DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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MEMORANDUM FOR ALL EXEMPT ORGANIZATIONS EXAMINATIONS (EO) MANAGERS
ALL EO EXAMINATIONS REVENUE AGENTS

FROM: Margaret Von Lienen /s/ Margaret Von Lienen
Director, Exempt Organizations Examinations

SUBJECT: IRC 6103(d) Disclosure Procedures to State Agencies

Purpose
The purpose of this memorandum is to revise the special handling procedures for cases subject to the disclosure provisions of Internal Revenue Code (IRC) Section 6103(d).

Background
Subject to a proper request and other statutory requirements, IRC 6103(d)(1) permits the disclosure of specified tax return information to any State agency, body or commission, or its legal representative, charged under the laws of the State with the responsibility for the administration of any State tax law.

Various state agencies have an agreement in place in order to receive information regarding income tax and employment tax adjustments. The office of Privacy, Governmental Liaison and Disclosure (PGLD) develops and handles those agreements (called Implementing Agreements). These Implementing Agreements are stored on a Governmental Liaison (GL) SharePoint Site.

IRM 4.75.21.13.1 currently provides that when agents either secure a Form 990-T delinquent return or make an adjustment on Form 990-T, they are to make a copy of the Form 886-A/Revenue Agent Report (RAR), waiver forms, and applicable Form 990-T return(s), and send these to the EO Fed/State Liaison pursuant to IRC 6103(d) (the documents to be provided to the states under the implementing Agreements will be referred to in this memo as “IRC 6103(d) information”). If the change in tax is unagreed, agents are required to remind the reviewer in the case file and on Form 3198-A, *TE/GE Special Handling Notice*, of the requirement to comply with IRC 6103(d).

Procedural Change
Audit groups and review functions will no longer prepare and send an envelope or package containing IRC 6103(d) information to the Fed/State Liaison. Audit groups will instead alert the Exam Support and Processing Unit (EO), formerly Exam Special Support (ESS), in Dallas on Form 3198-A that an audit report is potentially subject to IRC 6103(d) disclosure, in accordance with the Procedure section of this memorandum below.

ESS will assume the responsibility for the printing, suspense and proper disposition of IRC 6103(d) information to the proper state authority.

Procedure
The procedures for meeting the requirements of IRC 6103(d) are as follows:

(1) Agent identifies Potential IRC 6103(d) case file. An IRC 6103(d) case file is one that contains IRC 6103(d) information, whether or not subject to mandatory or special review. Agents are not required to determine which states and designated state agencies should receive IRC 6103(d) information; ESS makes that determination after it receives the case. See step (4) below.

(2) Agent Annotates Form 3198-A to Alert ESS. The agent will prepare Form 3198-A for each income tax and employment tax case file containing potential IRC 6103(d) information. For example, the agent will add a note in the "*Other Instructions*" section stating, "*990-T adjustment [or Employment Tax adjustment] - potential 6103(d) disclosure to State*."

(3) Agent Completes Form 5599, *TE/GE Examined Closing Record*. AIMS and RCCMS disposal codes consistent with identifying a case potentially subject to IRC 6103(d) are:

- DC 03 (102), *Agreed Tax Change*
- DC 10 (604), *Unagreed – Without Protest*
- DC 12 (104), *Closing Agreement*

(4) ESS Duties. ESS will designate the person(s) responsible for making monthly disclosures of IRC 6103(d) information. ESS' designated person(s) will refer to the GL SharePoint Site to determine which states and designated state agencies should receive the IRC 6103(d) information.

(5) ESS Creates a Suspense File. ESS will print a copy of the report forms identified as IRC 6103(d) information and place the copy in a suspense file maintained by ESS.

(6) ESS Prepares Multiple Records Disclosure. If two state agencies are being sent the same IRC 6103(d) information, ESS will prepare Form 5466-B, *Multiple Records Disclosure*, indicating that a second agency was sent IRC 6103(d) information for a taxpayer. ESS will mail Form 5466-B to a designated IRS Disclosure Manager.

(7) ESS Sends Information Monthly. The designated ESS person(s) will send all required disclosures directly to the designated State Tax Agency on a monthly basis, pursuant to current Implementing Agreements as indicated on the GL SharePoint Site. The Manager, ESS, will ensure that all appropriate disclosures are made pursuant to these procedures.

IRC 6103(d) information, as revised by this memo, consists of the following completed audit report forms for income tax and employment tax changes, with schedules and other attachments that are part of the report:

- Form 4549, *Income Tax Examination Changes*

- Form 4549-A, *Income Tax Examination Changes (Unagreed and Excepted Agreed)*
- Form 4667, *Examination Changes - Federal Unemployment Tax*
- Form 4668, *Employment Tax Examination Changes Report*
- Form 4668-B*, Report of Examination of Withheld Federal Income Tax for Withholding Reported on Forms 1099 and W-2G*

Note: EO Examination employees may **not** include as IRC 6103(d) information a secured delinquent income tax or employment tax return.

Reminder:
No employee is authorized to disseminate or disclose returns or return information to another governmental unit, agency or other person, except as provided by law, in accordance with procedures in the Internal Revenue Manual (IRM) and Interim Guidance Memoranda, including this memorandum.

Effective Date:
The procedures in this memorandum are effective immediately.

Effect on Other Documents:
Paragraphs (2) through (6) of IRM 4.75.21.13.1, *IRC 6103(d) Disclosures*, are superseded. The entire table-row labeled "*IRC 6103(d)*" at Exhibit 4.75.21-2 is obsoleted.

This memorandum will expire the earlier of two years from the date of issuance or the date incorporated in the affected IRMs.

If there are any questions, submit your questions to Mandatory Review via *TEGE EO Review Staff.

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