

**CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES**

P.O. Box 419064, Rancho Cordova, CA 95741-9064



January 7, 2005

CSS LETTER: 05-02

ALL IV-D DIRECTORS  
ALL COUNTY ADMINISTRATIVE OFFICERS  
ALL BOARDS OF SUPERVISORS

SUBJECT: SAFEGUARDING FEDERAL TAX INFORMATION – EMPLOYEE AWARENESS

Internal Revenue Code Section 6103(p)(4)(D) requires that agencies receiving federal tax information (FTI) provide appropriate safeguard measures to ensure the confidentiality of the FTI. A good security awareness program is by far the most effective and least expensive method agencies can use to protect sensitive information.

The Internal Revenue Code provides the following definitions regarding FTI:

- a. Return – Any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of the Internal Revenue Code which is filed by the Secretary of the Treasury by, on behalf of, or with respect to any person, and any amendment or supplement thereof, including supporting schedules, attachments, or lists which are supplemental to, or part of the return filed.
- b. Return Information
  - (1) A taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over assessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary of the Treasury with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under the Internal Revenue Code for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and

Reason for this Transmittal

- State Law or Regulation Change
- Federal Law or Regulation Change
- Court Order or Settlement Change
- Clarification requested by One or More Counties
- Initiated by DCSS

(2) any part of any written determination or any background file document relating to such written determination [as such terms are defined in 26 U.S.C. Section 6110(b)] which is not open to the public inspection under 26 U.S.C. Section 6110, but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of the law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary of the Treasury determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue law.

- c. Taxpayer Return Information – Return information as defined in paragraph b which is filed with, or furnished to, the Secretary of the Treasury by or on behalf of the taxpayer to whom such return information relates.
- d. Taxpayer Identity – The name of a person with respect to whom a return is filed, his or her mailing address, his or her taxpayer identifying number (as described in 26 U.S.C. Section 6109 – social security account number), or a combination thereof.
- e. Inspection – Any examination of a return or return information.
- f. Disclosure – Making known to any person in any manner whatever a return or return information.

These definitions shall be applicable to the policy for safeguarding FTI.

Each local child support agency (LCSA) that grants employees access to FTI must first certify that each employee who handles, processes, or accesses FTI understands the security policy and procedures for safeguarding IRS information and the penalties for unauthorized disclosure. This includes but is not limited to unauthorized disclosure information (26 U.S.C. Section 7213(a)), unauthorized inspection of returns or return information (26 U.S.C. Section 7213A), and civil damages for unauthorized disclosure of return and return information (26 U.S.C. Section 7431). Each LCSA must also ensure that employees are informed that the disclosure restrictions and penalties apply even after employment with the agency has ended. As a follow up, employees are required to maintain their authorization to access FTI through annual recertification. The initial certification and the annual recertification must include viewing the video cited below. Viewing all three segments of the video should take no more than one hour. Additionally, the initial certification and the annual recertification should be documented using the enclosed form entitled “Protecting IRS Tax Returns and Return Information – Disclosure Penalties.” All certification and recertification documents must be placed in the local child support agency files for review.

In a separate mailing, the Department of Child Support Services is sending each LCSA a video with three separate segments: The Internal Revenue Service segments entitled “Stop UNAX In Its Tracks” and “Safeguarding FTI,” and the Office of Child Support Enforcement segment entitled “Securing the Future.” Use this video to raise employee awareness regarding disclosure, access, and penalty provisions. In addition to the video, security information and

awareness training can be expressed to employees who have been granted access to FTI by using a variety of methods, such as:

- a. Formal and informal training.
- b. Discussion at group and managerial meetings.
- c. Installation of security bulletin boards throughout the work areas.
- d. Placing security articles in employee newsletters.
- e. Routing pertinent articles that appear in the technical or popular press to members of the management staff.
- f. Displaying posters with short, simple educational messages (e.g., instructions on reporting unauthorized access violations (address and hotline telephone numbers).
- g. Using warning banners on computer screens housing FTI.
- h. Sending e-mail or other electronic messages to employees who have access to FTI.

Please refer to IRS Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies, for additional information on this subject. You may access the publication on the Internet by going to <http://ftp.irs.gov/pub/irs-pdf/p1075.pdf>.

If you have any questions or concerns regarding this matter, please contact Melanie Henderson at (916) 464-5519.

Sincerely,



JOAN OBERT  
Deputy Director  
Technology Services Division

Enclosure

# PROTECTING IRS TAX RETURNS AND RETURN INFORMATION - DISCLOSURE PENALTIES

## IRC SEC 7213. UNAUTHORIZED DISCLOSURE OF INFORMATION

### (a) RETURNS AND RETURN INFORMATION

- (1) **FEDERAL EMPLOYEES AND OTHER PERSONS.** It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information [as defined in section 6103(b)]. Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.
- (2) **STATE AND OTHER EMPLOYEES.** It shall be unlawful for any person [not described in paragraph (1)] willfully to disclose to any person, except as authorized in this title, any return or return information [as defined in section 6103(b)] acquired by him or another person under subsection (d), (i)(3)(B)(i), (1)(6), (7), (8), (9), (10), (12), (15), or (16) or (m)(2), (4), (5), (6), or (7) of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000 or imprisonment of not more than 5 years, or both, together with the cost of prosecution.
- (3) **OTHER PERSONS.** It shall be unlawful for any person to whom any return or return information [as defined in section 6103(b)] is disclosed in any manner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of the paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000 or imprisonment of not more than 5 years, or both, together with the cost of prosecution.
- (4) **SOLICITATION.** It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information [as defined in 6103(b)] and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000 or imprisonment of not more than 5 years, or both, together with the cost of prosecution.
- (5) **SHAREHOLDERS.** It shall be unlawful for any person to whom return or return information [as defined in 6103(b)] is disclosed pursuant to the provisions of 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000 or imprisonment of not more than 5 years, or both, together with the cost of prosecution.

## IRC SEC 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION

### (a) PROHIBITIONS

- (1) **FEDERAL EMPLOYEES AND OTHER PERSONS.** It shall be unlawful for –
  - (A) any officer or employee of the United States, or
  - (B) any person described in section 6103(n) or an officer willfully to inspect, except as authorized in this title, any return or return information.
- (2) **STATE AND OTHER EMPLOYEES.** It shall be unlawful for any person [not described in paragraph (1)] willfully to inspect, except as authorized by this title, any return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

### (b) PENALTY

- (1) **IN GENERAL.** Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding \$1,000 or imprisonment of not more than 1 year, or both, together with the costs of prosecution.
- (2) **FEDERAL OFFICERS OR EMPLOYEES.** An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

- (c) **DEFINITIONS.** For purposes of this section, the terms “inspect,” “return,” and “return information” have respective meanings given such terms by section 6103(b).

**IRC SEC 7431. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION**

- (a) **IN GENERAL**
- (1) **INSPECTION OR DISCLOSURE BY EMPLOYEE OF UNITED STATES.** If any officer or employee of the United States knowingly or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.
- (2) **INSPECTION OR DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.** If any person who is not an officer or employee of the United States knowingly or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.
- (b) **EXCEPTIONS.** No liability shall arise under this section with respect to any inspection or disclosure
- (1) which results from good faith, but erroneous interpretation of section 6103, or
- (2) which is requested by the taxpayer.
- (c) **DAMAGES.** In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of
- (1) the greater of
- (A) \$1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or
- (B) the sum of
- (i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus
- (ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus
- (2) the cost of the action.
- (d) **PERIOD FOR BRINGING ACTION.** Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.
- (e) **NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.** If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of
- (1) paragraph (1) or (2) of section 7213(a),
- (2) section 7213A(a), or
- (3) subparagraph (b) of section 1030(a)(2) of Title 18, United States Code, the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.
- (f) **DEFINITIONS.** For purposes of this section, the terms "inspect," "inspection," "return," and "return information" have the respective meanings given such terms by section 6103(b).
- (g) **EXTENSION TO INFORMATION OBTAINED UNDER SECTION 3406.** For purposes of this section
- (1) any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and
- (2) any inspection or use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103.

For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

I CERTIFY THAT I HAVE READ AND UNDERSTAND THE CIVIL AND CRIMINAL PENALTIES ASSOCIATED WITH UNAUTHORIZED DISCLOSURE OF INFORMATION PROVIDED TO THE CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES BY THE INTERNAL REVENUE SERVICE.

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PRINTED NAME

SIGNATURE

DATE