sup>4</sup> Searches were conducted using the names of the nominees in combination with variations of the terms “tax” and “return” in sources that included subscription databases such as *ProQuest*, *ProQuest Historical Newspapers*, *CQ Almanac*, and *Tax Analysts*, as well as Internet resources.

The tables do not contain information for every tax year since 1916, nor do they contain information for every nominee. In fact, for some nominees, no evidence was found that they released any tax information. For others, articles mentioned personal finances, but made no mention of a tax return. For all nominees, especially those who ran for office more than once, it was sometimes difficult to discern when their returns were made public.

In the column labeled *Tax Return(s)* in each table, there are one or more of five descriptive terms – Full, Estimated, Partial, Summary, or None Identified. If the article which publicized the release of a return included a specific description of the return (e.g., summary, first two pages, estimated, etc.), it is noted in the column and described in the footnotes. If there was no detailed description of the actual document, a determination was made based on a reading of the article. If no determination could be made from reading the article, the term “Full” was used. If no articles were found concerning a nominee, the phrase “None Identified” was used.

Copies of the cited articles will be made available upon request.

Please note that because of the volume and variety of material identified and lack of standardization in reporting the release of tax returns by nominees, the information in this list should not be considered definitive or comprehensive.

**Table I. Federal Tax Returns Disclosed by Selected Nominees for President Since 1916**  
Democrats, Republicans, and Those Who Earned More than 10% of the Popular Vote

Election Year	Presidential Nominee	Tax Return(s)	Year(s)
2016	Donald J. Trump	None Identified <sup>5</sup>	
	Hillary Clinton	Full	2000-2015 <sup>6</sup>

President and Vice President in separate election years – Richard M. Nixon, Walter Mondale, George H.W. Bush, and Al Gore.

<sup>4</sup> This research was conducted by Maura Mullins, Research Librarian; Jared C. Nagel, Senior Research Librarian; Jennifer Teefy, Senior Research Librarian; and Julie Jennings, Senior Research Librarian.

<sup>5</sup> “Trump’s 1995 Tax Records Claim \$916 Million Loss,” *New York Times*; October 2, 2016; pg. A1. The article states, “Mr. Trump declined to comment on the documents. Instead, the campaign released a statement that neither challenged nor confirmed the \$916 million loss.” It also states, “Separately, a lawyer for Mr. Trump, Marc E. Kasowitz, emailed a letter to the Times arguing that publication of the records is illegal because Mr. Trump has not authorized the disclosure of any of his tax returns.” See also, “Trump paid \$38 million in taxes in 2005, the White House says,” *Washington Post*; March 15, 2017. The article states, “The Washington Post could not independently verify the 2005 return, but a statement from the White House indicated that it is authentic. The statement, issued to reporters anonymously to be attributed to a White House spokesperson, accused MSNBC of unlawfully releasing Trump’s tax returns.”

<sup>6</sup> “Statement of Jay Carson, Clinton Campaign Spokesman,” *Targeted News Service*; April 4, 2008. The article states, “Today

2012	Barack Obama	Full	2000-2011; <sup>7</sup> 2012-2015 <sup>8</sup>
	Mitt Romney	Full/Estimated/Partial	1990-2011 <sup>9</sup>
2008	Barack Obama	Full	2000-2007 <sup>10</sup>
	John McCain	Full	2006-2007 <sup>11</sup>
2004	George W. Bush	Full/Partial	2000-2001; <sup>12</sup> 2002; <sup>13</sup> 2003-2007 <sup>14</sup>
	John Kerry	Full	2003 <sup>15</sup>
2000	George W. Bush	Full	1999 <sup>16</sup>
	Al Gore	Full	1999 <sup>17</sup>

Senator Hillary Clinton and President Bill Clinton are releasing their tax returns for the years 2000 through 2006, and are providing information regarding their 2007 taxes as well. See also “Hillary releases 8 years of tax returns,” *Politico*; July 31, 2015, available at <https://www.politico.com/story/2015/07/hillary-clinton-releases-eight-years-of-tax-returns-120882> (accessed 1/28/2019). The article states, “The Clinton campaign made public eight years of returns – covering 2007 to 2014, essentially filling in the public record since she ran for president unsuccessfully eight years ago. As a result of the earlier campaign and her husband’s political career, the couple’s returns back to 1977 are now public.” See also “Clinton releases 2015 tax return, calls on Trump to release his,” *Washington Post*; August 12, 2016, available at [https://www.washingtonpost.com/politics/clinton-releases-2015-tax-return-calls-on-trump-to-release-his/2016/08/12/759bf95a-60a7-11e6-8e45-477372e89d78\\_story.html?utm\\_term=.7db6e9eed9a1](https://www.washingtonpost.com/politics/clinton-releases-2015-tax-return-calls-on-trump-to-release-his/2016/08/12/759bf95a-60a7-11e6-8e45-477372e89d78_story.html?utm_term=.7db6e9eed9a1) (accessed 1/28/2019). The article states, “Democratic presidential nominee Hillary Clinton and her husband, former president Bill Clinton, earned \$10.7 million last year according to their 2015 tax return, which her campaign released Friday along with a trove of other documents intended to apply pressure to Republican Donald Trump to do the same.”

<sup>7</sup> “Obamas and Bidens To Release Tax Returns,” *New York Times*; April 13, 2012, pg. A19.

<sup>8</sup> “President Obama and Vice President Biden’s 2012 Tax Returns,” April 12, 2013, <https://obamawhitehouse.archives.gov/blog/2013/04/12/president-obama-and-vice-president-biden-2012-tax-returns>; “President Obama and Vice President Biden’s 2013 Tax Returns,” April 11, 2014, <https://obamawhitehouse.archives.gov/blog/2014/04/11/president-obama-and-vice-president-biden-s-2013-tax-returns>; “President Obama and Vice President Biden’s 2014 Tax Returns,” April 10, 2015, <https://obamawhitehouse.archives.gov/blog/2015/04/10/president-obama-and-vice-president-biden-s-2014-tax-returns>; “President Obama and Vice President Biden’s 2015 Tax Return,” April 15, 2016, <https://obamawhitehouse.archives.gov/blog/2016/04/15/president-obama-and-vice-president-bidens-2015-tax-returns> (all accessed 1/28/2019).

<sup>9</sup> “Romney Reveals He Paid 14% Rate In '11 Tax Return,” *New York Times*; September 22, 2012; pg. A1. The article states that Romney released full returns for 2010 and 2011, and provided a letter from accountants with details about his tax rate from 1990-2009.

<sup>10</sup> “Book Sales Lifted Obamas’ Income in 2007 to a Total of \$4.2 Million,” *New York Times*; April 17, 2008; pg. A24.

<sup>11</sup> “McCain Releases His Tax Return, but Not His Wife’s,” *New York Times*; April 19, 2008; pg. A12.

<sup>12</sup> White House Press Releases dated April 13, 2001 (2000 return) and April 12, 2002 (2001 return).

<sup>13</sup> “The Bushes Report Income But Only Part of the Returns,” *New York Times*; April 12, 2003. The article states, “President and Mrs. Bush released part of their income tax returns yesterday, breaking with a 26-year tradition of sitting presidents fully informing the public about their income and taxes. A significantly fuller copy was made available to The New York Times.”

<sup>14</sup> White House Press Releases dated April 13, 2004 (2003 return), April 15, 2005 (2004 return), April 14, 2006 (2005 return), April 13, 2007 (2006 return), and April 11, 2008 (2007 return).

<sup>15</sup> “Kerry Releases 2003 Income Tax Returns,” *U.S. Newswire*; April 13, 2004. The article states “Sen. John Kerry has made public his 2003 income tax returns, as he has for past 20 years.”

<sup>16</sup> “Bushes pay \$449,827 tax, give \$210,165 to charity,” *San Antonio Express-News*; October 22, 2000; pg. 17A.

<sup>17</sup> “Office of the Vice President -- Vice President and Mrs. Gore release income tax returns,” *M2 Presswire*; April 17, 2000.

1996	Bill Clinton	Full	1993; <sup>18</sup> 1994; <sup>19</sup> 1995-1997; <sup>20</sup> 1998; <sup>21</sup> 1999 <sup>22</sup>
	Bob Dole	Full	1995 <sup>23</sup>
1992	Bill Clinton	Full	1980-1989; <sup>24</sup> 1990-1991; <sup>25</sup> 1992 <sup>26</sup>
	George H.W. Bush	Full	1988; <sup>27</sup> 1989; <sup>28</sup> 1990; <sup>29</sup> 1991 <sup>30</sup>
	H. Ross Perot <sup>31</sup>	None Identified <sup>32</sup>	
1988	George H.W. Bush	Full	Several years, up to 1987 <sup>33</sup>
	Michael Dukakis	Full	Several years, up to 1987 <sup>34</sup>
1984	Ronald Reagan	Full	1982 <sup>35</sup>

<sup>18</sup> "Clinton Taxes Laid Bare, Line by Line," *New York Times*; April 16, 1994, available at <https://www.nytimes.com/1994/04/16/us/clinton-taxes-laid-bare-line-by-line.html> (accessed 1/28/2019). Earlier in the year, the Clintons also released returns from 1977-1979, in response to ongoing questions about their involvement in the Whitewater land development company. See "1977-'79 returns appear to back Clinton on losses," *Baltimore Sun*; March 26, 1994.

<sup>19</sup> "Clinton to Get \$14,418 Refund Despite Bigger Income Tax Bite," *Los Angeles Times*; April 15, 1995; pg. 12.

<sup>20</sup> "Clinton Releases 1995 tax return," *Reuters*; April 12, 1996; "Clinton earns \$1 million, give most to charity," *Reuters News*, April 14, 1997; "Clinton can no longer claim millionaire status," *Reuters News*; April 13, 1998.

<sup>21</sup> "Gores and Clintons Release Figures From Tax Returns," *New York Times*; April 14, 1999.

<sup>22</sup> "Clinton, Gores file taxes; Bush defers," *News & Observer* (Raleigh, NC); April 15, 2000.

<sup>23</sup> "Dole's Release Their '95 Return," *Washington Post*; April 16, 1996; pg. A4.

<sup>24</sup> "Clinton report net worth of \$418,692," *Arkansas Democrat-Gazette*; July 24, 1990. The article states, "The financial statement was released along with the Clintons' federal and state income tax returns for the last 10 years. The information was made public in accord with ground rules negotiated by representatives of Clinton's campaign and the Arkansas Gazette."

<sup>25</sup> "Governor and Wife Made \$33,000 Less in 1991," *Associated Press*; April 17, 1992. The article states, "Gov. Bill Clinton and his wife, Hillary, earned \$33,000 less in 1991 than the year before, according to income tax returns the Clinton presidential campaign released Friday."

<sup>26</sup> "Clinton Pay \$70,228 in Taxes for 1992," *Los Angeles Times*; April 16, 1993, available at [http://articles.latimes.com/1993-04-16/news/mn-23549\\_1\\_tax-returns](http://articles.latimes.com/1993-04-16/news/mn-23549_1_tax-returns) (accessed 1/18/2019).

<sup>27</sup> "Bush Reveals His Tax Return - His 'Home' Was a Vacant Lot," *San Francisco Chronicle*; April 13 1989; pg. A10.

<sup>28</sup> White House, Office of the Press Secretary, Press Release, April 12, 1990.

<sup>29</sup> White House, Office of the Press Secretary, Press Release, April 15, 1991.

<sup>30</sup> "In Tally of '91 Income, President Lost to Both the I.R.S. and His Dog," *New York Times*; April 16, 1991, available at <https://www.nytimes.com/1992/04/16/us/in-tally-of-91-income-president-lost-to-both-the-irs-and-his-dog.html> (accessed 1/28/2019).

<sup>31</sup> Perot and his running mate, James Stockdale, garnered 18.91% of the popular vote in 1992.

<sup>32</sup> "Billionaire Rips Foes' Spending, Buys More Ads," *Chicago Sun Times*; October 30, 1992. The article states, "At the same time, the campaign announced that Perot has rejected news media requests to release his personal tax returns and medical records. Although such disclosures have become routine for presidential candidates, Perot concluded that releasing his tax and medical records at this late date would only "deflect" attention from the major issues, a spokeswoman said."

<sup>33</sup> "The Candidates' Money," *Washington Post*; May 12, 1988; pg. A20. The article states, "The three still active presidential candidates have now disclosed their income tax returns for several years up to 1987."

<sup>34</sup> *Ibid.*

<sup>35</sup> "Tax returns reveal the same old Reagan," *The Boston Globe*; April 20, 1983, pg. 15.

	Walter Mondale	Full	1971-1976; <sup>36</sup> 1974-1983 <sup>37</sup>
1980	Ronald Reagan	Full	1979 <sup>38</sup>
	Jimmy Carter	Full	1967-1976; <sup>39</sup> 1979 <sup>40</sup>
1976	Jimmy Carter	Full	1970-1975; <sup>41</sup> 1976 <sup>42</sup>
	Gerald Ford	Partial	1967-1972 <sup>43</sup>
1972	Richard M. Nixon	Full	1969-1972 <sup>44</sup>
	George McGovern	None Identified	
1968	Richard M. Nixon	None Identified	
	Hubert Humphrey	None Identified	
	George Wallace <sup>45</sup>	None Identified	
1964	Lyndon B. Johnson	None Identified	
	Barry Goldwater	None Identified	
1960	John F. Kennedy	None Identified	
	Richard M. Nixon	None Identified	
1956	Dwight D. Eisenhower	None Identified	
	Adlai Stevenson	None Identified	
1952	Dwight D. Eisenhower	Summary	1942-1951 <sup>46</sup>

<sup>36</sup> “Vice President’s ’76 Tax Return Cleared by IRS,” *Washington Post*; June 22, 1977, pg. A4. The article states, “During last year’s campaign, Mondale made public his tax returns for 1971 through 1975. He will continue to do so while he is Vice President, he said, and, like President Carter, he endorses the IRS’ plan to audit him and Carter’s income tax returns for each year they are in office.”

<sup>37</sup> “Bush Won’t Take Step To Release Tax Data,” *New York Times*; September 26, 1984; pg. A1. The article states, “Walter F. Mondale, the Democratic Presidential Nominee, has released his returns for the last 11 years, according to his deputy press secretary, Don Foley.”

<sup>38</sup> “Reagan Releases Tax Return; It Shows Wealthy Man Who’s Tight With a Dollar,” *Wall Street Journal*; August 1, 1980; pg. 30.

<sup>39</sup> “Carter Owes No U.S. Tax for ’76 But He Volunteers to Pay \$6,000,” *New York Times*; June 25, 1977; pg. 47. The article states, “The White House made the joint tax return by Mr. and Mrs. Carter public today, continuing a practice that Mr. Carter has followed for 10 years.”

<sup>40</sup> “Carter’s Net Worth Slips, Return Shows: President and Mondale Both Claim Refunds, Make Tax Forms Public,” *Los Angeles Times*; April 16, 1980, pg. B4.

<sup>41</sup> “Calls for Reform: Carter Says Tax Break Shows Need for Reform,” *Washington Post*; September 4, 1976; pg. A1; “Dollars and percentages: Ford leads Carter – in Tax Returns,” *Chicago Tribune*; September 2, 1976; pg. 1.

<sup>42</sup> “President Owes IRS \$160, but He Is Due Refund of \$8,971: Audit Shows Carters Overpaid On 1973 Joint Return, but Must Pay 1975 Back Tax,” *Wall Street Journal*; June 15, 1978; pg. 16.

<sup>43</sup> “Attention Returns to Ford’s Finances,” *The Hartford Courant*; October 10, 1976; pg. 1. It states, “The 13-page audit report, a copy of which was obtained by the Associated Press, does answer some questions about Ford’s finances. The audit was of Ford’s tax returns from 1967 to 1972. The report is dated Nov. 9, 1973.”

<sup>44</sup> “Nixon finances bared to rebut ‘false rumors,’” *Boston Sunday Globe*; December 9, 1973; pg. A1. Additional details can be found in the article “Tim Kaine wrongly says Richard Nixon released tax returns during campaign,” August 22, 2016, *Politifact Virginia*, available at <https://www.politifact.com/virginia/statements/2016/aug/22/tim-kaine/tim-kaine-wrongly-says-richard-nixon-released-tax/> (accessed 1/17/2019).

<sup>45</sup> Wallace and his running mate, Curtis LeMay, garnered 13.53% of the popular vote in 1968.

<sup>46</sup> “Ike Made \$888,000 in Decade,” *Daily Boston Globe*; October 15, 1952; pg. 1.

	Adlai Stevenson	Full	1942-1951 <sup>47</sup>
1948	Harry S. Truman	None Identified	
	Thomas E. Dewey	None identified	
1944	Franklin D. Roosevelt	None identified	
	Thomas E. Dewey	None identified	
1940	Franklin D. Roosevelt	None identified	
	Wendell Willkie	None identified	
1936	Franklin D. Roosevelt	None identified	
	Alfred M. Landon	None identified	
1932	Franklin D. Roosevelt	None identified	
	Herbert Hoover	None identified	
1928	Herbert Hoover	None Identified	
	Alfred E. Smith	None Identified	
1924	Calvin Coolidge	None Identified	
	John Davis	None Identified <sup>48</sup>	
1920	Warren Harding	None Identified	
	James Cox	None Identified	
1916	Woodrow Wilson	None Identified	
	Charles Evan Hughes	None Identified	

**Table 2. Federal Tax Returns Disclosed by Selected Nominees for Vice President Since 1916**  
Democrats, Republicans, and Those Who Earned More than 10% of the Popular Vote

Election Year	Vice Presidential Nominee	Tax Return(s)	Year(s)
2016	Mike Pence	Full	2006-2015 <sup>49</sup>
	Tim Kaine	Full	2006-2015 <sup>50</sup>
2012	Joseph Biden	Full	2000-2011; <sup>51</sup> 2012-2015 <sup>52</sup>

<sup>47</sup> “Is Stevenson A Millionaire?” *The Philadelphia Inquirer*; October 16, 1956, pg. 7. The article states, “In 1952, when Mr. Stevenson bared his income-tax returns for the 10 years previous, he showed an average net dividend income of \$28,000, or \$35,000 before taxes.”

<sup>48</sup> “Wheeler Asks Tax Returns Of Heads Of All Tickets,” *The Baltimore Sun*; October 25, 1924; pg. 2. The article states that Senator Burton K. Wheeler accused Secretary of the Treasury, Andrew Mellon, of “deliberately and premeditatedly” releasing select tax returns to the public, including that of John W. Davis, the Democratic candidate for the presidency. We have been unable to identify another resource which corroborates this statement.

<sup>49</sup> “Mike Pence Releases 10 Years of Tax Returns,” *New York Times*; September 10, 2016; Politics Section.

<sup>50</sup> “Clinton releases tax return, other financial details,” *Washington Post*; August 14, 2016, pg. A1. The article states, “The [Clinton] campaign also released 10 years’ worth of returns for her running mate, Sen. Tim Kaine (Va.), and his wife, Anne Holton.”

<sup>51</sup> “Obamas and Bidens To Release Tax Returns,” *New York Times*; April 13, 2012, pg. A19.

<sup>52</sup> “President Obama and Vice President Biden’s 2012 Tax Returns,” April 12, 2013, <https://obamawhitehouse.archives.gov/blog/>

	Paul Ryan	Full	2010-2011 <sup>53</sup>
2008	Joseph Biden	Full	1998-2007 <sup>54</sup>
	Sarah Palin	Full	2006-2007 <sup>55</sup>
2004	Richard Cheney	Full	2000-2007 <sup>56</sup>
	John Edwards	Partial	1994-2003 <sup>57</sup>
2000	Richard Cheney	Full/Partial	1990-1999 <sup>58</sup>
	Joseph Lieberman	Full	1990-1999 <sup>59</sup>
1996	Al Gore	Full	1994-1996; <sup>60</sup> 1997; <sup>61</sup> 1998; <sup>62</sup>
	Jack Kemp	Full	1986-1995 <sup>63</sup>
1992	Al Gore	Full	1992 <sup>64</sup>

2013/04/12/president-obama-and-vice-president-biden-2012-tax-returns; "President Obama and Vice President Biden's 2013 Tax Returns," April 11, 2014, <https://obamawhitehouse.archives.gov/blog/2014/04/11/president-obama-and-vice-president-biden-s-2013-tax-returns>; "President Obama and Vice President Biden's 2014 Tax Returns," April 10, 2015, <https://obamawhitehouse.archives.gov/blog/2015/04/10/president-obama-and-vice-president-biden-s-2014-tax-returns>; "President Obama and Vice President Biden's 2015 Tax Return," April 15, 2016, <https://obamawhitehouse.archives.gov/blog/2016/04/15/president-obama-and-vice-president-bidens-2015-tax-returns> (all accessed 1/28/2019).

<sup>53</sup> "Ryan releases tax returns for last two years," *Boston Globe*; August 17, 2012. See <https://www.boston.com/uncategorized/noprimarytagmatch/2012/08/17/paul-ryan-releases-two-years-of-tax-returns> (accessed 1/17/2019).

<sup>54</sup> "Biden Releases Tax Returns, In Part to Pressure Rivals," *New York Times*; September 13, 2008; pg. A13. The article states, "Senator Joseph R. Biden Jr. of Delaware, the Democratic vice-presidential nominee, released his and his wife's tax returns for the last 10 years on Friday and urged his Republican counterpart, Gov. Sarah Palin of Alaska, to do the same."

<sup>55</sup> "Palins release their tax returns," *Los Angeles Times*; October 4, 2008, available at <http://articles.latimes.com/2008/oct/04/nation/na-palinmoney4> (accessed 1/18/2019).

<sup>56</sup> White House Press Releases dated April 13, 2001 (2000 return), April 15, 2002 (2001 return), April 11, 2003 (2002 return), April 13, 2004 (2003 return), April 15, 2005 (2004 return), April 14, 2006 (2005 return), April 13, 2007 (2006 return), and April 11, 2008 (2007 return).

<sup>57</sup> "Edwards, Wife Made \$39 Million Over 10 Years," *Los Angeles Times*; September 4, 2004; pg. A24. The article states, "The campaign released copies of the first two pages of each year's tax returns."

<sup>58</sup> "Cheney Earned 80% on Stakes in Nine Initial Public Offerings," *New York Times*; October 25, 2000; pg. 24. The article states, "Mr. Cheney's trades were reported on his 1999 income tax return, which he released in nearly complete form at the request of The New York Times." It also states, "Mr. Cheney and his wife, Lynne, had previously disclosed only the first two pages of their tax returns for 1990 through 1999, holding back the supporting documentation that show details of investment income."

<sup>59</sup> *Ibid.*, The article states, "Vice-president Gore has disclosed his complete return each year since 1991 and Senator Joseph I. Lieberman, after he was nominated by the Democrats for vice president in August, released his complete tax returns back to 1990." See also, "Lieberman Tax Records Released," *Associated Press Online*; September 22, 2000. The article states, "Lieberman made the unusual decision to release his tax returns for the past 10 years, as well as the executive branch financial disclosure report."

<sup>60</sup> "Clinton pay \$55,313 in federal income taxes," *Reuters*; April 14, 1995; "Clinton Releases 1995 tax return," *Reuters*; April 12, 1996; "Clintons earn \$1 million, give most to charity," *Reuters News*, April 14, 1997.

<sup>61</sup> "Gores' Charitable Giving Raises Some Eyebrows," *CNN*; April 15, 1998, available at <http://www.cnn.com/ALLPOLITICS/1998/04/15/gore.taxes/> (accessed 1/18/2019).

<sup>62</sup> "Gores and Clintons Release Figures From Tax Returns," *New York Times*; April 14, 1999, available at <https://www.nytimes.com/1999/04/14/us/gores-and-clintons-release-figures-from-tax-returns.html> (accessed 1/23/2019).

<sup>63</sup> "Kemp Records Show Big Jump in Income," *Washington Post*; September 6, 1996. The article states, "As a vice-presidential candidate, Kemp is required to file a financial disclosure form listing his assets, liabilities and earnings. In addition to releasing that information, Kemp also provided copies of his tax returns for the past 10 years, and medical records."

<sup>64</sup> "Clintons Pay \$70,228 in Taxes for 1992," *Los Angeles Times*; April 16, 1993, available at [http://articles.latimes.com/1993-04-16/news/mn-23549\\_1\\_tax-returns](http://articles.latimes.com/1993-04-16/news/mn-23549_1_tax-returns) (accessed 1/18/2019).

	Dan Quayle	Full	1991; <sup>65</sup> 1989 <sup>66</sup>
	James Stockdale <sup>67</sup>	None Identified	
1988	Dan Quayle	Full	1978-1987 <sup>68</sup>
	Lloyd Bentsen	Full	1983-1987 <sup>69</sup>
1984	George H.W. Bush	Full	1973-1983 <sup>70</sup>
	Geraldine Ferraro	Full/Partial	1979-1983 <sup>71</sup>
1980	George H.W. Bush	Full	1973-1978 <sup>72</sup>
	Walter Mondale	Full	1979 <sup>73</sup>
1976	Walter Mondale	Full	1970-1975 <sup>74</sup>
	Robert Dole	None Identified	
1972	Spiro Agnew <sup>75</sup>	None Identified	
	R. Sargent Shriver	None Identified	
1968	Spiro Agnew	None Identified	
	Edmund Muskie	None Identified	

<sup>65</sup> “A 1040 Form Signed with a PawPrint,” *Washington Post*; April 16, 1992.

<sup>66</sup> “Bushes Paid Over \$101,000 In '89 Taxes, Return Shows,” *Wall Street Journal*; April 13, 1990; pg. A12.

<sup>67</sup> Stockdale and his running mate, H. Ross Perot, garnered 18.91% of the popular vote in 1992.

<sup>68</sup> “Net Worth of Quayles Put at \$859,700 by Firm,” *New York Times Archive*; September 10, 1988. The article states, “The campaign also made public income tax returns of the Republican Vice-Presidential nominee dating to 1978, which show that the bulk of his income comes from his Senate salary, with very little from his family's newspaper empire.”

<sup>69</sup> “Bentsen Releases Financial Data; Medical Summary Also Disclosed,” *New York Times*; August 18, 1988; pg. A21.

<sup>70</sup> “Bush Admits He's Worth \$2.1 Million; Mum on Tax,” *The Hartford Courant*; August 18, 1984; pg. A4.

<sup>71</sup> “Ferraro Discloses She, Spouse Paid Taxes Of About 40% of Total Income Since 1979,” *Wall Street Journal*; August 21, 1984; pg. 1.

<sup>72</sup> “Tax files show candidates honest,” *Chicago Tribune*; October 16, 1979; pg. 4. The article states, “George Bush, a Republican whom we recently interviewed, has released his tax returns and made a complete financial disclosure for the last six years and, unsurprisingly, asked his rivals to reveal theirs.”

<sup>73</sup> “Carter's Net Worth Slips, Return Shows: President and Mondale Both Claim Refunds, Make Tax Forms Public,” *Los Angeles Times*; April 16, 1980, pg. B4.

<sup>74</sup> “Dole is Reported Linked to '73 gift by Gulf Oil.” *New York Times*; September 6, 1976; pg. 1. The article states, “Both Mr. Carter and his running mate, Senator Walter F. Mondale of Minnesota, have made public their tax returns for the last five years.”

<sup>75</sup> Spiro Agnew resigned October 10, 1973. President Nixon nominated Gerald R. Ford, House minority leader, to succeed Agnew. During his confirmation hearings, Ford provided seven years of income tax returns (1966-1972) and other tax documents to House and Senate committees. See “Nomination of Gerald R. Ford of Michigan to be Vice President of the U.S.,” November 1, 5, 7, 14, 1973, hearing held by the Senate Committee on Rules and Administration. See also “Nomination of Gerald R. Ford of Michigan to be Vice President of the U.S.,” November 15, 16, 19, 20, 21, and 26, 1973, hearing held by the House Committee on the Judiciary. Ford was sworn in as Vice President on December 6, 1973. Subsequently, Ford became President when Richard Nixon resigned on August 9, 1974. President Ford nominated Nelson A. Rockefeller, former governor of New York, to succeed himself (Ford) as Vice President. During his confirmation hearings, Rockefeller provided seven years of income tax returns (1967-1973) and numerous other tax documents to House and Senate committees. See H.Rpt. 93-1609, “Confirmation of Nelson A. Rockefeller as Vice President of the United States,” (December 17, 1974) by the House Committee on the Judiciary. See also “Nomination of Nelson A. Rockefeller of New York to be Vice President of the U.S.,” September 23-26, November 13-15, 18, 1974, hearing held by the Senate Committee on Rules and Administration, and “Hearing to consider the nomination of Nelson A. Rockefeller (former Gov, New York State) to be Vice President,” November 21-22, 25-27, December 2-5, 1974, held by the House Committee on the Judiciary. Rockefeller was sworn in as Vice President on December 19, 1974.



	Curtis LeMay <sup>76</sup>	None Identified	
1964	Hubert Humphrey	None Identified	
	William Miller	None Identified	
1960	Lyndon B. Johnson	None Identified	
	Henry Cabot Lodge	None Identified	
1956	Richard M. Nixon	None Identified	
	Estes Kefauver	None Identified	
1952	Richard M. Nixon	None Identified <sup>77</sup>	
	John Sparkman	Full	1944-1951 <sup>78</sup>
1948	Alben W. Barkley	None Identified	
	Earl Warren	None Identified	
1944	Harry S. Truman	None Identified	
	John W. Bricker	None Identified	
1940	Henry Wallace	None Identified	
	Charles McNary	None Identified	
1936	John N. Garner	None Identified	
	Frank Knox	None Identified	
1932	John N. Garner	None Identified	
	Charles Curtis	None Identified	
1928	Charles Curtis	None Identified	
	Joseph Robinson	None Identified	
1924	Charles Dawes	None Identified	
	Charles Bryan	None Identified	
1920	Calvin Coolidge	None Identified	
	Franklin D. Roosevelt	None Identified	
1916	Thomas Marshall	None Identified	
	Charles Fairbanks	None Identified	

<sup>76</sup> LeMay and his running mate, George Wallace, garnered 13.53% of the popular vote in 1968.

<sup>77</sup> "Sparkman Lists 8-Year Tax Returns," *New York Times*; October 5, 1952; pg. 62. The article states, "The release of the Sparkman and Stevenson tax returns stemmed from a challenge by Senator Richard M. Nixon, Republican Vice presidential candidate, during his broadcast last month giving a report of his financial status...Senator Nixon declared he would make no further financial reports."

<sup>78</sup>Ibid., pg. 1.

## **APPENDIX B**

### **IRM Provisions Relating to The President's and Vice President's Individual Income Tax Returns**

There are three parts in the IRM that relate to the President's and the Vice President's individual income tax returns: Part 3, chapter 28, section 3; Part 4, chapter 2, section 1; and Part 4, chapter 8, section 4.

On the following pages, these provisions are provided as they appear in the IRM (including bolding), in their entirety.

**Part 3. Submission Processing**  
**Chapter 28. Special Processing Procedures**  
**Section 3. Individual Income Tax Returns**

**3.28.3.2 (01-01-2019). Introduction**

1. This section of the Internal Revenue Manual (IRM) provides instructions for processing:
  - The tax returns and accounts of the President and Vice President of the United States of America.
  - The tax returns of political appointees who have their assets placed in a qualified blind trust as defined by section 102(f)(3) of the Appendix to Title 5 of the United States Code (or any successor provision of the United States Code).
2. These procedures apply to all functions within the campuses.
3. The tax returns of the President and Vice President will be mailed to the Field Director, Austin Submission Processing Campus.
4. The Field Director of Austin can designate the **walk-through** processing of the President and Vice President's returns to a subordinate. This person must make sure that the original returns are not unnecessarily folded or bent, and the edit marks and stamps are neatly placed on the returns, since they are deemed permanent records by the National Archives.
5. When filing a political appointee's tax return, the trustees of to a qualified blind trust as defined by section 102(f)(3) of the Appendix 4 to Title 5 of the United States Code ("blind trust") are to follow the "Where to File" Instructions for Form 1040 and file the tax return at the appropriate campus based on the appointee's address.
6. The President, Vice President, or any political appointee who has placed his/her assets in a blind trust must request permission for the trustee to prepare and file their individual tax return. The request for permission must be in writing and be submitted with the tax return and a properly executed Form 2848, Power of Attorney and Declaration of Representative. Permission for the trustee to prepare and file the return will be granted automatically on receipt of the required documents. The IRS does not send an approval letter to the President, Vice President, political appointee or trustee.

**3.28.3.3 (01-01-2019). Deviations From This Internal Revenue Manual (IRM)**

1. Service Center Directors, Headquarter Branch Chiefs, and Headquarter Analysts do not have the authority to approve deviations from IRM procedures. Any request for an exception or deviation to an IRM procedure must be elevated through appropriate channels for executive approval. This will ensure that other functional areas are not adversely affected by the changes and that it does not result in disparate treatment of taxpayers.
2. See guidelines in IRM **1.11.2**, Internal Management Documents System, **Internal Revenue Manual (IRM) Process**. Request for an IRM deviation must be submitted in writing and signed by the Field Director, following instructions from IRM **1.11.2.2.4**.
3. Any disclosure issues will be coordinated by the Program Owner. No deviations can begin until they are reviewed by the Program Owner and approved at the Executive Level. All requests must be submitted to the Submission Processing Headquarters IRM Coordinator.

### 3.28.3.3.1 (01-01-2019). Acronyms

1. An acronym is an abbreviated word formed from the initial letter or letters of each major part of a compound term, such as IDRS for Integrated Data Retrieval System.
2. A list of some of the acronyms and definitions used in this IRM are listed in the chart below.

ACRONYM	DEFINITION
CAF	Centralized Authorization File
DIF	Discriminant Index Function
IDRS	Integrated Data Retrieval System
IRM	Internal Revenue Manual
IT	Information Technology
POA	Power of Attorney
SB/SE	Small Business/Self-Employed
SP	Submission Processing
W&I	Wage & Investment

### 3.28.3.4 (01-01-2019). Processing Returns and Accounts of the President and Vice President

1. Follow the instructions in this subsection of the manual when processing the individual tax returns and accounts of the President and Vice President of the United States in office at the time of filing.
2. This IRM provides procedures for:
  - Individual and Gift Tax Returns Processing
  - Account Data Storage and Access
  - Mandatory Examination

#### 3.28.3.4.1 (01-01-2019). Individual and Gift Tax Return Processing

1. Follow the normal return-processing procedures for all tax returns of the President and Vice President of the United States.
2. Maintain the privacy of the tax return of the President and Vice-President **at all times** during processing.
  - Ensure that other employees in the immediate area cannot view the returns.
  - Keep the returns locked in a secure drawer or cabinet while you are away from your work area and the returns are still under your control.
3. Once the individual income tax return has posted, make a photocopy of the return and stamp “COPY” in the top margin of the copy. Route the copy to Files.
4. Forward the **original** processed individual income tax return in double-sealed envelopes to prevent any damage to the return to:  
Internal Revenue Service  
Deputy Commissioner for Services and Enforcement  
1111 Constitution Ave NW, Room 3000 IR  
Washington, DC 20224

5. The tax returns of both the President and Vice President are permanent records under the Records Control Schedules Document 12990, RCS 8, Item 12, since they are deemed permanent records by the National Archives.
6. Process gift tax returns in accordance with the same procedures relating to all taxpayers.

**3.28.3.4.2 (01-01-2019). Account Data Storage and Access**

1. Carry the account data of the President and Vice President on the appropriate Master File.
2. Do not subject the accounts to restricted access procedures.

**3.28.3.4.3 (01-01-2019). Mandatory Examination**

1. Individual income tax returns for the President and Vice President are subject to mandatory examinations. See IRM 4.2.1.11, *Processing Returns and Accounts of the President and Vice President*.
2. The Small Business/Self-Employed (SB/SE) Director of Examination will determine the area office responsible for the examination of the return.
3. Copies of the returns to be examined will be transmitted after the examining office with jurisdiction is selected. Copies of returns must bear the word **Copy** in the top right margin. The transmittal memorandum will contain the following directions:
  - A. Regardless of the Discriminant Index Function (DIF) score, the returns will be examined.
  - B. IRS personnel, including specialists, will be assigned to the examination as appropriate.
  - C. The Examination Area Director, or his/her designee, will arrange for contact with the authorized representatives of the President and Vice President for the beginning of the examination.
  - D. All relevant IRM procedures will apply to these return examinations.
  - E. The examination papers of the President and Vice President are subject to regular retention procedures Document 12990, RCS 23, Item 43a.

**Part 4. Examining Process**  
**Chapter 2. General Examining Procedures**  
**Section 1. General Examination Information**

**4.2.1.11 (04-23-2014). Processing Returns and Accounts of the President and Vice President**

1. The individual income tax returns for the President and Vice President are subject to mandatory examinations and cannot be surveyed. See IRM 3.28.3.2.3, *Mandatory Examination*.
2. Copies of the returns to be examined will be transmitted by the Office of the Deputy Commissioner for Services and Enforcement to the SB/SE, Director, Examination.
3. The area responsible for the examination will be determined by the SB/SE, Director, Examination or his or her designee. After a determination is made as to the area having jurisdiction, copies of the returns will be transmitted to the area planning and special programs (PSP) territory manager for control and assignment to the appropriate field group. The transmittal memorandum will contain the following instructions:
  - A. Regardless of discriminant index function (DIF) score, the returns will be examined.
  - B. IRS personnel, including specialists, will be assigned to the examination as appropriate.
  - C. The Examination Area Director, or his or her designee, will arrange for contact with the authorized representative of the President and or Vice President for the examination.
  - D. All relevant IRM procedures will apply to these returns.
4. Upon receipt, the group should ensure Project Code 0207, *Treasury Mandates*, and Source Code 46, *Employee Returns*, have been input for the primary and any prior or subsequent year returns.
5. The returns must be assigned within 10 business days of receipt in the group. The returns require expeditious handling at all levels to ensure prompt completion of the examinations.
6. Related returns, including estate and gift tax returns, will be handled in accordance with procedures relating to all taxpayers.
7. The location of the returns of the President and Vice President will be monitored at all times throughout the examination process.
  - A. The returns should be kept in an orange folder at all times.
  - B. The returns should not be exposed to viewing by other employees.
  - C. The returns should be locked in a secure drawer or cabinet when the examiner is away from the work area.
8. The returns should be processed similar to the examination of an employee return per IRM 4.2.6, *Examination of Employee Returns*, with the exception of the following:
  - A. The returns of the President and Vice President are mandatory examinations and cannot be surveyed.
  - B. The returns are subject to mandatory review and must be closed directly to the Employee Audit Reviewer in Baltimore Technical Services. The “Other” box in the “Forward to Technical Services” section of Form 3198 must be checked and the examiner should notate “President (or Vice President) Examination; Forward

to Baltimore Technical Services.” The examining area will notify Baltimore Technical Services when the return is being forwarded.

- C. Baltimore Technical Services will provide Centralized Case Processing (CCP) with advance notice when the return is being closed.

**Part 4. Examining Process**  
**Chapter 8. Technical Services**  
**Section 4. Mandatory Review**

**4.8.4.1 (05-17-2012). Overview**

1. This section provides guidelines for the evaluation of cases that must be reviewed.

**4.8.4.2 (05-20-2014). Cases Subject to Mandatory Review**

1. Cases subject to mandatory review include:
  - A. Joint Committee—IRM 4.36, *Joint Committee Procedures*
  - B. Employee audits—IRM 4.2.6, *Examination of Employee Returns*
  - C. Individual income tax returns for the President and Vice President—IRM 4.2.1.11, *Processing Returns and Accounts of the President and Vice President*
  - D. Jeopardy and Termination—IRM 4.8.8.7, *Jeopardy and Terminations*
2. Although there are a limited number of identified mandatory review categories, field compliance areas have the discretion to request any type or group of cases as a 100% review category if reviews are considered essential.
3. National research program (NRP) cases are not mandatory review but may meet other mandatory review criteria. Normal processing procedures should be followed. Reviewers may be requested to conduct in-process reviews.

**4.8.4.2.5 (03-12-2015). Audit of President and Vice President**

1. The individual tax returns for the President and the Vice President are subject to mandatory review and will be closed directly to the “employee audit reviewer” in Baltimore Technical Services. See IRM 4.2.1.11 (8). The “Other” box in the “Forward to Technical Services” section of Form 3198 must be checked and the examiner should notate “President (or Vice President) Examination; Forward to Baltimore Technical Services.” The examining area will notify the group manager for the Baltimore Technical Services when the return is being shipped. Baltimore Technical Services will provide advance notice to Memphis Centralized Case Processing (CCP), “Miscellaneous Group”, when the return is being closed.
2. The location of the returns of the President and Vice President will be monitored at all times throughout the examination process.
  - A. The returns should be kept in an orange folder at all times.
  - B. The returns should not be exposed to viewing by other employees.
  - C. The returns should be locked in a secure drawer or cabinet when the examiner is away from the work area.
3. See *IRM 4.8.4.2.4.3(a)* and (b) for key points to remember during the review of the returns.



**APPENDIX C**

**Disclosure Report for Public Inspection Pursuant to Internal Revenue  
Code Section 6103(p)(3)(C) for Calendar Year 2017**

**DISCLOSURE REPORT FOR PUBLIC INSPECTION  
PURSUANT TO INTERNAL REVENUE  
CODE SECTION 6103(p)(3)(C) FOR CALENDAR YEAR 2017**

Prepared by the  
INTERNAL REVENUE SERVICE

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Published by the Staff  
of the  
JOINT COMMITTEE ON TAXATION



April 12, 2018  
JCX-29-18

## INTRODUCTION

Section 6103(p)(3)(C) of the Internal Revenue Code provides that the Secretary of the Treasury shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report which provides, with respect to each Federal agency and certain other entities, the number of: (1) requests for disclosure of returns and return information (as such terms are defined in section 6103(b)); (2) instances in which returns and return information were disclosed pursuant to such requests or otherwise; and (3) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests.<sup>1</sup> In addition, the report must describe the general purposes for which such requests were made.

Pursuant to section 6103(p)(3)(C), the Internal Revenue Service (“IRS”) prepared a disclosure report for public inspection covering calendar year 2017. This document sets forth the report of the Internal Revenue Service.<sup>2</sup>

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<sup>1</sup> Unless otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended.

<sup>2</sup> This document may be cited as follows: Joint Committee on Taxation, *Disclosure Report for Public Inspection Pursuant to Internal Revenue Code Section 6103(p)(3)(C) for Calendar Year 2017* (JCX-29-18), April 12, 2018. This document can be found on the Joint Committee on Taxation website at [www.jct.gov](http://www.jct.gov).

**Disclosure Report for Public Inspection  
Pursuant to 26 USC Section 6103(p)(3)(C)**

**Internal Revenue Service**

**Calendar Year 2017**

**Calendar Year 2017 Volume of Disclosures of Tax Returns and/or Return Information  
Required to Be Accounted for Pursuant to 26 USC Section 6103(p)(3)(A)**

<b>Disclosure To/For</b>	<b>IRC Section 6103 Subsection</b>	<b>Bulk Master File Data</b> (See Note 1)	<b>Other Disclosures</b> (See Note 2)	<b>Total Number of Disclosures</b> (See Note 3)
Tax Checks	(c)	0	12,265	12,265
States	(d)	9,015,148,537	225,680,886	9,240,829,423
Joint Committee on Taxation	(f)	59,774,930	0	59,774,930
GAO, as Agent to Congressional Committees	(f)	92,031,674	0	92,031,674
President and Head of Agencies	(g)	0	0	0
Department of Justice <sup>(See Note 6)</sup>	(h)(3)(B)	0	0	0
US Attorneys <sup>(See Note 4)</sup>	(i)(1)	0	23,248	23,248
US Attorneys	(i)(2)	0	349	349
FBI	(i)(3)(A)	0	0	0
Other	(i)(3)(A)	0	0	0
FBI	(i)(3)(B)	0	65	65
Other	(i)(3)(C)	0	0	0
Other	(i)(7)(A)	0	0	0
Other	(i)(7)(B)	0	0	0
US Attorneys	(i)(7)(C)	0	0	0
Government Accountability Office	(i)(8)	0	2,562	2,562
Bureau of Census	(j)(1)(A)	1,483,431,140	682,428	1,484,113,568
Bureau of Economic Analysis	(j)(1)(B)	0	379	379
Treasury Office of Economic Policy	(j)(3)	0	4,918,671	4,918,671
Department of Agriculture	(j)(5)	2,190,520	0	2,190,520
Congressional Budget Office	(j)(6)	0	4,918,671	4,918,671
Foreign Countries Tax Treaty Authority <sup>(See Note 5)</sup>	(k)(4)	2,003,542	3,786	2,007,328
Bureau of Prisons (Federal and State)	(k)(10)	0	0	0
Department of Labor Pension Benefit Guaranty Corporation	(l)(2)	0	343	343
Federal Agencies	(l)(3)	0	0	0
Department of Treasury Employees	(l)(4)(A)	0	4	4
Child Support Enforcement Agencies	(l)(6)	9,496,583	0	9,496,583
Medicare Premium Subsidy Adjustment	(l)(20)	9,712,737	0	9,712,737
Affordable Care Act	(l)(21)	86,919,551	0	86,919,551
States IRC Section 6104(c)		0	19,444	19,444
<b>TOTALS</b>		<b>10,760,709,214</b>	<b>236,263,101</b>	<b>10,996,972,315</b>

**Reference Notes:**

- (1) Bulk Master File Data: Disclosures are generated when an agency receives data from an IRS database extract of taxpayer information. Each extract contains different data elements of a taxpayer's account information based on the nature and purpose of the specific extract. A block of data elements for one taxpayer for one year or period constitutes one record and is counted as one disclosure. In order to account for any disclosure, the taxpayer's identity information (taxpayer's name, identification number and/or address) is included in every extract record. Other data specific to that extract is included in the record depending on the extract. Each record, regardless of amount of data elements constitutes one disclosure. Examples of varying data elements within a record include, for example: income; specific line items (or unique combinations of line items) from a tax return; account transactions (payments, assessments, refunds, adjustments); math and audit adjustments; filing dates and other filing activities such as extensions, filing status and exemptions. Each tax year or period disclosed for each record is counted as one disclosure.
- (2) Other Disclosures: Disclosures that are not bulk/extract disclosures also vary depending on what is included in the record. Disclosures are made when the IRS releases transcripts of accounts, permits inspection of or furnishes photocopies of records, makes oral disclosures, and any disclosure by means of correspondence without furnishing a copy of the record. Also included are disclosures from locally automated files. Examples include copies of examination or collection administrative files. When some or all of the contents of an administrative file are disclosed, the IRS counts the number of disclosures based on the number of taxpayers and tax years or periods contained within that file.
- (3) Disclosure Counts: The number of disclosures of tax information depends on the type of record disclosed and what constitutes a *record* subject to disclosure accounting. Generally, when the IRS discloses some part of one taxpayer's record for one tax year or period, the IRS counts that as one disclosure. For example, if the IRS discloses a return transcript to a state tax agency, the IRS counts one disclosure for every tax year each time a transcript is disclosed. If the agency receives a transcript for two tax years, the IRS counts that as two disclosures. If the agency receives three different transcripts for the same taxpayer and tax year, the IRS counts three disclosures since each transcript is a separate record.

Internal Revenue Service  
Disclosure Report (cont'd)

(4) United States Attorneys: Disclosures pursuant to an Ex Parte Court Order under IRC Section 6103(i)(1) are generally made to the Department of Justice, U.S. Attorney's Office (USAO). In prior years, the majority of disclosures were to the USAO. When directed by the Ex Parte Order and in coordination with the USAO instructions, the IRS disclosed in a small number of cases, return information directly to the named law enforcement employees of the Drug Enforcement Agency (DEA), Federal Bureau of Investigation (FBI), and other agencies (Other). The small numbers of disclosures directly to those agencies are still coordinated with the USAO. Employees of these law enforcement agencies conduct the non-tax criminal investigations, assist the USAO in the Ex Parte application process and use the return information obtained to further those investigations. To simplify the report, we combined all Ex Parte disclosures into one line item.

(5) Foreign Tax Treaty Disclosures:

The total number of disclosures are from both Bulk Master File Data and Other Sources:

- 2,003,542 – Disclosures from Bulk Master File Data; relating to automatic exchanges of information by the United States to a competent authority of a foreign government with which the United States has an income tax convention or other bilateral agreement relating to exchange of information with the United States. The data exchanged are drawn from the information reported to the IRS annually by withholding agents on Form 1042-S (Foreign Person's U.S. Source of Income Subject to Withholding). For 2017, these disclosures predominantly relate to information with respect to reportable accounts maintained by residents of foreign jurisdictions in reporting U.S. financial institutions (or U.S. branches of foreign financial institutions) and are made to the competent authority of a foreign government that has concluded with the United States a Model 1A Intergovernmental Agreement (IGA) implementing the Foreign Account Tax Compliance Act (FATCA) and that has been determined by Treasury and the IRS to be an appropriate jurisdiction with which to have an automatic exchange relationship. This information is provided reciprocally to certain foreign jurisdiction tax administrations for the first time in accordance with Article 2(2)(b) of the IGA.
- 3,786 – Disclosures from Other Sources: consisting of taxpayer-specific returns or return information made to a competent authority of a foreign government with which the United States has an income tax convention or other bilateral agreement relating to the exchange of tax information with the United States.

Internal Revenue Service  
Disclosure Report (cont'd)

(6) Department of Justice:

- IRC section 6103(h)(2) provides the standards that must be met for authorized disclosures to officers and employees of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, and proceeding before a Federal grand jury or preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court. Those disclosures made to the Department of Justice under the provisions of IRC section 6103(h)(3)(B), requiring a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, are reported in accordance with IRC section 6103(p)(3).



**Explanation of Internal Revenue Code Section 6103**

**IRC Section 6103 Subsection**

**Purpose of Disclosure**

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| (c)       | Disclosure of returns and return information to the designee of the taxpayer.  |
| (d)       | Disclosure of returns and return information to State tax officials having responsibility for administering State tax law.   |
| (f)       | Disclosure of returns and return information to Committees of Congress or their agents (including Government Accountability Office (GAO) and the Joint Committee on Taxation (JCT)).   |
| (g)       | Disclosure of returns and return information of any taxpayer by request of the President, or for return information of taxpayers considered for appointment to the executive or judicial branches by the President or head of any Federal agency.  |
| (h)(3)(B) | Disclosure of returns and return information to the Department of Justice in a tax administrative matter for use in, or preparing for, any proceeding or investigation before a Federal Grand Jury, Federal or State court, pursuant to a written request by the Attorney General, Deputy or Assistant Attorney General. |
| (i)(1)    | Disclosure of returns and return information to Federal officers or employees upon the grant of an ex parte order by a Federal district court judge or magistrate for use in Federal non-tax criminal investigations.  |
| (i)(2)    | Disclosure of return information, other than taxpayer return information, to Federal officers or employees for use in Federal nontax criminal investigations, upon request by the head of the agency or Inspector General thereof (or designated officials of the Department of Justice).                                |
| (i)(3)(A) | Disclosure of return information, other than taxpayer return information, to apprise appropriate Federal officials of potential violations of Federal criminal law.  |

**Explanation of Internal Revenue Code Section 6103**

**IRC Section 6103 Subsection**

**Purpose of Disclosure**

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| (i)(3)(B) | Disclosure of return information in situations involving the imminent threat of death or physical injury to any individual. Disclosure is made to Federal or State law enforcement. Also includes disclosure to Federal law enforcement in situations involving flight from Federal prosecution.                          |
| (i)(3)(C) | Disclosure of return information, other than taxpayer return information, to appropriate Federal law enforcement agencies in situations that may be related to a terrorist incident, threat, or activity.   |
| (i)(7)(A) | Disclosure of return information, other than taxpayer return information, to officers and employees of any Federal law enforcement agency personally and directly engaged in the response to or investigation of any terrorist incident, threat, or activity.   |
| (i)(7)(B) | Disclosure of return information, other than taxpayer return information, to Federal agencies engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity upon receipt of a valid written request by the Secretary. |
| (i)(7)(C) | Disclosure of return or return information to a Federal law enforcement or Federal intelligence agency engaged in any investigation, response to, or analysis of information concerning a terrorist incident, threat, or activity upon grant of an ex parte court order by a Federal district court judge or magistrate.  |
| (i)(8)    | Return and return information is open to inspection by the Government Accountability Office for purposes of auditing, among others, the Internal Revenue Service.   |
| (j)(1)(A) | Disclosure of returns, or return information reflected thereon, to the Bureau of Census in activities allowed by law.   |

**Explanation of Internal Revenue Code Section 6103**

**IRC Section 6103 Subsection**

**Purpose of Disclosure**

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|-----------|---|
| (j)(1)(B) | Disclosure of return information reflected on returns of corporations to the Department of Commerce for statistical use by the Bureau of Economic Analysis in activities allowed by law.  |
| (j)(3)    | Disclosure of Social Security data extracts of individual Social Security earnings and benefits to the Department of Treasury Office of Economic Policy for use in preparing economic or financial forecasts, projections, analyses, and statistical studies. |
| (j)(5)    | Disclosure of returns, or return information reflected thereon, to the Department of Agriculture for structuring, preparing, and conducting the Census of Agriculture as allowed by law.  |
| (j)(6)    | Disclosure of return information to the Congressional Budget Office for long-term modeling of the Social Security and Medicare programs.  |
| (k)(4)    | Disclosure of returns or return information to the competent authority of a foreign government that has a tax convention or bilateral information exchange agreement with the United States.  |
| (k)(10)   | Disclosure of returns or return information to the Federal Bureau of Prisons or any State agency charged with administration of State prisons to the extent the IRS determines an incarcerated individual filed or facilitated in filing a false return.      |
| (l)(2)    | Disclosure of returns and return information to the Department of Labor and Pension Benefit Guaranty Corporation for administration of Titles I and IV of the Employee Retirement Income Security Act of 1974.  |
| (l)(3)    | Disclosure of tax delinquent account indicator to Federal agencies to determine the credit worthiness of a Federal loan applicant.  |

**Explanation of Internal Revenue Code Section 6103**

<b><u>IRC Section 6103 Subsection</u></b>	<b><u>Purpose of Disclosure</u></b>
(1)(4)(A)	Disclosure of returns and return information for use in personnel or claimant representative matters by employees of the Department of the Treasury or practitioners who are the subject of such matters, or their representatives.
(1)(6)	Disclosure of return information to Federal, State, and local child support enforcement agencies for use in establishing and collecting child support obligations from and locating individuals owing such obligations.
(1)(20)	Disclosure of return information to the Commissioner of Social Security for use in establishing the appropriate amount of any Medicare part B premium adjustment under section 1839 of the Social Security Act.
(1)(21)	Disclosure of return information to the Secretary of Health and Human Services for use in determining any premium tax credit, cost-sharing reduction, eligibility for participation in a State's Medicaid program, a State's children's health insurance, or a basic health program covered by the Patient Protection and Affordable Care Act.
IRC Section 6104(c)	Disclosure of certain information pertaining to charitable organizations to appropriate State officers.