

**§ 301.6103(l)(14)-1**

**26 CFR Ch. I (4-1-02 Edition)**

and control of such officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, or the Department of Justice; and (C) Court reporters.

Disclosure of returns or return information to other persons by officers and employees of the Department of Labor or the Pension Benefit Guaranty Corporation as provided by subparagraph (2)(ii) of this paragraph for purposes of conducting research, surveys, studies, and publications referred to in section 513(a), or authorized by title IV, of the Act shall be restricted, however, to disclosure to other officers and employees of such department or corporation to whom such disclosure is necessary in connection with such conduct or to the taxpayer by whom such return was made or to whom such return information relates if the return or return information can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(3) *Disclosure in judicial proceedings.* A return or return information disclosed to officers and employees of the Department of Labor, the Pension Benefit Guaranty Corporation, or the Department of Justice as provided by this section may be entered into evidence by such officers or employees in a civil or criminal judicial proceeding authorized by, or described in, title I or IV of the Act, provided that, in the case of a judicial proceeding described in section 6103(i)(4), the requirements of section 6103(i)(4) have first been met.

(d) *Disclosure of returns and return information in connection with certain consultations between Departments of the Treasury and Labor.* Upon general written request to the Commissioner of Internal Revenue by the Secretary of Labor, officers and employees of the Service may disclose to officers and employees of the Department of Labor such returns and return information as may be necessary to properly carry out any consultation required by section 3002, 3003, or 3004 of the Act.

(e) *Return information open to public inspection under section 6104.* Nothing in these regulations shall be construed to deny officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation the right to inspect return information

available to the public under section 6104 of the Code.

(Secs. 6103 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1667, 1685, 68A Stat. 917; 26 U.S.C. 6103 and 7805))

[T.D. 7723, 45 FR 65571, Oct. 3, 1980, as amended by T.D. 7757, 46 FR 6930, Jan. 22, 1981; T.D. 7911, 48 FR 40377, Sept. 7, 1983]

**§ 301.6103(l)(14)-1 Disclosure of return information to United States Customs Service.**

(a) *General rule.* Pursuant to the provisions of section 6103(l)(14) of the Internal Revenue Code, officers and employees of the Internal Revenue Service may disclose to officers and employees of the United States Customs Service return information (as defined by section 6103(b)) with respect to taxes imposed by chapters 1 and 6 of the Internal Revenue Code solely for purposes of, and only to the extent necessary in—

(1) Ascertaining the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930 or;

(2) Other actions to recover any loss of revenue, or to collect duties, taxes, and fees, determined to be due and owing pursuant to such audits.

(b) *Procedures.* Disclosure of return information by officers or employees of the Internal Revenue Service as provided by paragraph (a) of this section will be made only following receipt by the Internal Revenue Service of a written request for the disclosure by the Commissioner of the U.S. Customs Service identifying—

(1) The particular items of return information to be disclosed;

(2) The particular taxpayer to whom the return information relates;

(3) The taxable period or date to which the return information relates;

(4) The particular purpose for which each item of return information is needed, including an explanation as to how the requested information is necessary to accomplish that purpose. In addition, the request must designate by title the officers and employees of the Customs Service to whom the disclosure is authorized and certify that the Customs Service has initiated or intends to initiate, under section 509 of the Tariff Act of 1930, an audit of each taxpayer for whom return information

is requested or that the taxpayer has a transactional or ownership relationship with the subject of such an audit.

(c) *Return information subject to disclosure.* Any return information requested must be necessary to a Customs determination of the correctness of any entry in audits conducted under section 509 of the Tariff Act of 1930. Taxpayers as to whom return information is requested must either be the subject of a Customs audit (or intended audit) or have a transactional or ownership relationship with the subject of a Customs audit. Requested information must relate to the declared value, classification or rate of duty applicable to entered merchandise. Requested information may also include any adjustment by the IRS to the items of return information described by this paragraph.

(d) *Return information not subject to disclosure.* The following return information may not be requested or disclosed pursuant to section 6103(l)(14) of the Internal Revenue Code: any Advance Pricing Agreement or information submitted to or generated by the IRS as part of the negotiation process for an Advance Pricing Agreement, or any information to the extent its disclosure would be inconsistent with a tax treaty or executive agreement with respect to which the United States is a party.

(e) *Impairment of tax administration.* Return information with respect to a taxpayer may not be disclosed pursuant to this section if the IRS determines that the disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation or proceeding.

(f) *Use by Customs Service.* Return information disclosed under this section may be used by the U.S. Customs Service to the extent necessary to ascertain or to document the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930 and in any related administrative proceedings to recover any loss of revenue, or to collect duties, taxes or fees, determined to be due and owing pursuant to these audits. Uses may include, to the extent necessary, disclosure to the importer (or the legal representative of such importer) subject to the audit

with respect to which the information was requested.

(g) *Disclosure to, and use by, the Department of Justice.* Return information disclosed to officers and employees of the U.S. Customs Service as provided by this section may be disclosed by these officers and employees to officers and employees of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their necessary use in, advocating or defending the correctness of Customs determinations with respect to any entry, in any civil judicial proceeding, or any preparations therefor (or for their necessary use in an investigation which may result in such a proceeding), to recover any loss of revenue, or to collect duties, taxes or fees, determined to be due and owing as a consequence of an audit provided for in section 509 of the Tariff Act of 1930.

(h) *Disclosure by officers and employees of the Department of Justice.* Return information disclosed to officers and employees of the Department of Justice (including United States Attorneys) as provided by this section may be disclosed by these officers and employees to other persons as is necessary to properly accomplish the purposes or activities described in paragraph (g). Disclosure of return information to a person, other than the importer (or the legal representative of the importer) subject to the audit with respect to which the information was originally requested, to properly accomplish any purpose or activity described in paragraph (g) may be made, however, only if the purpose or activity cannot otherwise properly be accomplished without making the disclosure. Disclosures may include, but are not limited to, disclosures where necessary—

(1) To properly obtain the services of persons having special knowledge or technical skills;

(2) To properly interview, consult, depose, or interrogate or otherwise obtain relevant information from, the taxpayer (or the legal representative of the taxpayer) to whom the return information relates or any witness who may be called to give evidence in the proceeding; or

(3) To properly conduct negotiations concerning, or obtain authorization for, settlement or disposition of the proceeding, in whole or in part, or stipulations of fact in connection with the proceeding.

(i) *Use in criminal judicial proceedings.* Return information disclosed pursuant to this section may not be used in any criminal judicial proceeding, or any preparations therefor (or in a criminal investigation which may result in such a proceeding), involving the enforcement of a criminal statute, without compliance with the requirements of section 6103(i) (1) or (2) as appropriate. However, the return information may in any event be used for purposes of complying with the requirements of section 6103(i).

(j) *Restrictions.* Return information disclosed to officers and employees of the U.S. Customs Service or to the Department of Justice as provided by this section may not be used or disclosed for any purpose other than to ascertain, or advocate or defend the correctness of, Customs determinations with respect to, any entry in the audits for which the information was requested or in certain actions resulting from the audits as described above. Return information disclosed to officers and employees of the U.S. Customs Service or to the Department of Justice as provided by this section may not be disclosed to any person, including any contractor of the U.S. Customs Service, except as provided by this section, or as otherwise provided by section 6103 of the Internal Revenue Code.

[T.D. 8527, 59 FR 11548, Mar. 11, 1994. Redesignated by T.D. 8694, 61 FR 66220, Dec. 17, 1996]

**§ 301.6103(n)-1 Disclosure of returns and return information in connection with procurement of property and services for tax administration purposes.**

(a) *General rule.* Pursuant to the provisions of section 6103(n) of the Internal Revenue Code and subject to the requirements of paragraphs (b), (c), and (d) of this section, officers or employees of the Treasury Department, a State tax agency, the Social Security Administration, or the Department of Justice, are authorized to disclose returns and return information (as de-

defined in section 6103(b)) to any person (including, in the case of the Treasury Department, any person described in section 7513(a)), or to an officer or employee of such person, to the extent necessary in connection with contractual procurement of—

- (1) Equipment or other property, or
- (2) Services relating to the processing, storage, transmission, or reproduction of such returns or return information, the programming, maintenance, repair, or testing of equipment or other property, or the providing of other services, for purposes of tax administration (as defined in section 6103(b)(4)).

No person, or officer or employee of such person, to whom a return or return information is disclosed by an officer or employee of the Treasury Department, the State tax agency, the Social Security Administration, or the Department of Justice, under the authority of this paragraph shall in turn disclose such return or return information for any purpose other than as described in this paragraph, and no such further disclosure for any such described purpose shall be made by such person, officer, or employee to anyone, other than another officer or employee of such person whose duties or responsibilities require such disclosure for a purpose described in this paragraph, without written approval by the Internal Revenue Service.

(b) *Limitations.* For purposes of paragraph (a) of this section, disclosure of returns or return information in connection with contractual procurement of property or services described in such paragraph will be treated as necessary only if such procurement or the performance of such services cannot otherwise be reasonably, properly, or economically carried out or performed without such disclosure. Thus, for example, disclosures of returns or return information to employees of a contractor for purposes of programming, maintaining, repairing, or testing computer equipment used by the Internal Revenue Service or a State tax agency should be made only if such services cannot be reasonably, properly, or economically performed by use of information or other data in a form which does not identify a particular taxpayer. If,