



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

11.3.34

AUGUST 17, 2023

EFFECTIVE DATE

(08-17-2023)

PURPOSE

- (1) This transmits revised IRM 11.3.34, Disclosure of Official Information, Disclosure for Non-tax Criminal Violations.

MATERIAL CHANGES

- (1) IRM 11.3.34.1(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 11.3.34.1(5), Updated Program Scope and Objectives, to align with the Primary Stakeholders section to conform with the internal controls requirement.
- (3) IRM 11.3.34.1.2, Added Authority to conform with internal controls requirement.
- (4) IRM 11.3.34.1.4, Program Controls, were added in order to incorporate relevant internal controls. These items identify information about the program and procedures covered within this section.
- (5) 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 11.3.34, Disclosure of Official Information, Disclosure for Non-tax Criminal Violations, dated July 17, 2017.

AUDIENCE

All Operating Divisions and Functions.

RELATED RESOURCES

- (1) The Disclosure and Privacy Knowledge Base can be found at: <https://portal.ds.irsnet.gov/sites/vl003/pages/default.aspx>.

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11.3.34

Disclosure for Non-tax Criminal Violations

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11.3.34.1
(07-17-2017)
Program Scope and Objectives

- (1) Purpose: This section describes Disclosure procedures for IRS and Chief Counsel employees who observe a non-tax crime during official duty hours or who in their official capacities receive information relating to a non-tax criminal violation. This section provides guidelines for disclosing a non-tax criminal violation to the agency with jurisdiction, without disclosing confidential Federal tax information.
- (2) Audience: These procedures apply to all IRS and Chief Counsel employees.
- (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: All IRS and Chief Counsel employees, that make disclosures for non-tax criminal violations.

11.3.34.1.1
(07-17-2017)
Background

- (1) This section describes Disclosure procedures for IRS and Chief Counsel employees who observe a non-tax crime during official duty hours or who in their official capacities receive information relating to a non-tax crime. This section does not describe procedures for disclosing confidential tax information in connection with non-tax crimes. See IRM 11.3.28, Disclosure to Federal Agencies for Administration of Non-tax Criminal Laws, for procedures regarding these issues.
- (2) The facts about the non-tax crime may be disclosed to Federal, State or local law enforcement officials having jurisdiction over the violation.

Caution: Information related to or extracted from confidential tax information cannot be disclosed.

- (3) These procedures apply to any non-tax crime regardless of its nature (purse snatching, homicide, etc.) or its category (misdemeanor or felony).
- (4) Information provided by a taxpayer under investigation or examination, or by a third party witness in the investigation, etc., generally falls within the category of confidential tax information and cannot be disclosed.
- (5) However, the taxpayer or witness may provide information concerning a non-tax crime that is irrelevant to the tax case under investigation and does not involve the tax affairs of any other individual. This information would not constitute confidential tax information as defined in Internal Revenue Code (IRC) 6103(b)(2). In these circumstances, the details of the crime may be disclosed to Federal, State or local authorities under the procedures in this section.

Caution: Exercise extreme caution in any such situation to insure that no confidential tax information is released. This includes identifying that a taxpayer is under investigation. No disclosures should be made without the guidance of the Disclosure Manager or higher official, as appropriate.

- (6) These procedures do not permit employees to furnish testimony, affidavits or other assistance to law enforcement authorities without prior approval from the

appropriate IRS official in accordance with IRM 11.3.35, Requests and Demands for Testimony and Production of Documents, and Delegation Order 11-2, found in IRM 1.2.2.12.2.

Reminder: See IRM 11.3.28, Disclosure to Federal Agencies for Administration of Non-Tax Criminal Laws, for procedures governing disclosure of confidential tax information to Federal agencies for administration of non-tax Federal criminal laws.

11.3.34.1.2
(08-17-2023)

Authority

- (1) The following governs the authority pertaining to disclosures for Non-tax Criminal Violations:

- 26 IRC 6103

11.3.34.1.3
(07-17-2017)

Responsibilities

- (1) This IRM is used by all IRS and Chief Counsel employees to help comply with the procedures pertaining to disclosures of non-tax criminal violations to Federal, State and local authorities, where tax information is not provided or disclosed.

11.3.34.1.4
(08-17-2023)

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.

11.3.34.1.5
(07-17-2017)

Acronyms

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

Acronyms

Acronym	Definition
GLDS	Governmental Liaison, Disclosure and Safeguards
IRC	Internal Revenue Code
PGLD	Privacy, Governmental Liaison and Disclosure

11.3.34.2
(05-26-2009)

Procedures for Release of Information Regarding a Non-tax Crime

- (1) When any non-supervisory employee learns of a non-tax crime that is not related to a confidential tax matter, or otherwise protected from disclosure (see IRM 11.3.34.4 below), the employee should immediately advise his/her supervisor.
- (2) If the supervisor is satisfied that the information the employee wants to disclose is not confidential tax information and that the planned disclosure complies with the instructions in this section, and the supervisor approves the disclosure, the employee should promptly give the facts considered essential for immediate investigation to the appropriate Federal, State, or local law enforcement authorities.
- (3) Supervisory employees may release this information to the appropriate law enforcement official on their own authority.

- (4) When disclosing information pursuant to this section, prepare a memorandum describing;
 - a. All the facts disclosed.
 - b. How the information was acquired; and
 - c. Other facts bearing on the matter.

- (5) Submit memorandums through functional channels to the field Disclosure Manager, as appropriate.

Note: Headquarters personnel will forward memorandums to the Manager, Disclosure Policy and Program Operations.

- (6) Disclosure staff will review each report to ensure that no tax information has been disclosed, and that the disclosure conforms with the requirements of this section.
- (7) When necessary, the Disclosure Manager will take corrective action to address and prevent any instances of unauthorized disclosures or clarify other areas of confusion.

11.3.34.3
(05-26-2009)
**Expedited Procedures in
Emergency Situations**

- (1) When an employee receives information concerning a threat to an individual's life or safety (including suicide threats), the employee may, without seeking supervisory approval, immediately provide the information concerning the threat to the appropriate Federal, State, or local authorities (including a local suicide prevention bureau), as long as the employee does not disclose any information protected by IRC 6103 or the Privacy Act. By itself, a suicide threat is not considered protected information. However, the circumstances leading to the threat and entity information taken from official sources are protected information.
- (2) In addition, if Federal, State, or local authorities request information to prevent crimes involving a threat to an individual's life, the employee may provide non-protected information (i.e., information not protected by IRC 6103 or the Privacy Act) about the threat without prior approval.
- (3) An employee concerned that disclosure may involve confidential tax information or information protected by the Privacy Act should contact Disclosure immediately for guidance.
- (4) Supervisory approval is not required when an employee witnesses a non-tax crime while on official business. The employee may immediately report the crime to appropriate authorities. However, the employee may not reveal the nature of his/her business, nor disclose any other confidential tax information or information protected by the Privacy Act.
- (5) The employee should immediately prepare a memorandum and route the memorandum through appropriate channels as indicated in IRM 11.3.34.2.

11.3.34.3.1
(05-26-2009)
**Threats Against the
President and Certain
Other Government
Officials**

- (1) The U.S. Secret Service is responsible for protecting the President, certain Government officials, and other public figures. These include:
 - a. The President's immediate family;
 - b. The President-elect;

- c. The Vice President or other officer next in line for succession to the Presidency;
 - d. Former Presidents;
 - e. The wife, widow, and minor children of former Presidents;
 - f. Presidential and Vice-Presidential candidates; and
 - g. Visiting heads of foreign states or foreign governments.
- (2) When an employee receives information that is **not** protected by IRC 6103 or the Privacy Act during an official contact (e.g., during the preparation of a tax return in an IRS office), indicating a **potential** threat to the health or safety of any individual in (1) above, the employee should immediately report that information, together with the name and address of the taxpayer, to the local Secret Service field office by telephone. The name and address you provide to the local Secret Service must not be protected by IRC 6103, if you must provide information protected by IRC 6103, see IRM 11.3.28 for additional guidance.
- (3) In emergency situations, threats made by a taxpayer during an official contact (e.g., during the preparation of a tax return in an IRS office, or written statements contained on a tax return), that involve **imminent** danger of death or physical injury against the life and safety of any individual in (1) above, should be reported immediately by telephone to the Disclosure Manager, IRS supervisor, or Special Agent, Criminal Investigation.
- a. The Disclosure Manager or other receiving office will contact the appropriate IRS official for consultation and disclosure authorization, as necessary.
 - b. In situations involving imminent danger of death or physical injury, special agents are the only **non-supervisors** having the authority to make an **immediate determination** and **subsequent disclosure**.

Note: IRC 6103(i)(3)(B) permits disclosure, in emergency instances, of taxpayer return information, as well as return information (other than taxpayer return information) in an emergency circumstances. See IRM 11.3.28.7 , Disclosure in Emergency Situations Pursuant to IRC §6103(i)(3)(B).

11.3.34.4
(05-26-2009)

Disclosure Limitations

- (1) This section does not permit disclosure of:
- a. Any confidential tax information;
 - b. Trade secrets, processes, operations, style of work or apparatus; or the identity, confidential statistical data, amount or source of income, profits, losses or expenditures of any person, firm, partnership, corporation, or association;
 - c. Information that directly or indirectly reveals the identity of a confidential informant;
 - d. Information protected by the Privacy Act; or
 - e. Other information protected by statute.

11.3.34.5
(05-26-2009)

Permissible Disclosures

- (1) Identity information may be disclosed only if it is associated with commission of the non-tax violation and is not derived from confidential tax information or an otherwise protected source.
- (2) The fact that an employee was at a particular place on a matter of official business is not considered protected information. The nature of the IRS employee's official business at the location is protected, however, and should not

be disclosed. IRM 11.3.34.5.3 below, for examples.

11.3.34.5.1
(05-26-2009)

**Unsolicited Information
Not Relating to an Open
or Closed Tax
Investigation**

- (1) The following are examples of unsolicited information not related to an open or closed tax investigation:

- a. An agent receives a letter stating that a taxpayer committed a murder. The letter may also contain confidential tax information. If the facts about the non-tax crime can be separated from the confidential tax information, the facts about the crime can be disclosed.
- b. An IRS employee receives a tip about the current whereabouts of a fugitive from law enforcement authorities. The employee may give fugitive's location to appropriate authorities without disclosing either the fact of investigation or the fugitive's connection with the investigation. The fugitive information you provide to the appropriate authorities must not be protected by IRC 6103, if you must provide information protected by IRC 6103, see IRM 11.3.28 for additional guidance.

11.3.34.5.2
(05-26-2009)

**Information Received
During a Tax
Investigation, but
Unrelated to the
Investigation**

- (1) The following are examples of information received during a tax investigation that are unrelated to the investigation:

- a. As part of a tax investigation, a special agent interviews a jailed convict as a third party witness. During the interview, the convict threatens to kill a former associate in crime and an informer. Shortly thereafter, the convict escapes. Hearing of the escape, the special agent may disclose the threats, but may not disclose any other case related information obtained during the interview.
- b. A person who gave information to a special agent about tax violations witnesses a murder. The person tells the agent about the murder and furnishes some details about the individual involved. The informant insists on not being identified to the police. The agent should convey the murder information to the local police without naming the informant. If legal action to compel disclosure is imminent, the agent should contact the Disclosure Manager for necessary coordination with Chief Counsel.
- c. An informant furnishes a special agent with confidential tax information about possible tax violations. During questioning, the special agent learns of the informant's background and mental instability. Later, a Secret Service agent, aware of the informant's identity, advises the IRS special agent that the informant has threatened the life of the President and requests immediate disclosure of any information about the informant. The special agent may give an opinion about the informant's mental stability. Also, the special agent can disclose notes concerning the informant's mental stability to the Secret Service to the extent they do not include any confidential tax information. See IRM 11.3.28.7 , Disclosure in Emergency Situations Pursuant to IRM §6103(i)(3)(B), for disclosure of confidential tax information if a situation involves the imminent danger of death or physical injury to any individual.
- d. While being interviewed by a special agent concerning her husband's income from an illegal drug operation, the taxpayer's wife tells the special agent that she witnessed the shooting of a shopkeeper by two assailants attempting to rob the shopkeeper's grocery store. This occurred while the taxpayer and his wife were driving to pick up a shipment of drugs. The wife provides the special agent with details concerning the shooting and describes the two assailants. Since this information is irrelevant to the tax case and has no bearing on the tax affairs of the taxpayer and his wife,

or any other taxpayer, the information is considered to be non-tax information. Details of the robbery/shooting may be relayed to local authorities. However, the special agent should not identify the taxpayer and his wife as subjects of a tax investigation and the agent should not provide any information that would be considered confidential tax information, such as the taxpayers' address, without their consent, unless the agent can obtain independently corroborated information that is the same as the confidential tax information.

- e. While executing a search warrant relating to a tax case, a special agent notices what appear to be bloodstains on a couch. According to recent news reports, the taxpayer whose premises are being searched is under investigation by the local police for killing his spouse. The bloodstained couch is unrelated to the purpose for the search and seizure of books and records relating to financial transactions. The special agent may disclose the fact of the bloodstained couch and its location to the local police after obtaining supervisory approval (assuming that no emergency is involved).

Note: Using the facts above, the taxpayer was being investigated for child pornography or was a known pedophile, as opposed to being investigated for murder, and computers seized during the execution of the search warrant contained information that indicates criminal child pornography activity, such information could not be disclosed under IRM 11.3.34, since that information is inextricably part of the computer records subject to IRC 6103(b) that were seized to establish tax violations. While the procedures of IRM 11.3.34 are not applicable, referral under IRM 11.3.28, Disclosure to Federal Agencies for Administration of Non-tax Criminal Laws, procedures and IRC 6103(i)(3) may be warranted.

11.3.34.5.3
(05-26-2009)

**Crimes Witnessed While
on Official Business**

- (1) In both examples below, the facts about the crime may be disclosed to local police, without explaining the employee's activities, other than the fact that the employee was performing official business.
 - a. An employee witnesses a crime while on route to meet with a taxpayer.
 - b. An employee is examining books and records in a taxpayer's place of business when a robbery occurs.