

Internal Revenue Service, Treasury

§ 301.6103(p)(7)-1

and to disclosure authorizations executed in prior calendar years, and

(3) Taxpayers whose returns or return information with respect to whom was disclosed pursuant to the disclosure authorization described in subparagraph (2).

In addition, in order to enable the Service to make a timely submission of the report to the Joint Committee on Taxation required by section 6103(p)(3)(B), the Federal agency shall furnish to the Commissioner a report with respect to, or summary of, the records at such time or times, in such form, and containing such information as the Commissioner may prescribe in a written request directed to the head of such Federal agency. The requirements of this paragraph do not apply to disclosures of taxpayer identity information described in section 6103(m) or to disclosures of returns and return information as provided by paragraph (a) which, had such disclosures been made directly by the Service, would not have been subject to the record-keeping requirements imposed by section 6103(p)(3)(A).

(Secs. 6103 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1667, 68A Stat. 917; 26 U.S.C. 6103 and 7805))

[T.D. 7723, 45 FR 65574, Oct. 3, 1980, as amended by T.D. 7824, 47 FR 33477, Aug. 2, 1982]

§ 301.6103(p)(7)-1 Procedures for administrative review of a determination that a State tax agency has failed to safeguard Federal tax returns or return information.

(a) *Notice of Service's intention to terminate disclosure to a State tax agency.* Notwithstanding subsection (d) of section 6103, the Internal Revenue Service may terminate disclosure of Federal returns and return information to a State agency, body, or commission described in section 6103(d) (hereinafter in this section referred to as a State tax agency) if the Service makes a determination that:

(1) A State tax agency has made unauthorized disclosure of Federal returns or return information received from the Service and that the State tax agency has not taken adequate corrective action to prevent repetition of the unauthorized disclosure, or

(2) A State tax agency does not satisfactorily maintain the safeguards described in subsection (p)(4) of section 6103, and has made no adequate plan to improve its system to maintain those safeguards satisfactorily. Prior to terminating disclosure, the Service will notify the State tax agency in writing of the Service's preliminary determination and of the Service's intention to discontinue disclosure of Federal returns and return information to the State tax agency. Upon so notifying the State tax agency, the Service, if it determines that Federal tax administration would otherwise be seriously impaired, may suspend further disclosure of Federal returns and return information to the State tax agency pending a final determination by the Commissioner or Deputy Commissioner described in subparagraph (2) of paragraph (c) of this section.

(b) *State tax agency's right to appeal.* A State tax agency shall have 30 days from the date of receipt of a notice described in paragraph (a) of this section to appeal the preliminary determination described in paragraph (a) of this section. The appeal shall be made directly to the Commissioner.

(c) *Procedures for administrative review.* (1) To appeal a preliminary determination described in paragraph (a) of this section, the State agency shall send a written request for a conference to: Commissioner of Internal Revenue (Attention: C), 1111 Constitution Avenue, NW., Washington, D.C. 20224. The request must include a complete description of the State tax agency's present system of safeguarding Federal returns or return information received from the Service. The request must then state the reason or reasons that the State agency believes that such system, including improvements, if any, to such system expected to be made in the near future, is or will be adequate to safeguard Federal returns or return information received from the Service.

(2) Within 45 days of the receipt of a request made in accordance with the provisions of subparagraph (1) of this paragraph, the Commissioner or Deputy Commissioner will personally hold a conference with representatives of the State tax agency, after which the

§ 301.6104(a)-1

26 CFR Ch. I (4-1-01 Edition)

Commissioner or Deputy Commissioner will make a final determination with respect to the appeal.

(Secs. 6103(p)(7) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1685, 26 U.S.C. 6103(p)(7); 68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7693, 45 FR 26325, Apr. 18, 1980]

§ 301.6104(a)-1 Public inspection of material relating to tax-exempt organizations.

(a) *Application for tax exemption and supporting documents.* If the Internal Revenue Service determines that an organization described in section 501 (c) or (d) is exempt from taxation for any taxable year, the application for tax exemption upon which the determination is based, together with any supporting documents, is open to public inspection. Some applications for tax exemption have been destroyed and therefore are not available for inspection. For purposes of determining the availability for public inspection, a claim for tax exemption filed to reestablish exempt status after denial thereof under the provisions of section 503 or 504 (as in effect on December 31, 1969), or under the corresponding provisions of any prior revenue law, is considered an application for tax exemption.

(b) *Letters or documents issued by the Internal Revenue Service with respect to an application for tax exemption.* If an application for tax exemption is filed with the Internal Revenue Service after October 31, 1976, and is open to public inspection under paragraph (a) of this section, then any letter or document issued to the applicant by the Internal Revenue Service which relates to the application is also open to public inspection. For rules relating to when a letter or document is issued, see § 301.6110-2(h). Letters or documents to which this paragraph applies include, but are not limited to—

(1) Favorable rulings and determination letters (see § 601.201(n)(1)) issued in response to applications for tax exemption,

(2) Technical advice memoranda (see § 601.201(n)(9)) issued with respect to an approved, or subsequently approved, application for tax exemption, and

(3) Letters issued in response to an application for tax exemption that pro-

pose a finding that the organization is not entitled to be exempt from tax, if the organization is subsequently determined, on the basis of the application, to be exempt from tax.

(c) *Requirement of exempt status.* An application for tax exemption, supporting documents, and letters or documents issued by the Internal Revenue Service that relate to the application will not be open to public inspection before the organization filing the application is determined, on the basis of the application, to be exempt from taxation for any taxable year. On the other hand, if the organization is determined to be exempt for any taxable year, the material will not be withheld from public inspection on the ground that the organization is determined not to be exempt for any other taxable year.

(d) *Documents included in the term "application for tax exemption".* For purposes of this section—

(1) *Prescribed application form.* If a form is prescribed for an organization's application for tax exemption, the application for tax exemption includes the form and all documents and statements the Internal Revenue Service requires to be filed with the form.

(2) *No prescribed application form.* If no form is prescribed for an organization's application for tax exemption, the application for tax exemption includes:

(i) The application letter and a copy of the articles of incorporation, declaration of trust, or other instrument of similar import that sets forth the permitted powers or activities of the organization,

(ii) The bylaws or other code of regulations,

(iii) The latest financial statement showing assets, liabilities, receipts and disbursements,

(iv) Statements showing the character of the organization, the purpose for which it was organized, and its actual activities,

(v) Statements showing sources of income and receipts and the disposition thereof, and whether or not any income or receipts is credited to surplus or may inure to the benefit of any private shareholder or individual, and