



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

11.3.27

AUGUST 10, 2023

EFFECTIVE DATE

(08-10-2023)

PURPOSE

- (1) This transmits revised IRM 11.3.27, Disclosure of Returns and Return Information to Grand Juries.

MATERIAL CHANGES

- (1) IRM 11.3.27.1(3) and (4), Updated Program Scope and Objectives, to align the Program and Policy owner sections to be in line with all other Disclosure IRMs.
- (2) IRM 11.3.27.1.4, Program Controls, were added in order to incorporate relevant internal controls. These items identify information about the program and procedures covered within this section.
- (3) Reviewed and updated the IRM where necessary for the following types of editorial changes: legal citations, published forms and documents and web addresses.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 11.3.27, Disclosure of Returns and Return Information to Grand Juries, dated May 12, 2017.

AUDIENCE

All Operating Divisions and Functions.

RELATED RESOURCES

- (1) The Disclosure and Privacy Virtual Library can be found at:
Disclosure and Privacy Virtual Library.

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Safeguards

11.3.27

Disclosure of Returns and Return Information to Grand Juries

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11.3.27.1
(05-12-2017)
Program Scope and Objectives

- (1) Purpose: This IRM section provides instructions concerning the disclosure of returns and return information to Federal, State, and local grand juries in accordance with IRC 6103.
- (2) Audience: These procedures apply to all IRS and Chief Counsel employees and contractors.
- (3) Policy Owner: The Director of Governmental Liaison, Disclosure and Safeguards (GLDS) is responsible for oversight of Disclosure policy.
- (4) Program Owner: The Disclosure office, under GLDS, is responsible for the Disclosure program and guidance. Each IRS organization is responsible for ensuring its employees are aware of and follow Servicewide Disclosure policy.
- (5) Primary Stakeholders: The following offices have responsibility for Disclosures to Federal, state and local grand juries:
 - Criminal Investigation
 - Chief Counsel, Procedure & Administration

11.3.27.1.1
(05-12-2017)
Background

- (1) Grand juries are juries of inquiry that are summoned by a court. They meet in private session to:
 - a. Receive complaints and accusations in criminal cases,
 - b. Hear evidence, and
 - c. Return indictments when they are satisfied a trial is warranted.
- (2) Federal grand juries are governed by Rule 6, Federal Rules of Criminal Procedure.
- (3) For disclosure purposes, grand juries are divided into two categories:
 - a. Those investigating alleged violations of federal tax laws, and
 - b. Those investigating other alleged criminal violations.

11.3.27.1.2
(05-12-2017)
Authority

- (1) The following items govern the authority pertaining to disclosures to Federal, State, and local grand juries:
 - IRC 6103
 - 26 CFR 301.6103(c)-1
 - Delegation Order 11-2, found in IRM 1.2.2.12.2
 - Rule 6, Federal Rules of Criminal Procedure

11.3.27.1.3
(05-12-2017)
Responsibilities

- (1) This Internal Revenue Manual (IRM) is used by all IRS and Chief Counsel employees and contractors to help comply with the disclosure provisions of IRC 6103 pertaining to disclosures to Federal, State, and local grand juries.

11.3.27.1.4
(08-10-2023)
Program Controls

- (1) Business Units are responsible for establishing and documenting the program controls developed to oversee their program as well as ensuring employee compliance with all applicable elements of this IRM.

11.3.27.1.5
(05-12-2017)
Acronyms

- (1) The following is a list of the acronyms that are used in this IRM section:

Acronym	Definition
CFR	Code of Federal Regulations
GAO	Government Accountability Office
GLDS	Governmental Liaison, Disclosure and Safeguards
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
PGLD	Privacy, Governmental Liaison and Disclosure
TIGTA	Treasury Inspector General for Tax Administration
USC	United States Code

11.3.27.1.6
(05-12-2017)
Related Resources

- (1) The following table lists other sources of guidance on disclosures to Federal, State, and local grand juries:

Guidance	Title	Procedure
IRM 9.3.1.4	Grand Jury Secrecy (USCS Federal Rules Criminal Procedures Rule 6)	Procedures relative to assisting grand juries, including disclosure of grand jury information
IRM 11.3.13.9.25	Grand Jury Information	Disclosures of Grand Jury information under the Freedom of Information Act (FOIA)
IRM 11.3.28	Disclosure to Federal Agencies for Administration of Non-Tax Criminal Laws	Provides instructions for disclosure of returns and return information to officers and employees of federal agencies for the administration of non-tax criminal laws

11.3.27.2
(10-24-2013)
**Grand Juries
Investigating Violations
of Federal Tax Laws**

- (1) Allegations that federal tax laws have been violated are presented to a federal grand jury by the Department of Justice or the Office of the United States Attorney. These allegations may have been investigated by the IRS and forwarded for further investigation or prosecution to the Department of Justice or the United States Attorney.

- (2) In some cases, allegations of federal tax law violations arise during the grand jury's inquiry into other federal violations. In these cases, the assistance of the IRS may be requested.
- (3) For tax administration, the IRS may disclose returns and return information to the Department of Justice for use in a federal grand jury proceeding:
 - a. On its own motion if the tax case has been referred to the Department of Justice by the IRS or
 - b. In response to a written request of the Attorney General, Deputy Attorney General or an Assistant Attorney General in a tax case that has not been referred to the Department of Justice, if the returns or return information relate to a person named in the request and the request explains the need for the disclosure. See IRC 6103(h)(3) and IRM 11.3.22, Disclosure to Federal Agencies for Tax Administration Purposes.
- (4) In both situations described above, the IRS may disclose returns or return information to Department of Justice employees personally and directly engaged in and solely for their use in, any proceeding before a federal grand jury or in preparation for such proceeding, or an investigation that may result in such a proceeding, provided that such disclosures conform to IRC 6103(h)(2) requirements.
- (5) Any person under investigation by the grand jury is a taxpayer who is or may be a party to the proceeding. Return and return information shall be disclosed in accordance with IRC 6103(h)(2)(A).
- (6) Chief Counsel attorneys and Criminal Investigation employees will make most disclosures to federal grand juries for tax administration purposes in referred cases.

11.3.27.3
(04-28-2009)
**Grand Juries
Investigating Matters
Other Than Federal Tax
Law Violations**

- (1) Occasionally, a grand jury summons or subpoena will order IRS testimony or production of returns or return information for an investigation that is not related to federal tax laws. In these circumstances, IRC 6103 generally prohibits disclosure. However, the records can be provided if:
 - a. The taxpayer consents to the disclosure per the requirements of IRC 6103(c);
 - b. The request meets the requirements of IRC 6103(i); or
 - c. The records will be disclosed to a State grand jury investigating violations of State tax laws and IRC 6103(d) permits the disclosure.
- (2) If a summons or subpoena is served in connection with a grand jury, the guidance in 26 CFR 301.9000-1 through 6, Testimony or Production of Records in a Court or Other Proceeding, and IRM 11.3.35, Requests and Demands for Testimony and Production of Documents, should be followed.

11.3.27.4
(05-24-2005)
**Tax/Non-Tax Grand
Juries**

- (1) Occasionally grand juries are convened to investigate violations of both federal tax and non-tax laws. In these situations, follow the procedures outlined in IRM 11.3.27.2 above, and IRM 11.3.22, Disclosure to Federal Officers and Employees for Tax Administration Purposes.

11.3.27.5
(05-24-2005)

**Secrecy of Grand Jury
Information**

- (1) Rule 6(e) of the Federal Rules of Criminal Procedure, generally provides that matters occurring before the grand jury are secret. For convenience, "matters occurring before the grand jury" will be referred to as grand jury information.
- (2) IRS personnel gaining access to grand jury information pursuant to (1) above, may not disclose this information except as authorized or in accordance with exceptions to the general rule of secrecy.
- (3) Disclosures otherwise prohibited by Rule 6(e), other than the deliberations and the vote of any grand juror, may be made to:
 - a. An attorney for the government for use in the performance of such attorney's duty, and
 - b. Such government personnel (including a state) as are deemed necessary by an attorney for the government to assist an attorney for the government in the performance of such attorney's duty to enforce federal criminal law. See IRM 11.3.28.5(21), Disclosures in Conformity with an Ex Parte Court Order.
- (4) Grand jury information may also be disclosed to the IRS in accordance with a Rule 6(e) court order. While it is still grand jury information, it also becomes return information. The use and disclosure of this information must be consistent with both IRC 6103 and the Rule 6(e) order.

Example: If a Rule 6(e) order authorizes IRS use of certain grand jury information for civil tax purposes, this information may be used only as provided in the order, and to the extent permitted by IRC 6103. As a result, the GAO, a state, or another federal agency would not be entitled to access it under IRC 6103 unless permitted in the Rule 6(e) order. The IRS can still disclose the information to the Department of Justice under IRC 6103(h)(2) and (3) as necessary in the litigation of the IRS's civil tax cases. The decision to issue a Rule 6(e) order permitting the IRS to use grand jury information for civil purposes is in the discretion of the court having supervision over the grand jury.

- (5) It is important to distinguish grand jury information from returns and return information the IRS obtained independently. The independently obtained information, even if exactly the same as the grand jury information, is not governed by Rule 6(e) and may be disclosed in accordance with IRC 6103. Information supplied to a grand jury by the IRS from sources independent of the grand jury process may be used for the criminal purposes of the grand jury and the civil purposes of the IRS.
- (6) Additionally, Rule 6(e) does not prohibit the disclosure of the fact of existence of grand jury information to other IRS personnel with a need to know that fact. See IRM 11.3.13.9.25, for a discussion of Grand Jury Information.

Example: Disclosure Managers or TIGTA Auditors performing a functional review may be told that they cannot look at a document because it contains secret grand jury information.

- (7) Special care should be taken to document sources of information as the IRS may have to prove that evidence used for civil purposes was properly obtained under a Rule 6(e) order or was obtained independently of the grand jury.

- (8) Questions regarding whether information is considered to be grand jury information should be directed, as appropriate, to functional management, Criminal Tax of Chief Counsel, or the government attorney coordinating the grand jury.

11.3.27.6
(05-24-2005)
IRS Employees on Loan to Other Federal Agencies

- (1) IRS employees may be authorized to assist the Department of Justice in a non-tax grand jury investigation.
- (2) An IRS employee assisting the United States Attorney in a non-tax grand jury proceeding may not access returns or return information or disclose any returns or return information to the attorney for the government in connection with the investigation, unless disclosure is authorized by IRC 6103(c) or (i), or some other IRC 6103 exception (for example, IRC 6103(l)(15)). The provisions of IRC 6103(h) cannot be used in these cases, unless a related statute call is made. See IRM 11.3.22, Disclosure of Federal Officers and Employees for Tax Administration.
- (3) Information that an IRS employee receives or develops while acting as an agent of a non-tax grand jury is not return information. The information is grand jury information and may not be used for civil or criminal tax purposes independently of the grand jury, unless a Rule 6(e) order permits the use.
- (4) An IRS summons should not be used and personnel should not present themselves as IRS employees. See IRM 9.3.1.10.4, Details of CI Employees to Other Agencies, and IRM 9.11.3.10.5.1, Issuance and Use Of The Badge, regarding use of IRS credentials in these cases.

11.3.27.7
(05-24-2005)
Information Made a Matter of Public Record

- (1) There are no restrictions under Rule 6(e) on the use of grand jury information that is disclosed in a judicial or administrative proceeding and made a part of the public record pertaining to that proceeding.
- (2) IRC 6103 restrictions may apply, however, to any information gathered by the IRS in carrying out tax administration duties. See IRM 11.3.11.13, Information Which Has Become Public Record, for further discussion of disclosures related to tax information that has been made a matter of public record.

