

FREEDOM OF INFORMATION ACT ANNUAL REPORT INTERNAL REVENUE SERVICE

Fiscal Year 1999
October 1, 1998 through September 30, 1999

I. Basic Information Regarding the Report

A. Questions concerning this report may be directed to:

Director, Office of Disclosure
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

B. This report is available on the web at: <http://www.irs.gov/foia/index.html>

C. Copies of this report may be requested at the address provided in A. above.

II. How to Make a FOIA Request

A. Name and addresses of offices that receive FOIA requests.

- Please refer to Treasury Department consolidated Annual Report to Congress.

B. Time Ranges of Responses.

- Response times are from 1 to 1000 days, with an average response time of 55 days. The median response time is 22 calendar days.

C. Description of why some requests are not granted.

- The majority of denials are either requests for confidential tax information being sought by individuals who are not authorized to receive it, or are requests related to tax investigations, the disclosure of which might impair federal tax administration.

III. Definitions of Terms and Acronyms Used in Report

A. Agency Specific. None.

B. Basic Terms. Please see consolidated Treasury Report.

IV. Supporting Statutes Used with Exemption (b)(3)

A.1. Listing and brief description of type of information withheld under each statute:

- 26 U.S.C. 6103 Confidentiality of Returns and Return Information: Prohibits the disclosure of:
- (1) Tax returns and return information of third party taxpayers except as specifically authorized (6103(a));
 - (2) The standards used for selection of returns for examination (Section 6103(b)(2)); and,
 - (3) a requester's own return information if the release would seriously impair federal tax administration (section 6103(e)(7)).
- 31 U.S.C. 5319 Bank Secrecy Act Records: Prohibits the disclosure of BSA records. Generally used to withhold Currency Transaction Reports.
- Rule 6(e) Part of the Federal Rules of Criminal Procedure - Grand Jury Secrecy: regulates matters occurring before the Grand Jury. Used to withhold records used in Grand Jury proceedings.
- 41 U.S.C 253 (b) Protects the solicitations of unsuccessful bidders in a competitive proposal. Used to withhold the unsuccessful bidders' contract proposals as well as information in the winning solicitation that is not incorporated into the contract.
- 18 U.S.C. 701 Official Badges, identification cards. Prohibits the reproduction of official identification media. Used to withhold copies of IRS employee identification badges and pocket commissions.
- 5 U.S.C. 7114 Delineates the rights and duties of a labor organization which is the exclusive representative of the employees in the unit it represents.
- Tax Treaty Clauses Foreign Tax Treaties ratified by the Senate protect tax information provided by foreign governments for use in tax administration.

A.2. Statement of whether a court has upheld the use of the above cited statutes:

26 U.S.C. 6103 *Church of Scientology v. IRS*, 484 U.S. 9 (1987); *Aronson v. IRS*, 973 F.2d 962 (1st Cir. 1992); *Stebbins v. Sullivan*, No. 90-5361, slip op. at 1 (D.C. Cir. July 22, 1992); *Wishart v. Commissioner*, C-97-20614-SW (N.D. Cal., decided August 6, 1998); and others.

31 U.S.C. 5319 *Small v. IRS*, 820 F. Supp. 163 (D.N.J. 1992).

Rule 6(e) *Fund for Constitutional Gov't v. National Archives & Records Service*, 656 F. 2nd 856, 867 (D.C. Cir. 1981); *Walston v. U.S. Department of Justice*, 799 F. Supp. 193, 195 (D.D.C. 1992).

41 U.S.C. 253(b) Public Law 104-201; not litigated.

18 U.S.C. 701 Not litigated.

5 U.S.C. 7114 *Dublin v. Dept. of the Treasury*, 555 F. Supp. 408, 412 (N.D. Ga. 1981), aff'd, 697 F.2d 1093 (unpublished table decision); *NTEU v. OPM*, No. 76-695, slip op at 49 D.D.C. July 9, 1979).

Tax Treaties Treaties were ratified by the U.S. Senate; not decided by the courts.

V. Initial FOIA/PA Access Requests

A. Number of initial requests:

1. Requests Pending as of 10/01/98	4,518
2. Requests Received during FY 1999	28,014
3. Requests Processed during FY 1999	30,225
4. Requests Pending as of 09/30/99	2,307

B. Disposition of initial requests:

1. Total Grants	13,271
2. Partial Grants	3,589
3. Total Denials	326

B. 3. A. Number of times each FOIA exemption was used (counting each exemption once per case):

Exemption	Use	Exemption	Use	Exemption	Use
(b)(1)	0	(b)(6)	411	(b)(7)(E)	
(b)(2)	125	(b)(7)(A)*	2910	(b)(7)(F)	
(b)(3)	3400	(b)(7)(B)		(b)(8)	0
(b)(4)	52	(b)(7)(C)		(b)(9)	0
(b)(5)	699	(b)(7)(D)			

* The FY 1999 inventory system did not differentiate between the various (b)(7) exemptions. Program changes have been implemented to allow capture of such data in FY 2000. Amount shown in chart above under (b)(7)(A) is the total for all (b)(7) exemptions for FY 1999.

B. 4. Other reasons for non-disclosure of requested information:

Total of Others (as categorized below)	13,029
No Records	4331
Referrals	1,695
Request Withdrawn	592
Not a proper FOIA request for some other reason	5,592
Misc. other reasons for not processing a request*	829

* Closed without determination because an appeal was filed or the records had previously been provided to the requester, or the requester had not paid the fee from a previous request, etc.

VI. Appeal of Initial Denials of FOIA/PA Requests

A. Number of appeals:

1. Received during FY 1999	1,526
2. Processed during FY 1999	1,685

B. Disposition of appeals. Number of appeals where the initial determination was:

1. Completely upheld	196
2. Partially reversed	176
3. Completely reversed	54

B. 3. a. Number of times each FOIA exemption was used in a completely or partially upheld appeal case (counting each exemption once per case):

Exemption	Use	Exemption	Use	Exemption	Use
(b)(1)	0	(b)(6)	24	(b)(7)(E)	45
(b)(2)	1	(b)(7)(A)	8	(b)(7)(F)	5
(b)(3)	96	(b)(7)(B)	0	(b)(8)	0
(b)(4)	2	(b)(7)(C)	30	(b)(9)	0
(b)(5)	12	(b)(7)(D)	9		

B.4. Other reasons for non-disclosure during appeal process:

Total of Others (as categorized below)	1,259
No Records	15
Withdrawn	769
Fee-Related	11
Treated as a non-appeal	428
Not an agency record	1
Other (litigation due to failure to respond)	35

VII. Compliance with Time Limits/Status of Pending Requests

A. Median time for processing requests:

1. Simple Requests		
a.	Number of requests processed	0
b.	Median number of days to process	N/A
2. Complex Requests		
a.	Number of requests processed	22,937
b.	Median number of days to process	22
3. Expedited Requests		
a.	Number of requests processed	0
b.	Median number of days to process	N/A

B. Status of pending requests (as of September 30, 1999):

1. Number of requests pending	2,307
2. Median age of pending cases	35

VIII. Comparison with Previous Year (Optional)

Comparison not made.

IX. Costs/FOIA Staffing

A. Staffing levels, given in number of positions in agency:

1. Full-time FOIA personnel	9
2. Personnel with part-time or occasional FOIA duties (composite total, in work years)	59
3. Total personnel (in composite work years)	68

B. Total costs (including all staff and resources):

1. FOIA processing (including appeals)	\$ 6,806,542
2. Litigation related activities (estimated)	935,322
3. Total Costs	\$ 7,741,864

X. Fees

A. Total fees collected by the agency during FY 2001	\$134,208
B. Percentage of total costs	1.7%