

ten years after the date of submission unless the business submitter requests, and provides acceptable justification for, a specific notice period of greater duration. Whenever possible, the business submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the business that the information in question is, in fact, confidential commercial or financial information and has not been disclosed to the public.

(5) *Opportunity to object to disclosure.* Through the notice described in paragraph (h)(3) of this section, the official having control over the requested records shall afford a business submitter ten working days within which to provide the official with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information, with particular attention to why the information is claimed to be a trade secret or commercial or financial information that is privileged and confidential. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under 5 U.S.C. 552.

(6) *Notice of intent to disclose.* The Internal Revenue Service shall carefully consider a business submitter's objections and specific grounds for non-disclosure prior to determining whether to disclose business information. Whenever the official having control over the requested records decides to disclose business information over the objection of a business submitter, the official shall forward to the business submitter a written notice which shall include—

(i) Statement of the reasons for which the business submitter's disclosure objections were not sustained;

(ii) A description of the business information to be disclosed; and

(iii) A specified disclosure date, which is ten working days after the notice of the final decision to release the requested records has been mailed to the submitter. A copy of the disclosure notice shall be forwarded to the requester at the same time.

(7) *Judicial review.* (i) The Internal Revenue Service's disposition of the request and the submitter's objections

shall be subject to judicial review under paragraph (c)(11) of this section. A requester is not required to exhaust administrative remedies if a complaint has been filed under this subparagraph by a business submitter of the information contained in the requested records. Likewise, a business submitter is not required to exhaust administrative remedies if a complaint has been filed by the requester of these records.

(ii) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of business information covered by paragraph (h)(4) of this section, the official having control over the requested records shall promptly provide the business submitter with written notice thereof.

(iii) *Exception to notice requirement.* The notice requirements of this paragraph shall not apply if—

(A) The official having control over the records determines that the business information shall not be disclosed;

(B) The information lawfully has been published or otherwise made available to the public;

(C) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(D) The information was acquired in the course of a lawful investigation of a possible violation of the internal revenue laws and notice would interfere with ongoing law enforcement proceedings.

(8) *Appeals.* Procedures for administrative appeals from denials of requests for business information are to be processed in accordance with paragraph (c)(8) of this section.

[32 FR 15990, Nov. 22, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 601.702, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Subpart H—Tax Counseling for the Elderly

AUTHORITY: Sec. 163(b)(5) of the Revenue Act of 1978, Pub. L. 95-600, Nov. 6, 1978 (92 Stat. 2811) and Pub. L. 89-554, Sept. 6, 1966 (80 Stat. 379, 5 U.S.C. 301).

SOURCE: 44 FR 72113, Dec. 13, 1979, unless otherwise noted.

§ 601.801

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§ 601.801 Purpose and statutory authority.

(a) This Subpart H contains the rules for implementation of the Tax Counseling for the Elderly assistance program under section 163 of the Revenue Act of 1978, Pub. L. 95-600, November 6, 1978 (92 Stat. 2810). Section 163 authorizes the Secretary of the Treasury, through the Internal Revenue Service, to enter into agreements with private or public non-profit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals, age 60 and over, in the preparation of their Federal income tax returns.

(b) Section 163 provides that the Secretary may provide:

(1) Preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;

(2) Publicity for making elderly persons aware of the availability of volunteer taxpayer return preparation assistance programs under this section; and

(3) Technical materials and publications to be used by such volunteers.

(c) In carrying out responsibilities under section 163, the Secretary, through the Internal Revenue Service is also authorized:

(1) To provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly in the preparation of Federal income tax returns;

(2) To provide for the training of such volunteers, and to assist in such training, to ensure that such volunteers are qualified to provide tax counseling assistance to elderly individuals in the preparation of Federal income tax returns;

(3) To provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance in the preparation of Federal income tax returns under this section, and such

other support and assistance determined to be appropriate in carrying out the provisions of the section;

(4) To provide for the use of services, personnel, and facilities of Federal executive agencies and State and local public agencies with their consent, with or without reimbursement; and

(5) To prescribe rules and regulations necessary to carry out the provisions of the section.

(d) With regard to the employment status of volunteers, section 163 also provides that service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be subject to the provisions of law relating to Federal employment, except that the provisions relating to the illegal disclosure of income or other information punishable under section 1905 of Title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

§ 601.802 Cooperative agreements.

(a) *General.* Tax Counseling for the Elderly programs will be administered by sponsor organizations under cooperative agreements with the Internal Revenue Service. Use of cooperative agreements is in accordance with the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, February 3, 1978 (92 Stat. 3, 41 U.S.C. 501-509). Cooperative agreements will be legally binding agreements in document form.

(b) *Nature and contents of cooperative agreements.* Each cooperative agreement will provide for implementation of the program in specified geographic areas. Cooperative agreements will set forth:

(1) The functions and duties to be performed by the Internal Revenue Service and the functions and duties to be performed by the program sponsor,

(2) The maximum amount of the award available to the program sponsor,

(3) The services to be provided for each geographical area, and

(4) Other requirements specified in the application.

(c) *Entry into cooperative agreements.* The Commissioner of Internal Revenue,